



UK00006790LI21A

Public Liability Insurance

Claims Made Form

01 March 2021

Schedule

Policy Number:	UK00006790LI21A
Producer:	Willis Limited
Insured:	KINGFISHER HOLDINGS LIMITED and The Jobbers
Address of Insured:	<p>3 Sheldon Square LONDON W2 6PX</p> <p>operating from premises anywhere in Great Britain, Northern Ireland, the Channel Islands or the Isle of Man.</p>
Business of the Insured	All activities of the Insured as notified to the Insurer

Limit of Indemnity

The Limit of Indemnity for this **Policy** (subject to reduction by the applicable **Deductible**) shall be as follows:

- (a) The maximum liability of the **Insurer** in respect of any one **Event** insured by this **Policy** shall not exceed: GBP 866,115 in the aggregate during any one **Period of Insurance** except as stated in (b) and (c) below.
- (b) The maximum liability of the **Insurer** in respect of **Products** insured by this **Policy** shall not exceed: GBP Nil – Not insured.
- (c) The maximum liability of the **Insurer** in respect of **Pollutants** insured by this **Policy** shall not exceed: GBP Nil – Not insured

Sub-Limits of Indemnity

The Sub-Limits of Indemnity for this **Policy** (subject to reduction by the applicable **Deductible**) shall be as follows:

- (a) The maximum liability of the **Insurer** under Corporate Manslaughter and Corporate Homicide Act 2007 – Defence Costs extension C6 shall not exceed:
GBP 500,000 in the aggregate during any one **Period of Insurance**.
- (b) The maximum liability of the **Insurer** under Data Protection extension C9 shall not exceed:
GBP 50,000 in the aggregate during any one **Period of Insurance**.
- (c) The maximum liability of the **Insurer** under Legionella Extension C16 shall not exceed:
GBP 500,000 in the aggregate during any one Period of Insurance.
- (d) The maximum liability of the **Insurer** under Pollution Clean Up Costs extension C18 shall not exceed:
GBP Nil – Not insured.

The Sub-Limits of Indemnity form part of the relevant Limit of Indemnity specified above and do not apply in addition to it.

Deductible

Other than as stated below the **Deductible** shall be as follows:

GBP 43 any one **Event**

Under Data Protection extension C9 the **Deductible** shall be as follows

10% or GBP 5,000 each and every claimant, whichever is the greater

Under Legionella Extension C16 the **Deductible** shall be as follows

10% or GBP 5,000 of each and every **Event**, whichever is the greater.

Only one **Deductible** shall apply in respect of any one **Event**, and this shall be the highest applicable **Deductible** stated above.

Premium in Full – Non-adjustable

Gross Premium: GBP 2,165.29

less Commission: GBP 216.53

Net Premium: GBP 1,948.76

plus, taxes of GBP 259.83

which the **Insured** agrees to pay as consideration for this **Policy**.

Period of Insurance

From: 01 March 2021

To: 31 December 2021

both dates inclusive, local standard time at the address of the **Insured** as stated above.

Renewal Date

01 January

Retroactive Date(s)

The **Retroactive Date(s)** for this **Policy** shall be 01 March 2021

(a) Data Protection extension C9: 01 March 2021

(b) Legionella extension C16: 01 March 2021

Territorial Limits

(a) Great Britain, Northern Ireland, the Channel Islands or the Isle of Man; and

(b) elsewhere in the world in respect of:

(i) non-manual work carried out during temporary visits by directors, partners or **Employees** normally resident in the territories stated in (a) above;

(ii) **Products** supplied from the territories stated in (a) above

Claim Notification

XL Catlin Services SE, UK Branch
20 Gracechurch Street
London
EC3V 0BG
United Kingdom

Signed for and on behalf of the **Insurer**

By:



Date

18 August 2021

XL Catlin Insurance Company UK Limited,
20 Gracechurch Street, London, EC3V 0BG, United Kingdom
Registered Office: as above
Registered Number: 5328622

Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Firm Reference No. 202695). Further details can be found on the Financial Services Register at www.fca.org.uk

XL Catlin Services SE acts as an agent of XL Catlin Insurance Company UK Limited in connection with this policy.
XL Catlin Services SE is a registered insurance intermediary authorised and regulated by the Central Bank of Ireland.
Registered office is XL House, 8 St Stephen's Green, Dublin 2 Ireland
Registered number 659610

Insurance Act Notice

Other than those terms listed below, which are listed to discharge the **Insurer's** duties under Section 17 (The Transparency Requirements) of the Insurance Act 2015 (the "**Act**"), no term of this **Policy** is intended to limit or affect the statutory rights or obligations of any of the parties to this **Policy** under, and/or the effect of the **Act**.

- (1) Condition E2 (Breach of Duty of Fair Presentation) replaces the remedies set out in Schedule 1, Part 1, paragraphs 6 and 11 of the **Act**. Under the **Act**, Schedule 1, Part 1, Paragraphs 6 and 11, if additional premium would have been charged by the **Insurer**, had the **Insured** made a fair presentation, then the **Insurer** may reduce any claim paid in proportion to the amount of premium that would have been charged ("the **Proportionate Reduction of Claims**").
- (2) The effect of Condition E2 (Breach of Duty of Fair Presentation) is that, in place of the **Proportionate Reduction of Claims**, the **Insurer** may charge the additional premium that would have been charged if the **Insured** had made a fair presentation. In certain circumstances, it is possible that the additional premium charged may be more than the amount of any reduction in a claim or claims under the **Proportionate Reduction of Claims**.

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A Physical Injury and Damage To Property

A1 Insuring Clause

A1.1 The **Insurer** will provide indemnity to the **Insured**:

- (1) against legal liability for claims for **Damages** in respect of:
 - (a) **Physical Injury** to any person;
 - (b) loss of or damage to **Property**;
 - (c) obstruction, nuisance, trespass, loss of amenity or interference with any right of way, air, light or water or other easement

occurring on or after the **Retroactive Date** stated in the Schedule in the **Territorial Limits** and caused in connection with the **Business** provided that any such claims are:

 - (i) first made in writing against the **Insured** during the **Period of Insurance**; and
 - (ii) notified to the **Insurer** as soon as reasonably practicable during the same **Period of Insurance** and, in any event, within thirty (30) days of expiry of the **Period of Insurance**.
- (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph A1.1(1) above.

A1.2 The **Insured** must give to the **Insurer** notice in writing as soon as reasonably practicable during the **Period of Insurance** of any circumstance which is likely to give rise to a claim of which the **Insured** becomes aware during the **Period of Insurance**. The **Insurer** agrees that any circumstances notified which subsequently give rise to a claim after the expiry of the **Period of Insurance** shall be deemed to be a claim first made during the **Period of Insurance**. If the **Insured** does not give notice to the **Insurer** in compliance with this clause, then this **Policy** shall afford no cover, and no indemnity or other sum shall be payable, in connection with that circumstance.

A1.3 In respect of an **Event**, any claims arising out of such **Event** shall:

- (1) be deemed to have been made at the point in time when the first of the claims was made in writing against the **Insured** or, if earlier, when the **Insured** first notified a circumstance which is likely to give rise to such a claim; and
- (2) only be the subject of indemnity if they are first made against the **Insured** in writing within sixty (60) months of the first claim or, if earlier, the notification of circumstance and relate to **Physical Injury**, loss of or damage to **Property** or obstruction, nuisance, trespass, loss of amenity or interference with any right of way, air, light or water or other easement happening prior to the expiry date of this **Policy**.

Provided that any Periods of Insurance subsequent to the date of claim being made, or if earlier, notification of circumstance as above shall exclude indemnity in respect of any claims arising out of such **Event**.

B Limits of Liability

- B1** The amounts payable by the **Insurer** for **Damages** under paragraph A1.1(1) or any extension shall not exceed the applicable Limit of Indemnity specified in the Schedule.
- B2** Other than as provided for in paragraph B3 below, all amounts payable by the **Insurer** for **Defence Costs** under paragraph A1.1(2) or any extension (unless the extension specifies otherwise) shall be payable in addition to the applicable Limit of Indemnity specified in the Schedule.

- B3** Where any actions or suits are brought in the United States of America, its territories and possessions, Puerto Rico, or Canada, or where legal actions or suits are brought in a court of law outside those countries to enforce a judgement therein whether by way of reciprocal agreement or otherwise, the applicable Limits of Indemnity specified in the Schedule shall be inclusive of all amounts payable by the **Insurer** for **Defence Costs** under paragraph A1.1(2) or any extension.
- B4** Notwithstanding the above, where a Sub-Limit of Indemnity applies, the Insurer shall have no liability in excess of that Sub-Limit of Indemnity (whether for **Damages** or **Defence Costs**).
- B5** Where the **Insurer** is liable to indemnify more than one party the total amount payable shall not exceed the Limit of Indemnity or Sub-Limit of Indemnity as specified in the Schedule and as referred to in this Section B.
- B6** The applicable Limit of Indemnity or Sub-Limit of Indemnity (as applicable) is inclusive of any **Deductible**.

C Extensions

(each of which is subject otherwise to the terms of this **Policy**)

C1 Advertising Injury

C1.1 Notwithstanding exclusion D11 (**Financial Loss**), the **Insurer** will provide indemnity to the **Insured**:

- (1) against legal liability for **Damages** in respect of:
 - (a) oral or written publication of material that slanders or libels a person or organisation;
 - (b) oral or written publications, broadcast or telecast of material that violates a person's right of privacy;
 - (c) piracy, unfair competition, or misappropriation of advertising ideas under an implied contract;
 - (d) infringement of copyright title or slogan

committed on or after the **Retroactive Date** stated in the Schedule and arising out of advertising the **Products** or services of the **Insured**.

- (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C1.1(1) above.

C1.2 The indemnity in this extension will not apply to any legal liability or pay any amounts:

- (1) for breach of contract, other than misappropriation of advertising ideas under an implied contract.
- (2) for the failure of **Products** or services to conform with advertised quality or performance.
- (3) for the wrong description of the price of **Products** or services.
- (4) for an offence committed by any **Insured** whose business is advertising, broadcasting, internet service provision, publishing or telecasting.
- (5) for oral or written publication of material by or at the direction of the **Insured** when the **Insured** (or any director, partner, officer or **Employee** of the **Insured** involved with or responsible for the publication) had knowledge of its falsity.
- (6) for oral or written publication of material which first took place prior to the inception date of this **Policy** (whether or not subsequently repeated during the **Period of Insurance**).
- (7) assumed by virtue of an agreement or contract where such liability would not have attached in the absence of any agreement or contract.

C2 Acquisitions

- C2.1 Notwithstanding condition E1 (Alteration of Risk), this **Policy** shall apply automatically to any new acquisition or newly formed subsidiary or associated company (but only where indemnity is already provided under this **Policy** for associated companies) by an **Insured** company during the **Period of Insurance**, provided that:
- (1) the **Insured** notifies the **Insurer** in writing:
 - (a) immediately for new acquisitions or creations where turnover exceeds GBP 250,000,000 or fifty percent (50%) of total group turnover declared at inception of this **Policy**, whichever is the greater;
 - (b) within thirty (30) days for new acquisitions or creations where turnover exceeds GBP 10,000,000 or fifteen percent (15%) of total group turnover declared at inception of this **Policy**, whichever is the greater;
 - (c) within ninety (90) days for all other new acquisitions or creations; or
 - (d) at the beginning of any new **Period of Insurance**, if this is earlier than above.
 - (2) the turnover in respect of such new acquisition or creation is declared, and additional premium is paid, from the time of acquisition or creation in proportion to the total turnover declared at inception of the **Period of Insurance**.
 - (3) where such new acquisition or creation has activities representing a material alteration to the **Business** or is reasonably expected to increase the risk by means of frequency or severity of claims, the **Insurer** reserves the right to determine specific rates and terms and conditions for that new acquisition or creation.

C3 Consumer Protection Act - Defence Costs

- C3.1 The **Insurer** will provide indemnity to the **Insured** for:
- (1) any costs of prosecution awarded against the **Insured**;
 - (2) **Defence Costs** incurred
- in any criminal proceedings brought, or in an appeal against conviction arising from such proceedings, in respect of a breach of Part II of the Consumer Protection Act 1987 (or any subsequent or amending legislation), provided that the proceedings relate to an offence alleged to have been committed on or after the **Retroactive Date** and in the course of the **Business**.
- C3.2 The amounts payable by the **Insurer** for any costs of prosecution and **Defence Costs** under this extension shall form part of and not be in addition to the Limit of Indemnity specified in the Schedule.

C4 Contingent Motor (Non-Owned Motor Vehicles)

- C4.1 Notwithstanding exclusion D13 (Motor, Marine and Aviation), the **Insurer** will provide indemnity to the **Insured** (but to no other party or person):
- (1) against legal liability for **Damages** in respect of:
 - (a) **Physical Injury** to any person;
 - (b) loss of or damage to **Property**

occurring on or after the **Retroactive Date** in the **Territorial Limits**, arising out of the use of any motor vehicle not the property of, nor provided by, the **Insured** and being used in connection with the **Business**.
 - (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C4.1(1) above.
- C4.2 The indemnity in this extension will not apply to any legal liability or pay any amounts for:

- (1) **Physical Injury** to any person or loss of or damage to **Property** arising while such motor vehicle is being driven by any person who, to the knowledge of the **Insured** (or any director, partner or officer of the **Insured**), does not hold a licence to drive or is disqualified from holding or obtaining such a licence.
- (2) loss of or damage to any such motor vehicle or its contents.

C5 Contractual Liability

- C5.1 Notwithstanding exclusion D3 (Contractual Liability), the **Insurer** will provide indemnity to the **Insured**:
- (1) against legal liability for **Damages** in respect of:
 - (a) **Physical Injury** to any person;
 - (b) loss of or damage to **Property**
 assumed by the **Insured** under contract or agreement and which would not have attached in the absence of any contract or agreement.
 - (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C5.1(1) above.
- C5.2 The indemnity in this extension will not apply to any legal liability or pay any amounts arising from loss of or damage to **Property** caused by any risk against which the **Insured** is required to affect a material damage and/or business interruption type policy of insurance by the conditions of any contract.

C6 Corporate Manslaughter and Corporate Homicide Act 2007 - Defence Costs

- C6.1 The **Insurer** will provide indemnity to the **Insured** for:
- (1) any costs of prosecution awarded against the **Insured**;
 - (2) Defence Costs incurred
- in any criminal proceedings brought, or in an appeal against conviction arising from such proceedings, in respect of a breach of the Corporate Manslaughter and Corporate Homicide Act 2007 (or any subsequent or amending legislation), provided that the proceedings relate to an offence alleged to have been committed on or after the **Retroactive Date** and in the course of the **Business**.
- C6.2 The amounts payable by the **Insurer** for any costs of prosecution and **Defence Costs** under this extension shall not exceed the applicable Sub-Limit of Indemnity stated in the Schedule.

C7 Costs for Court Attendance

- C7.1 In the event of any of the persons listed below attending any court as a witness at the request of the **Insurer** in connection with a claim in respect of which the **Insured** would be entitled to indemnity under this **Policy**, the **Insurer** will pay to the **Insured** at the following rates per day for each day on which attendance is requested:
- | | |
|---|-----------|
| (1) any director or partner of the Insured | GBP 1,000 |
| (2) any Employee | GBP 750 |

C8 Cross Liabilities

- C8.1 If the **Insured** comprises more than one party, the **Insurer** will provide indemnity to each in the same manner and to the same extent as if a separate **Policy** had been issued to each, provided that the total amount payable to all parties indemnified in the aggregate shall not exceed the Limit of Indemnity or any applicable Sub-Limits of Indemnity stated in the Schedule.

C9 Data Protection

- C9.1 Notwithstanding exclusions D5 (Data Protection) and D8 (Electronic Data), the **Insurer** will provide indemnity to the **Insured**:

- (1) against legal liability for **Damages** in respect of claims for material or non-material damage under:

- a) Section 168 and/or 169 of the Data Protection Act 2018; or,
- b) Article 82 of the General Data Protection Regulation (EU) 2016/679

caused by an **Event** happening on or after the **Retroactive Date** in connection with the **Business**, provided that any such claims are first made in writing against the **Insured** during the **Period of Insurance** and notified to the **Insurer** as soon as reasonably practicable during the same **Period of Insurance** and, in any event, within thirty (30) days of expiry of the **Period of Insurance**.

- (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C9.1(1) above.

C9.2 The **Insured** must give to the **Insurer** notice in writing as soon as reasonably practicable during the **Period of Insurance** of any circumstance which is likely to give rise to a claim of which the **Insured** becomes aware during the **Period of Insurance**. The **Insurer** agrees that any such circumstances which subsequently give rise to a claim after the expiry of the **Period of Insurance** shall be deemed to be a claim first made during the **Period of Insurance**. If the **Insured** does not give notice to the **Insurer** in compliance with this clause, then this **Policy** shall afford no cover, and no indemnity or other sum shall be payable, in connection with that circumstance.

C9.3 In respect of an **Event**, any claims arising out of such **Event** shall:

- (1) be deemed to have been made at the point in time when the first of the claims was made in writing against the **Insured** or, if earlier, when the **Insured** first notified a circumstance which is likely to give rise to such a claim; and
- (2) only be the subject of indemnity if the claims are first made in writing against the **Insured** within sixty (60) months of the first claim or, if earlier, the notification of circumstance and relate to **Damages** happening prior to the expiry date of this **Policy**.

Provided that any **Periods of Insurance** subsequent to the date of claim being made or, if earlier, notification of circumstance as above shall exclude indemnity in respect of any claims arising out of such **Event**.

C9.4 The indemnity in this extension will not apply to legal liability or pay any amounts:

- (1) for any action or suit brought in a court of law within the jurisdiction of the United States of America, its territories and possessions, Puerto Rico or Canada or where such action or suit is brought in a court of law outside those countries to enforce a judgement therein whether by way of reciprocal agreement or otherwise.
- (2) for liability caused by or arising from a deliberate act by or omission of any person entitled to insurance under this **Policy** if the result could have been expected having regard to the nature and circumstances of such act or omission;
- (3) for the costs and expenses of rectifying, reinstating, replacing or erasing any personal data as defined in the Data Protection Act 2018 or General Data Protection Regulations (EU) 2016/679;
- (4) for the costs of notifying any person regarding the loss of personal data as defined in the Data Protection Act 2018 or General Data Protection Regulations (EU) 2016/679;
- (5) for liability caused by or arising from the recording, processing or provision of data for reward or the determining of the financial status of a person; or

- (6) for liability which attaches by virtue of a contract or agreement but which would not have attached in the absence of such contract or agreement.
- (7) for any fees or charges the Insured is required to pay by any data protection authority.
- (8) where the **Insured** has not paid any fees required to be paid by any data protection authority.
- (9) for claims which arise out of circumstances notified under previous insurance policies or known to the **Insured** (including any director, partner or officer of the **Insured**) before or at inception of this **Policy**.

C9.5 The amounts payable by the **Insurer** for **Defence Costs** under this extension shall form part of and not be in addition to the applicable Sub-Limit of Indemnity stated in the Schedule.

C10 Defective Premises Act 1972

C10.1 The **Insurer** will provide indemnity to the **Insured**:

- (1) against legal liability for **Damages** under Section 3 of the Defective Premises Act 1972 or Section 5 of the Defective Premises (Northern Ireland) Order 1975 or any subsequent or amending legislation in respect of:
 - (a) **Physical Injury** to any person;
 - (b) loss of or damage to **Property**
 occurring on or after the **Retroactive Date** in the **Territorial Limits** and caused in connection with the **Business**.
- (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C10.1(1) above.

C10.2 The indemnity provided in this extension will not apply to any legal liability or pay any amounts for the cost of remedying any defect or alleged defect in premises disposed of by the **Insured**.

C11 Extended Claims Notification Period

C11.1 In the event of:

- (1) cancellation or non-renewal of this **Policy** for any reason other than:
 - (a) non-payment of premium;
 - (b) any act of fraud or dishonesty;
 - (c) non-disclosure or misrepresentation of a material fact

or

- (2) the **Insurer** agreeing to renewal or replacement of this **Policy** but requiring imposing limitations in cover which are not contained herein,

the **Insurer** will provide an indemnity to the **Insured** in respect of any claim which is first made in writing against the **Insured** and notified to the **Insurer** during the six (6) calendar months immediately following the final **Period of Insurance**. Any claims so made and notified shall be deemed to have been made and notified during the final **Period of Insurance** except where part of a claim series.

C11.2 Provided that:

- (1) such claims result from **Events** happening on or after the **Retroactive Date** but prior to the end of the final **Period of Insurance**;
- (2) the indemnity will not apply where indemnity is provided by other insurance;
- (3) in the event of the **Insurer** agreeing to renewal or replacement of this **Policy** with limitations in cover which are not contained herein, the indemnity provided by this extension shall only apply in respect of the limitations imposed;

- (4) this extension shall not operate to increase or reinstate the aggregate Limit of Indemnity specified in the Schedule and as such the aggregate Limit of Indemnity shall apply to the final **Period of Insurance** and the period granted under this extension combined;
- (5) the **Insured** has elected to purchase the extended claims notification period provided under this extension prior to the end of the final **Period of Insurance**;
- (6) the indemnity provided by this extension may not be cancelled once the additional premium of fifty percent (50%) of the premium for the final annual **Period of Insurance** has been paid by the **Insured** to the **Insurer**. Such payment must be made within thirty (30) days of the end of the final **Period of Insurance**.

C12 Food Safety Act 1990

C12.1 The **Insurer** will provide indemnity to the **Insured** for:

- (1) any costs of prosecution awarded against the **Insured**;
- (2) **Defence Costs** incurred

in any criminal proceedings brought, or in an appeal against conviction arising from such proceedings, in respect of a breach of Part II of the Food Safety Act 1990 (or any subsequent or amending legislation) including appeals against prohibition orders made under Section 11 of the Food Safety Act 1990, provided that the proceedings relate to an offence alleged to have been committed on or after the **Retroactive Date** and in the course of the **Business**.

C12.2 The amounts payable by the **Insurer** for any costs of prosecution and **Defence Costs** under this extension shall form part of and not be in addition to the Limit of Indemnity stated in the Schedule.

C13 Health and Safety at Work - Defence Costs

C13.1 The **Insurer** will provide indemnity to the **Insured** for:

- (1) any costs of prosecution awarded against the **Insured**;
- (2) **Defence Costs** incurred

in any criminal proceedings brought, or in an appeal against conviction arising from such proceedings, in respect of a breach of the Health and Safety at Work Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 (or any subsequent or amending legislation), provided that the proceedings relate to:

- (a) the health, safety and welfare of any person other than an **Employee**; and
- (b) an offence alleged to have been committed during the **Period of Insurance** and in

The amounts payable by the **Insurer** for any costs of prosecution and **Defence Costs** under this extension shall form part of and not be in addition to the Limit of Indemnity specified in the Schedule.

C14 Indemnity to Others

C14.1 Save where expressly provided otherwise by this **Policy**, the **Insurer** will indemnify in addition to the **Insured**:

- (1) the personal representatives of the **Insured** in respect of legal liability incurred by the **Insured**;
- (2) at the request of the **Insured** and in respect of legal liability for which the **Insured** would have been entitled to indemnity under this **Policy** if the claim had been made against the **Insured**:
 - (a) any director, officer, partner or **Employee** of the **Insured**;
 - (b) any member of the **Insured**'s catering, social, sports, welfare, nursery, crèche or child care organisations or ambulance, fire, security and first aid services in their respective capacities as such.

Each such person shall, as though they were the **Insured**, observe, fulfil and be subject to the terms of this **Policy** in so far as they can apply.

C15 Indemnity to Principal and Waiver of Subrogation

C15.1 Notwithstanding exclusion D3 (Contractual Liability) and save where expressly provided otherwise by the **Policy**, it is agreed that where any written contract or agreement with a **Principal** so requires:

- (1) the **Insurer** will indemnify in addition the **Principal** to the extent required by the contract or agreement in respect of the **Principal**'s liability arising from the performance of such contract or agreement, but only in respect of liability for which the **Insured** would have been entitled to indemnity under this **Policy** if the claim had been made against the **Insured**;
- (2) the **Insurer** will waive rights of subrogation against the **Principal**;
- (3) notwithstanding condition E10 (Other Insurance), this **Policy** shall act as the primary insurance to the extent required by the contract or agreement in respect of the **Principal**'s liability arising from the performance of such contract or agreement, but only in respect of liability for which the **Insured** would have been entitled to indemnity under this **Policy** if the claim had been made against the **Insured**.

Provided that:

- (a) the **Insured** has arranged with the **Principal** for the conduct and control of all such claims to be vested with the **Insurer**;
- (b) the **Principal** shall, as though they were the **Insured**, observe, fulfil and be subject to the terms and conditions of this **Policy** in so far as they can apply;
- (c) no rights of subrogation are waived against subcontractors appointed by the **Insured**.

C15.2 The indemnity in this extension will not apply to any legal liability or pay any amounts:

- (1) arising from loss of or damage to **Property** caused by any risk against which the **Insured** is required to affect a material damage and/or business interruption type policy of insurance by the conditions of any contract or agreement entered into by the **Insured** with the **Principal**.
- (2) arising from the sole negligence of any **Principal** or parties other than the **Insured**.

C16 Legionella

C16.1 Notwithstanding exclusion D16 (Pollution), the **Insurer** will provide indemnity to the **Insured**:

- (1) against legal liability in respect of claims for **Damages** in respect of Bodily **Injury** to any person caused by the discharge, dispersal, release or escape of **Legionella Bacteria** happening on or after the **Retroactive Date** in the **Territorial Limits** and caused in connection with the **Business**.
- (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C16.1(1) above.

C16.2 The indemnity in this extension will not apply to legal liability or pay any amounts:

- (1) arising out of or in connection with any **Product**.
- (2) in respect of any exposure to **Legionella Bacteria** which commenced prior to the **Retroactive Date**.
- (3) where such liability has been accepted by agreement except to the extent that such liability would have attached in the absence of such agreement.

C17 Overseas Personal Liability

- C17.1 If the **Insured** so requests, the **Insurer** will provide indemnity to any director, officer, partner or **Employee** of the **Insured** (or their spouse, civil partner or accompanying family member) against legal liability for **Damages** and **Defence Costs** which would otherwise be covered by this **Policy**, incurred in a personal capacity while temporarily outside the normal country of residence in connection with the **Business**.
- C17.2 The indemnity in this extension will not apply to any legal liability or pay any amounts arising out of the ownership or occupation of land or buildings.

C18 Pollution Clean Up Costs

- C18.1 Notwithstanding exclusion D16 (Pollution), the indemnity in this **Policy** in respect of legal liability for **Damages** for **Bodily Injury** or loss of or damage to **Property** caused by or contributed to by, or arising out of the discharge, dispersal release or escape of **Pollutants** into or upon land the atmosphere or any water course or body of water shall include **Clean Up** to the extent not already included elsewhere within this **Policy**.
- C18.2 Provided always that the indemnity in this extension will not apply to liability or pay any amounts:
- (1) in respect of **Clean Up** of any site or land owned, occupied, leased or rented by, or under the control of the **Insured** or any water course or body of water located in on or under any site or land, owned, occupied, leased or rented by, or under the control of the **Insured**.
 - (2) for any claim which occurs on any site or land which is located outside Great Britain, Northern Ireland, the Channel Islands or the Isle of Man.
 - (3) for **Clean Up** costs in relation to the reinstatement or reintroduction of flora or fauna.
 - (4) arising from Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage or any legislation transposing Directive 2004/35/CE into domestic legislation including but not limited to any liability for primary complementary or compensatory **Remediation** or any interim losses as described in Annex II of that Directive.
- C18.3 The amounts payable by the **Insurer** under this extension for **Clean Up** shall not exceed the applicable Sub-Limit of Indemnity stated in the Schedule.

C19 Unauthorised Movement of Third-Party Vehicles

- C19.1 Notwithstanding exclusion D13 (Motor, Marine and Aviation), the **Insurer** will provide indemnity to the **Insured**:
- (1) against legal liability for **Damages** in respect of:
 - (a) **Physical Injury** to any person;
 - (b) loss of or damage to **Property** occurring on or after the **Retroactive Date** in the **Territorial Limits**, arising out of any motor vehicle which is not the property of, nor provided by, the **Insured** that is moved by the **Insured** to prevent interference by such motor vehicle with any performance of the **Business**.
 - (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld, would be covered) under paragraph C19.1(1) above.
- C19.2 The indemnity in this extension will not apply to any legal liability or pay any amounts where such motor vehicle is being used in circumstances in which insurance or security is required by law.

C20 Vendors' Liability

- C20.1 The **Insurer** will provide indemnity to any vendor of the **Products**:
- (1) against legal liability for **Damages** in respect of legal liability for:
 - (a) **Physical Injury** to any person;
 - (b) loss of or damage to **Property** occurring on or after the **Retroactive Date** in the **Territorial Limits** and caused in connection with the **Business** but only in respect of the distribution or sale of such **Products**.
 - (2) for **Defence Costs** of any claim against the **Insured** which is covered (or if it is upheld would be covered) under paragraph C20.1(1) above.
- C20.2 The indemnity in this extension will not apply to any such vendor in respect of any legal liability or pay any amounts:
- (1) assumed by the vendor under contract or agreement, where such liability would not have attached in the absence of any contract or agreement.
 - (2) arising out of any express warranty not authorised by the **Insured**.
 - (3) arising out of any intentional alteration of the physical or chemical make-up of the Product by the vendor.
 - (4) arising out of repackaging of the **Product** by the vendor, unless the **Product** is unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the **Insured** and then repackaged in the original container.
 - (5) arising out of any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the distribution or sale of the **Products**.
 - (6) arising out of demonstration, installation, servicing or repair operations, other than such operations performed at the vendor's premises in connection with the sale of the Products.
 - (7) arising out of the vendor's labelling, re-labelling or reuse of a container, part or ingredient of the **Product** or of any other thing or substance by or for the vendor.
 - (8) any person or organisation from whom the **Insured** acquires:
 - (i) **Products** (including packaging, containers, labels and instructions for use); or
 - (ii) any ingredient or part of any **Products**.

D Exclusions

The indemnity in this **Policy** (including under any extension) will not apply to legal liability or pay any amounts:

D1 Aircraft Products

- D1.1 arising out of or in connection with any **Product** which with the specific knowledge of the **Insured** is incorporated in any aircraft, aero-spatial, or aerial device and is integrally related to the flight, take-off, landing, navigation, propulsion or safety of such aircraft, aero-spatial, or aerial device.

D2 AIDS

- D2.1 of whatsoever nature directly or indirectly caused by or contributed to, by or arising from the Human Immune Deficiency Virus (HIV), the Acquired Immune Deficiency Syndrome Related Complex (ARC), the Acquired Immune Deficiency Syndrome (AIDS), any HIV ARC or AIDS related virus complex or syndrome.

D3 Contractual Liability

- D3.1 assumed by the **Insured** under contract or agreement in connection with a **Product** where such liability would not have attached in the absence of any contract or agreement, provided that this exclusion shall not apply to liability which attaches under any implied condition under any legislation or law in any territory regarding the sale or supply of goods or services.

D4 Custody or Control

- D4.1 in respect of loss of or damage to **Property** owned by or in the care, custody or control of the **Insured** or any director, partner, officer or **Employee** of the **Insured** other than:
- (1) **Employees'**, directors', partners', officers' or visitors' personal effects including vehicles and their contents.
 - (2) premises and their contents not owned by or leased or rented to the **Insured** at which the **Insured** is undertaking work in connection with the **Business**.
 - (3) premises and their fixtures and fittings leased or rented to the **Insured**, unless such legal liability attaches by virtue of any agreement and would not have attached in the absence of such agreement.

D5 Data Protection

- D5.1 in respect of compensation, damages, losses, costs, expenses, fines, penalties or any other sum arising out of breach of privacy rules or legislation including for example the Data Protection Act 2018 and/or General Data Protection Regulation (EU) 2016/679, whether the liability of the **Insured** arises directly or indirectly.

D6 Deliberate Acts

- D6.1 resulting from a deliberate act or omission of the **Insured** (including any director, partner or officer of the **Insured**) where such liability could reasonably have been expected by the **Insured** (or such person) having regard to the nature and circumstances of the act or omission.

This exclusion shall not apply to legal liability for **Physical Injury** as defined in paragraph F18.3

D7 Dishonesty

- D7.1 arising out of or in connection with any fraud or dishonesty of the **Insured** (including any director, partner or officer of the **Insured**).

D8 Electronic Data

- D8.1 of whatsoever nature directly or indirectly caused or contributed to, by or arising from the loss of, loss of use of, divulgence of, disappearance of, theft of, damage to, corruption of, inability to access, inability to manipulate or inability to prevent access to **Electronic Data**.

This exclusion does not apply to any directly resultant **Bodily Injury** or loss of or damage to **Property** provided that mental injury and/or mental anguish and/or nervous shock and/or loss of or damage to **Electronic Data** remain excluded hereon.

D9 Employment

- D9.1 for **Physical Injury** to, or **Financial Loss** sustained by, any **Employee** arising out of or in the course of employment or engagement by the **Insured** in the **Business**.

D10 Employment Practices

- D10.1 in respect of **Physical Injury** to:
- (1) any person arising out of or in connection with any:
 - (a) refusal to employ that person.
 - (b) termination of that person's employment.

- (c) employment related practices, policies, acts or omissions, such as (but not limited to) coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person.
- (2) the spouse or civil partner, child, parent, brother, or sister of any person at whom any of the actions described in paragraphs D10.1(1)(a) to D10.1(1)(c) above are directed, as a consequence of **Physical Injury** to that person at whom such actions are directed.

This exclusion applies:

- (i) whether the **Insured** may be liable as an employer or in any other capacity;
- (ii) (to any obligation to share damages with or repay someone else who must pay damages because of such **Physical Injury**.

D11 Financial Loss

D11.1 for **Financial Loss**.

D12 Known Claims or Circumstances

D12.1 for claims which arise out of circumstances known to the **Insured** (including any director, partner or officer of the **Insured**) before or at inception of this **Policy** which the **Insured** knew or ought to have known could reasonably give or have given rise to a claim under this **Policy**.

D13 Motor, Marine and Aviation

D13.1 arising out of or in connection with the ownership, possession or use by or on behalf of the **Insured** or any person entitled to indemnity of:

- (1) any mechanically propelled vehicle other than legal liability in respect of:
 - (a) the use of such vehicle as a tool of trade;
 - (b) the use of plant at the premises of the **Insured**;
 - (c) the act of loading or unloading any vehicle

provided that indemnity is not given by any motor insurance policy, and further provided that insurance or security is not required by law.

- (2) any craft designed to travel on or through water, air or space other than:
 - (a) watercraft used for corporate entertainment purposes;
 - (b) watercraft up to fifteen (15) metres in length;
 - (c) pontoons which are not more specifically insured.
- (3) drilling platforms, rigs or offshore installations.

D14 North American Jurisdiction

D14.1 arising out of any action or suit brought in a court of law within the jurisdiction of the United States of America, its territories and possessions, Puerto Rico or Canada or where such action or suit is brought in a court of law outside those countries to enforce a judgement therein whether by way of reciprocal agreement or otherwise.

D15 Penalties

D15.1 for penalties, fines, or liquidated damages.

D16 Pollution

D16.1 of whatsoever nature directly or indirectly caused or contributed to, by or arising out of or in connection with:

- (1) seepage, pollution or contamination, whether actual, alleged or threatened;
- (2) any governmental direction or request that the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**;

in the United States of America, its territories and possessions, Puerto Rico, or Canada.

D16.2 of whatsoever nature directly or indirectly caused or contributed to, by or arising out of or in connection with:

- (1) seepage, pollution or contamination, whether actual, alleged or threatened,
- (2) the cost of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralising seeping, polluting or contaminating substances

other than where seepage of or pollution or contamination by **Pollutants** is directly caused by a sudden, unintended and unexpected happening during the **Period of Insurance** anywhere in the world other than the United States of America, its territories and possessions, Puerto Rico, or Canada.

D16.3 for fines, penalties, punitive or exemplary damages, or for any associated costs or interest, directly or indirectly caused or contributed to by, arising out of or in connection with the discharge, dispersal, release, or escape of **Pollutants** anywhere in the world.

Nothing in this exclusion D16 shall extend the **Policy** to cover any liability which would not otherwise have been covered under the **Policy**.

D17 Previously Notified Claims or Circumstances

D17.1 for claims which arise out of circumstances notified under previous insurance policies.

D18 Products and Work

D18.1 in respect of:

- (1) loss of or damage to any **Product**;
- (2) the costs of replacement, reinstatement, rectification, repair or recall of any **Product** caused by any defect therein or the unsuitability of the **Product** for its intended purpose.
- (3) loss of or damage to that part of any **Property** on which the **Insured** is or has been working which directly arises out of such work.

D19 Professional Services

D19.1 arising out of or in connection with advice, design, specification or other professional services unless:

- (1) the advice, design, specification or other professional services are not provided for a fee or benefit in kind and;
 - (a) are given with the intent to supply or the actual supply of a **Product**; or
 - (b) the legal liability is in respect of **Physical Injury** or damage to **Property** resulting directly from the advice, design, specification or other professional services.
- (2) the rendering or failure to render professional advice is by an **Employee** in respect of first aid or other emergency medical services at or from the **Insured's** premises.

D20 Punitive Damages

D20.1 for punitive or exemplary damages awarded by any court in the United States of America, its territories and possessions, Puerto Rico, or Canada or for any costs or interest associated with any such award.

D21 Radioactive Contamination

D21.1 of whatsoever nature directly or indirectly caused or contributed to, by or arising from or in connection with:

- (1) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
- (2) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly, or nuclear component thereof.

D22 Specific Products

D22.1 of whatsoever nature directly or indirectly caused or contributed to by, arising from or in connection with:

- (1) asbestos, asbestos fibres, asbestos dust, any materials containing asbestos or any refractory ceramic fibres.
- (2) cannabis
- (3) chlorofluorocarbons (CFCs) chlorinated hydro-carbons (CHCs) or halons
- (4) chromated copper arsenate (CCA)
- (5) dioxins or furans.
- (6) electromagnetic fields (EMFs).
- (7) ethylenediaminetetraacetic acid (EDTA).
- (8) **Genetically Modified Organisms.**
- (9) glyphosate
- (10) latex gloves.
- (11) lead.
- (12) lindane.
- (13) medicinal, pharmaceutical or veterinary **Products**, any medical devices or any **Products** containing dietary or health supplements or vitamins.
- (14) methyl tertiary butyl ether (MTBE).
- (15) polychlorinated biphenyls (PCBs).
- (16) any **Product** containing silicone which is in any form implanted or injected in the body.
- (17) tobacco or any tobacco **Product** (or ingredients thereof).
- (18) transmissible spongiform encephalopathy (TSE).
- (19) urea formaldehyde foam.

Provided that this exclusion D22 shall not apply to **Physical Injury** or loss of or damage to **Property** unless the **Physical Injury** or loss of or damage to **Property** is related to (1) to (19) above as content of buildings, structures, goods, materials or **Products**.

D23 Terrorism

D23.1 of whatsoever nature directly or indirectly caused by, resulting from, happening through, contributed to, by or arising out of or in connection with any act of terrorism regardless of any other cause contributing concurrently or in any other sequence to the loss, damage, injury, cost or expense.

D24 Toxic Mould

D24.1 of whatsoever nature directly or indirectly caused by, or contributed to, by or arising from **Fungi** or bacteria on or within a building or structure including the contents thereof.

This exception does not apply to **Fungi** or bacteria that are or are on or are contained in any goods or **Products** intended for consumption.

D25 War

D25.1 arising out of or in connection with any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

E Conditions

E1 Alteration of Risk

- E1.1 The **Insured** shall give notice as soon as reasonably practicable to the **Insurer** of any fact or alteration which materially increases the risks covered by this **Policy**, and the **Insurer** shall be entitled, in its absolute discretion, to amend the terms and conditions of the **Policy** and to charge additional premium from the date of the relevant fact or alteration.
- E1.2 If the amended terms and conditions and/or additional premium are not acceptable to the **Insured** then the **Insured** shall have the option to cancel the **Policy** with immediate effect, and shall be entitled to the return of a proportionate part of the premium corresponding to the unexpired **Period of Insurance**, unless claims have already been made under the **Policy**, in which case the **Insured** will not be entitled to any return of the premium. This **Policy** shall afford no cover, and no indemnity or other sum shall be payable, for any claims caused by or contributed to by the increased risk until:
- (1) the **Insurer** is advised of such facts or alteration and shall have expressly agreed in writing to accept liability for such increased risk; and
 - (2) the **Insured** has agreed to any amended terms and conditions and additional premium charged.

E2 Breach of Duty of Fair Presentation

- E2.1 If, prior to entering into this **Policy**, the **Insured** shall breach the duty of fair presentation, the remedies available to the **Insurer** are set out below.
- (1) If the **Insured's** breach of the duty of fair presentation is deliberate or reckless:
 - (a) The **Insurer** may avoid this **Policy**, and refuse to pay all claims; and
 - (b) The **Insurer** need not return any of the premiums paid.
 - (2) If the **Insured's** breach of the duty of fair presentation is not deliberate or reckless, the **Insurer's** remedy shall depend upon what the **Insurer** would have done if the **Insured** had complied with the duty of fair presentation:
 - (a) If the **Insurer** would not have entered into this **Policy** at all, the **Insurer** may avoid this **Policy** and refuse all claims but must return the premiums paid.
 - (b) If the **Insurer** would have entered into this **Policy**, but on different terms (other than terms relating to the premium), this **Policy** is to be treated as if it had been entered into on those different terms from the outset, if the **Insurer** so requires.
 - (c) In addition, if the **Insurer** would have entered into this **Policy**, but would have charged the **Insured** a higher premium, the **Insurer** may charge the **Insured** the additional premium which the **Insured** must pay in full. This replaces the remedy set out in the Insurance Act 2015 (the "**Act**"), Schedule 1, Part 1, Paragraph 6.
- E2.2 If, prior to entering into a variation to this **Policy**, the **Insured** shall breach the duty of fair presentation, the remedies available to the **Insurer** are set out below.
- (1) If the **Insured's** breach of the duty of fair presentation is deliberate or reckless:
 - (a) The **Insurer** may by notice to the **Insured** treat this **Policy** as having been terminated from the time when the variation was concluded; and
 - (b) The **Insurer** need not return any of the premiums paid.
 - (2) If the **Insured's** breach of the duty of fair presentation is not deliberate or reckless, the **Insurer's** remedy shall depend upon what the **Insurer** would have done if the **Insured** had complied with the duty of fair presentation:
 - (a) If the **Insurer** would not have agreed the variation to this **Policy** at all, the **Insurer** may treat this **Policy** as though the variation was never made but must in that event return any extra premium paid.

- (b) If the **Insurer** would have agreed to the variation to this **Policy**, but on different terms (other than terms relating to the premium), the variation is to be treated as if it had been entered into on those different terms, if the **Insurer** so requires.
- (c) In addition, if the **Insurer** would have entered into the variation to this **Policy** but:
 - (i) would have charged the **Insured** a higher premium; or
 - (ii) would not have reduced the premium; or
 - (iii) would have reduced it by less than it did,

the **Insurer** may charge the **Insured** the additional or difference in premium which the **Insured** must pay in full so that the **Insurer** is put in the position that it would have been if the **Insured** had complied with the duty of fair presentation. This replaces the remedy set out in the **Act**, Schedule 1, Part 1, Paragraph 11.

E3 Cancellation

- E3.1 The **Insurer** may cancel this **Policy** at any time by sending sixty (60) days' notice to the **Insured** at the address in the Schedule and in such event the **Insured** shall become entitled to the return of a proportionate part of the premium corresponding to the unexpired **Period of Insurance**.
- E3.2 The **Insured** may cancel this **Policy** at any time by sending sixty (60) days' notice to the **Insurer** at its registered office address and providing that there have been no circumstances reported in accordance with condition E4 (Claims – Responsibilities of the **Insured**) within the current **Period of Insurance** the **Insurer** shall be entitled to retain the short rate proportion of the premium for the period this **Policy** has been in force, calculated in accordance with the **Insurer's** short rate cancellation table below. If circumstances have been reported in accordance with condition E4 (Claims – Responsibilities of the **Insured**), no return of premium will be due to the **Insured**.

Days Insurance in Force	Per Cent of One Year Premium	Days Insurance in Force	Per Cent of One Year Premium
1 – 32 (1 Month)	25	183 – 214 (7 Months)	80
33 – 62 (2 Months)	33.33	215 – 248 (8 Months)	90
63 – 91 (3 Months)	40	249 – 273 (9 Months)	100
92 – 124 (4 Months)	50	274 – 305 (10 Months)	100
125 – 153 (5 Months)	60	306 – 337 (11 Months)	100
154 – 182 (6 Months)	70	338 – 366 (12 Months)	100

- E3.3 Notwithstanding condition E3.2 above, in respect of non-payment of premium only, the following clause will apply:
 - (1) The **Insured** undertakes that premium will be paid in full to the **Insurer** within sixty (60) days of the inception date of this **Policy** (or in respect of instalment premiums when due).
 - (2) If the premium due under this **Policy** has not been so paid to the **Insurer** by the sixtieth (60th) day from the inception date of this **Policy** (and in respect of instalment premiums by the date they are due), the **Insurer** shall have the right to cancel this **Policy** by notifying the **Insured** via the broker in writing at its registered office address. In the event of cancellation, premium is due to the **Insurer** on a pro-rata basis for the period that the **Insurer** is on risk, but the full policy premium shall be payable to the **Insurer** in the event of a circumstance or **Event** prior to the date of termination which is likely to give rise to a claim under this **Policy**.

- (3) It is agreed that the **Insurer** shall give not less than fifteen (15) days' prior notice of cancellation to the **Insured** via the broker at its registered office address. If the premium due is paid in full to the **Insurer** before the notice period expires, notice of cancellation shall automatically be revoked. If not, the **Policy** shall automatically terminate at the end of the notice period.
- (4) If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

E4 Claims - Responsibilities of the Insured

- E4.1 In the event of any circumstance about which the **Insured** (including any director, partner or officer) is or becomes aware, which is likely to give rise to a claim under this **Policy**, the **Insured** shall:
- (1) as soon as reasonably practicable give notice and full particulars in writing to the **Insurer** and provide all such additional information as the **Insurer** may request.
 - (2) retain anything connected to the potential claim for such time as the **Insurer** may reasonably require.
 - (3) as soon as reasonably practicable forward to the **Insurer** upon receipt every letter, claim or court document in connection with the potential claim.
 - (4) as soon as reasonably practicable notify the **Insurer** in writing when the **Insured** has knowledge of any impending prosecution, inquest or official inquiry.
- E4.2 If the **Insured** fails to comply with any of its obligations as set out in paragraph E4.1 above then this **Policy** shall afford no cover, and no indemnity or other sum shall be payable, in connection with that claim under the **Policy**.

E5 Control of Claims

- E5.1 No admission, offer, promise, payment, or indemnity shall be made or given by or on behalf of the **Insured** in connection with any potential or actual claim under this **Policy** without the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed).
- E5.2 The **Insured** shall give all information, documents, co-operation and assistance as the **Insurer** may require.
- E5.3 If the **Insured** fails to comply with paragraphs E5.1 or E5.2 above then this **Policy** shall afford no cover, and no indemnity or other sum shall be payable, in connection with that claim under the **Policy**.
- E5.4 The **Insurer** shall:
- (1) be entitled to take over and conduct in the name of the **Insured** in such manner as the **Insurer** may in its absolute discretion think fit, the defence or settlement of any claim against the **Insured**;
 - (2) be entitled to prosecute in the name of the **Insured**, in such manner as the **Insurer** may in its absolute discretion think fit, and for its own benefit, any claim for indemnity or damages or otherwise;
 - (3) otherwise have absolute discretion in the conduct of any proceedings and in the settlement of any claim
- whether or not any payment has been made to the **Insured** under this **Policy**.

- E5.5 If, either before or after the **Insurer** has commenced the defence of proceedings brought against the **Insured**, the **Insurer** no longer believes that there are reasonable prospects for successfully defending those proceedings the **Insurer** will be able to appoint a Queen's Counsel to assess the prospects of defending the proceedings. The **Insurer** shall not be responsible for **Defence Costs** where the opinion of the appointed Queen's Counsel is that there is no reasonable prospect of successfully defending proceedings brought against the **Insured**. The decision to appoint Queen's Counsel shall be at the sole discretion of the **Insurer**.

E6 Discharge of Liability

- E6.1 The **Insurer** may at any time pay to the **Insured** in connection with any claim or series of claims against the **Insured**:
- (1) the remaining amount of the Limit of Indemnity or applicable Sub-Limit of Indemnity (after deduction of any sum or sums already paid as **Damages** or **Defence Costs**, if applicable); or
 - (2) any lesser amount for which such claim or claims can be settled; and
 - (3) where **Defence Costs** are to be covered in addition to the Limit of Indemnity or Sub-Limit of Indemnity, those **Defence Costs** which have been incurred by the **Insured** prior to the date of payment under paragraphs E6.1 (1) or E6.1 (2) above.
- E6.2 Upon such payment being made, the **Insurer** shall relinquish the conduct and control of, and be under no further liability in connection with, such claim or claims.

E7 Disputes Clause

- E7.1 This **Policy** shall be governed by and interpreted in accordance with the laws of England and Wales.
- E7.2 All disputes and differences arising under or in connection with this **Policy** shall be referred to arbitration under ARIAS (UK) Arbitration Rules.
- E7.3 The arbitration tribunal shall consist of three arbitrators, one to be appointed by the claimant, one to be appointed by the respondent and the third to be appointed by the two appointed arbitrators.
- E7.4 The third member of the arbitration tribunal shall be appointed as soon as practicable (and no later than twenty-eight (28) days) after the appointment of the two party-appointed arbitrators. The tribunal shall be constituted upon the appointment of the third arbitrator.
- E7.5 The arbitrators shall be persons (including those who have retired) with not less than ten (10) years' experience of insurance or reinsurance within the industry or as lawyers or other professional advisers serving the industry.
- E7.6 Where a party fails to appoint an arbitrator within fourteen (14) days' of being called upon to do so or where the two party-appointed arbitrators fail to appoint a third within twenty-eight (28) days of their appointment, then upon application ARIAS (UK) will appoint an arbitrator to fill the vacancy. At any time prior to the appointment by ARIAS (UK) the party or arbitrators in default may make such appointment.
- E7.7 The tribunal may in its sole discretion make such orders and directions as it considers to be necessary for the final determination of the matters in dispute. The tribunal shall have the widest discretion permitted under the law governing the arbitral procedure when making such orders or directions.
- E7.8 The seat of arbitration shall be London, England.

E8 Insurance Premium Tax Indemnity

- E8.1 The **Insured** agrees to indemnify and hold the **Insurer** harmless against any assessment raised on the **Insurer** by a taxing authority of the United Kingdom or any state in the European Union as a consequence of the non-payment or underpayment of **Premium Tax** where such non-payment or underpayment is the direct or indirect result of incorrect or misleading information being provided by the **Insured**.

- E8.2 In the event that a taxing authority asserts that there has been a deficiency in the payment of **Premium Tax** by the **Insurer** with respect to this **Policy**, the **Insured** agrees to reimburse the **Insurer** promptly upon the **Insurer's** written demand for any costs associated with ascertaining and/or contesting such deficiency and to provide the **Insurer** with all the assistance and documentation that they may reasonably require. The **Insurer** agrees to follow the reasonable instructions of the **Insured** in its dealings with the taxing authority in this respect including whether or not to contest the taxing authority's claims.
- E8.3 This clause, together with any disputes, inspection, confidentiality or other similar clause herein that relates to continuing duties and obligations of the party's ancillary to the **Insurer's** promise to indemnify, shall continue beyond the expiry date or earlier cancellation date of this **Policy**.

E9 Interpretation

- E9.1 Reference to any act, statute or statutory provision shall include a reference to that act, statute or statutory provision as amended, re-enacted or replaced from time to time whether before or after the inception date of this **Policy** and are to include any orders, regulations, instruments or other subordinated legislation made under or deriving validity from the statutory provision.
- E9.2 If any term, condition or exclusion or part of this **Policy** is found to be invalid or unenforceable, the remainder of such term, condition or exclusion shall remain in full force and effect.
- E9.3 Headings are inserted solely for convenience and shall have no meaning.
- E9.4 Words importing the singular shall include the plural and vice versa.

E10 Other Insurance

- E10.1 If, at the time any claim arises under this **Policy**, there is any other insurance covering the same liability, the **Insurer** shall not be liable except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this **Policy** not been purchased. Provided however that this proviso shall not apply to any policy which is specifically written as excess of this **Policy**.

E11 Reasonable Precautions

- E11.1 The **Insured** (including any director, partner or officer of the **Insured**) at its own expense shall:
- (1) take reasonable precautions to prevent and minimise any **Incident**.
 - (2) maintain all buildings, furnishings, ways, works, machinery, plant and vehicles in sound condition and act in accordance with all statutory obligations and regulations.
 - (3) as soon as reasonably practicable after discovery, cause any defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances may require.
- E11.2 If the **Insured** (including any director, partner or officer of the **Insured**) fails to comply with any of its obligations as set out in paragraph E11.1 above the **Insurer** shall have no liability under the **Policy** unless the **Insured** shows that non-compliance could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

E12 Rights of Third Parties

- E12.1 A person or company who is not a party to this **Policy** has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this **Policy**, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

E13 Trading Restrictions and Sanctions

- E13.1 Notwithstanding anything to the contrary in this **Policy**, the **Insurer** shall not be deemed to provide cover, and shall not be liable to pay any claim or provide any benefit under this **Policy**, to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the United Kingdom, the European Union or the United States of America.

F Definitions

The following definitions are applicable to the **Policy**:

- F1 Bodily Injury** means bodily injury, illness, disease, mental injury, mental anguish and nervous shock, including death or physical disability resulting therefrom.
- F2 Business** means that specified in the Schedule and includes:
- F2.1 the provision of catering, social, sports and welfare, nursery, crèche or child care facilities, primarily for **Employees**;
 - F2.2 ambulance, fire, security and first aid services;
 - F2.3 private work undertaken with the consent of the **Insured** by an **Employee** for a director or partner or **Employee** of the **Insured**;
 - F2.4 the engagement of sub-contractors for performance of work on behalf of the **Insured**;
 - F2.5 the organisation of and participation in exhibitions, trade fairs and conferences;
 - F2.6 the ownership, leasing, repair and maintenance of land and **Property**;
 - F2.7 repair, maintenance and servicing of motor vehicles other than on a commercial basis;
 - F2.8 sale or disposal of own property and goods including owned mechanically propelled vehicles; and
 - F2.9 organisation and sponsorship of fund-raising activities and events and the sponsorship of individuals.
- F3 Clean Up** means the cost of **Remediation** necessarily incurred by the **Insured** (or for which the **Insured** is legally liable to pay including any statutory debt) as required by any **Enforcing Authority** to a standard reasonably achievable at a reasonable cost by the methods available when such **Remediation** commences, but shall not include the costs of achieving any improvement or alteration in the condition of the site, the land, the atmosphere or any water course or body of water beyond that required by the relevant **Enforcing Authority** under the relevant and applicable law, statutory enactment or guidance at the time **Remediation** commences.
- F4 Damages** means:
- F4.1 the damages which a party other than the **Insured** is legally entitled to receive from the **Insured**; and
 - F4.2 legal costs and expenses recoverable from the **Insured** by a party other than the **Insured**.
- F5 Deductible** means the amount or amounts stated in the Schedule for which the **Insured** is responsible, and which shall reduce the Limit of Indemnity stated in the Schedule.
- F6 Defence Costs** means the reasonable legal costs and expenses necessarily incurred with the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed), by or on behalf of the **Insured**:
- F6.1 in the investigation, defence, settlement or appeal of any claim against the **Insured** which is covered (or if it is upheld would be covered) under this **Policy**; and
 - F6.2 for representation at any coroner's inquest, fatal inquiry or proceedings in any court arising out of any alleged breach of statutory duty resulting in **Bodily Injury** which may give rise to a claim.
- Defence Costs** does not include the costs or overheads of the **Insured**.
- F7 Electronic Data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CDROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- F8 Employee** means:
- F8.1 any person under a contract of employment or apprenticeship with the **Insured**;

and at the request of the **Insured** any of the following working for the **Insured** in connection with the **Business**:

- F8.2 any labour master or person supplied by him or any person supplied by a labour only sub-contractor;
- F8.3 any self-employed person working for the **Insured** in the capacity of employee;
- F8.4 any person hired to or borrowed by the **Insured** including drivers and operators of hired-in plant;
- F8.5 any person under a work experience training, study, exchange or similar scheme;
- F8.6 any prospective employee being assessed by the **Insured** as to their suitability for employment;
- F8.7 any voluntary worker or helper;
- F8.8 any person working under the Criminal Justice Act 2003, the Community Service by Offenders (Scotland) Act 1978 or similar legislation;
- F8.9 any person defined under Sections 35(2) and 54(3)(b) of the National Minimum Wage Act 1998;
- F8.10 any other person a UK court deems to be an employee.

F9 Enforcing Authority means any government or statutory authority or body implementing or enforcing environmental protection legislation in Great Britain, Northern Ireland, the Channel Islands or the Isle of Man.

F10 Event means any one or all **Incidents** arising out of one original cause, and shall include but not be restricted to several **Incidents** arising out of:

- F10.1 the same fault in design, manufacture, instructions for use or labelling;
- F10.2 the supply of the same **Products**;
- F10.3 **Products** showing the same defect; or
- F10.4 the same action or failure to act

all irrespective of the number of injured parties, actual claimants, eligible claimants or claims under this **Policy**.

All such **Incidents** shall be deemed to have occurred on the day of the first of such **Incidents**.

F11 Financial Loss means a pecuniary loss, cost or expense not in respect of:

- F11.1 **Physical Injury** to any person;
- F11.2 loss of or damage to **Property**;
- F11.3 obstruction, nuisance, trespass, loss of amenity or interference with any right of way, air, light, water or other easement.

F12 Fungi means any type or form of fungus, including mould or mildew, and any mycotoxins, spores, scents or by-products produced or released by **Fungi**.

F13 Genetically Modified Organism shall mean and include organisms or micro-organisms or the organisms or micro-organisms from which they have been derived which have been subject to a genetic engineering process which resulted in their genetic change and shall also mean and include every biological or molecular unit with self-replication potential or biological or molecular unit with self-replication potential from which they have been derived which has been subject to a genetic engineering process which resulted in its genetic change.

In the event that in a particular case the definition of **Genetically Modified Organism** in the applicable law and/or official regulations dealing with genetic engineering is more extensive than the definition of **Genetically Modified Organism** given here then such definition shall be incorporated into this policy in addition to the existing definition.

F14 Incident means any incident of **Physical Injury**, loss of or damage to **Property**, obstruction, nuisance, trespass, loss of amenity, interference with any right of way, air, light, water or other easement, any claim for **Financial Loss** or other incident which may give rise to liability under this **Policy**.

- F15 Insured** means the entity or entities stated as such in the Schedule.
- F16 Insurer** means XL Catlin Insurance Company UK Limited.
- F17 Legionella Bacteria** means legionella pneumophilla or the mutants, derivatives or variations thereof.
- F18 Physical Injury** means;
- F18.1 **Bodily Injury**;
 - F18.2 false arrest, invasion of the right of privacy, wrongful detention, false imprisonment, false eviction, harassment, discrimination, malicious prosecution;
 - F18.3 assault and battery not committed by or at the direction of the **Insured** unless committed for the purpose of preventing or eliminating danger to persons or **Property**.
- F19 Period of Insurance** means the period stated as such in the Schedule.
- F20 Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to dust, smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste.
- Waste includes materials to be recycled, reconditioned or reclaimed.
- F21 Policy** means this policy document, the Schedule and Endorsements which shall be read together as one contract and any word or expression to which a specific meaning is attached in any of them shall bear such meaning throughout.
- F22 Premium Tax** means any insurance premium taxes, parafiscal taxes, withholding taxes, or any other similar taxes.
- F23 Principal** means any public authority, company, firm or person, (but excluding any subcontractor) with whom the Insured has entered into a written contract or agreement.
- F24 Product** means in the course of the **Business**:
- F24.1 any item (including packaging, containers, labels and instructions for use) sold, supplied, hired out, constructed, erected, installed, treated, repaired, serviced, processed, stored, handled, transported or disposed of by or on behalf of the **Insured**; or
 - F24.2 any structure constructed, erected or installed or contract work executed by or on behalf of the **Insured**.
- F25 Property** means physical property.
- F26 Remediation** means the investigation, monitoring, assessment, mitigation, curtailment or minimisation of any discharge, dispersal, release or escape of **Pollutants** into or upon the land, the atmosphere, any water course or body of water which has caused significant harm or which poses a significant risk of causing further significant harm to **Property** not owned, occupied, leased or rented by or under the control of the **Insured** or **Physical Injury** to any person but only to the extent that the **Insured** is required to take such action by an **Enforcing Authority**.
- F27 Retroactive Date** means the date(s) stated as such in the Schedule.
- F28 Territorial Limits** means the countries stated as such in the Schedule.

G Global Programme Local Policy Operation Provision

G1 Programme Clause

- G1.1 This **Policy** is part of an International Liability Programme which consists of a Master Policy issued in France and local policies issued in the countries forming part of this International Public and Products Liability Programme.
- G1.2 Any claim payments made under this **Policy** shall be deducted from the total limit of indemnity and sub-limits of indemnity of the Master Policy.
- G1.3 The total amount payable under the applicable Limit of Indemnity and Sub-Limits of Indemnity of this **Policy** and the corresponding limits and sub-limits of the Master Policy and any other local policies forming part of this International Liability Programme in respect of any one **Event** and/or in the aggregate during any one **Period of Insurance** shall not exceed the applicable limit of indemnity and sub-limits of indemnity of the Master Policy. It is agreed that if the total amount paid under the Master Policy and any local policies as set out in the preceding sentence exceeds the applicable limit of indemnity and sub-limits of indemnity of the Master Policy, then the Limits of Indemnity of this **Policy** shall be exhausted, and no further payments shall be due under this **Policy**.

H Complaints

The **Insurer** is dedicated to providing a high quality service and wants to ensure that it maintain this at all times.

If the **Insured** has any questions or concerns about the policy or the handling of a claim please contact the broker through whom this policy was arranged.

If the **Insured** wishes to make a complaint they can do so at any time by referring the matter to:

Complaints Department
XL Catlin Services SE, UK Branch
20 Gracechurch Street
London
EC3V 0BG
United Kingdom

Telephone Number: +44 (0)20 7743 8487

Email: axaxlukcomplaints@axaxl.com

XL Catlin Services SE acts on behalf of the **Insurer** in the administration of complaints.

If the **Insured** remains dissatisfied after the Complaints Department has considered the complaint, or they have not received a final decision within eight (8) weeks, the Insured can refer the complaint to the Financial Ombudsman Service at:

Financial Ombudsman Service
Exchange Tower
London
E14 9SR
United Kingdom

Email: complaint.info@financial-ombudsman.org.uk

Telephone Number: **From within the United Kingdom**

0800 0234 567 calls to this number are free on mobiles and landlines

0300 1239 123 calls to this number costs no more than calls to 01 and 02 numbers

From outside the United Kingdom

+44 (0)20 7964 0500

Fax Number: +44 (0)20 7964 1001

Text Number: 07860 027 586 Call Back Service

The Financial Ombudsman Service can look into most complaints from consumers and small businesses. For more information contact them on the above number or address, or view their website: www.financial-ombudsman.org.uk

The European Commission also provides an on-line dispute resolution (ODR) platform that allows consumers to submit their complaint through a central site, which will forward the complaint to the right Alternative Dispute Resolution (ADR) scheme. The ADR scheme for XL Catlin Insurance Company UK Limited is the Financial Ombudsman Service, which can be contacted directly using the contact details above. For more information about ODR please visit <http://ec.europa.eu/odr>

I Fair Processing Notice

This Privacy Notice describes how XL Catlin Insurance Company UK Limited (“**we**”, or “**us**”) collect and use the personal information of insureds, claimants and other parties (“**you**”) when we are providing our insurance and reinsurance services.

The information provided to us, together with medical and any other information obtained from you or from other parties about you in connection with this policy, will be used by us for the purposes of determining your application, the operation of insurance (which includes the process of underwriting, administration, claims management, analytics relevant to insurance, rehabilitation and customer concerns handling) and fraud prevention and detection. We may be required by law to collect certain personal information about you, or as a consequence of any contractual relationship we have with you. Failure to provide this information may prevent or delay the fulfilment of these obligations.

Information will be shared by us for these purposes with group companies and third-party insurers, reinsurers, insurance intermediaries and service providers. Such parties may become data controllers in respect of your personal information. Because we operate as part of a global business, we may transfer your personal information outside the European Economic Area for these purposes.

You have certain rights regarding your personal information, subject to local law. These include the rights to request access, rectification, erasure, restriction, objection and receipt of your personal information in a usable electronic format and to transmit it to a third party (right to portability).

If you have questions or concerns regarding the way in which your personal information has been used, please contact: legalcompliance@axaxl.com.

We are committed to working with you to obtain a fair resolution of any complaint or concern about privacy. If, however, you believe that we have not been able to assist with your complaint or concern, you have the right to make a complaint to the relevant Data Protection Authority.

For more information about how we process your personal information, please see our full privacy notice at: <https://axaxl.com/privacy-and-cookies>.

Brokers, Intermediaries, Partners, Employers and Other Third Parties

If you provide us with information about someone else, we will process their personal information in line with the above. Please ensure you provide them with this notice and encourage them to read it as it describes how we collect, use, share and secure personal information when we provide our services as an insurance and reinsurance business

Endorsement Number. 001

to be attached to Policy No. UK00006790LI21A

Insured:

KINGFISHER HOLDINGS LIMITED and The Jobbers

Effective Date:

01 March 2021

Excess not Deductible Endorsement

With effect from the Effective Date stated above it is agreed that wherever the word **Deductible** is used in the **Policy** it is deleted and replaced by the word **Excess**.

B6 is deleted and replaced with:

The applicable Limit of Indemnity or Sub-Limit of Indemnity (as applicable) is exclusive of any **Excess**.

The definition of **Deductible** is deleted and the following definition is added to the **Policy**:

Excess means the amount or amounts stated in the Schedule for which the **Insured** is responsible and which does not reduce the Limit of Indemnity stated in the Schedule.

Subject otherwise to the terms, exclusions and conditions of this **Policy**.

Endorsement Number. 002

to be attached to Policy No. UK00006790LI21A

Insured:

KINGFISHER HOLDINGS LIMITED and The Jobbers

Effective Date:

01 March 2021

Costs Inclusive but not included in the Excess Endorsement

With effect from the Effective Date section B2 is deleted and replaced with:

“The applicable Limits of Indemnity specified in the Schedule shall be inclusive of all amounts payable by the **Insurer** for **Defence Costs** under paragraph A1.1(2) or any extension.”

The definition of **Excess** is deleted and replaced with:

Excess means the amount or amounts stated in the Schedule for which the **Insured** is responsible and which does not reduce the Limit of Indemnity stated in the Schedule. The **Excess** shall not apply to **Defence Costs**.

Subject otherwise to the terms, exclusions and conditions of this **Policy**.

Endorsement Number. 003

to be attached to Policy No. UK00006790LI21A

Insured:

KINGFISHER HOLDINGS LIMITED and The Jobbers

Effective Date:

01 March 2021

Communicable Disease Endorsement

With effect from the Effective Date the following is added to the **Policy** :

Communicable Disease

This insurance does not apply to any liability based upon, arising out of, resulting from, in any way involving, related to (whether directly or indirectly), or in any way associated with any actual, alleged, threatened, perceived, or suspected direct or indirect transmission of, contact with, exposure to, or impact from any communicable disease, including but not limited to any actual, alleged, or perceived fear or threat of any such transmission, contact, exposure, or impact.

This exclusion applies even if the claims against any “Insured” allege negligence or other wrongdoing in the:

1. Supervision, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
2. Testing for a communicable disease;
3. Failure to prevent the spread of the disease; or
4. Failure to report the disease to authorities.

Subject otherwise to the terms, exclusions and conditions of this **Policy**.



XL Catlin Insurance Company UK Limited
20 Gracechurch Street, London, EC3V 0BG, United Kingdom

Telephone: +44 (0)20 7743 8487 Fax: +44 (0)20 7623 9101 axaxl.com

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