

# Contractors' Plant and Special Types **Policy**

## **Important Information**

Please read and keep safe

# Contractors' Plant and Special Types policy

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# Introduction

## Your Policy and Schedule

Here is Your new policy document containing full details of the insurance We are providing. The Schedule contains particulars personal to Your insurance protection under the policy including the levels of cover operative under each section of the policy and should be read in conjunction with the rest of the policy.

May We please ask You to examine this policy and Schedule carefully to ensure it meets with Your particular needs. Almost certainly these needs will change. If they do, please let Us know – Your policy is designed for easy amendment or extension.

## Special notes

The Schedule and Road Traffic Act Certificate(s) of insurance and disc(s) for this policy are separately enclosed.

In case of accident immediate notice must be given to the Company.

## The Law applicable to the Contract

Under the relevant European and Irish legal provisions, the parties to the proposed contract of insurance, We, Aviva Insurance Ireland DAC, and You, the proposer, are free to choose the law applicable to the contract. We propose that Irish law will apply to the contract. The Insurer with which Your contract will be concluded is Aviva Insurance Ireland DAC.

## Complaints Procedure

We aim to give excellent service to all Our customers; however, We recognise that things may occasionally go wrong. We will do Our best to deal with Your complaint as effectively and quickly as possible.

If you arranged your policy cover through an intermediary or broker then you should initially direct your complaint to them. If the complaint is not resolved to your satisfaction you can contact Aviva Insurance Ireland DAC at 1800 666 555.

You can also write to the Aviva Ireland Complaints Team - Aviva Insurance Ireland DAC, One Park Place, Hatch Street, Dublin 2, Ireland, D02 E651 or You can contact:

- **Financial Services and Pensions Ombudsman**  
Lincoln House, Lincoln Place, Dublin 2, D02 VH29  
Phone: 01 567 7000  
E-mail: info@fspo.ie  
Website: www.fspo.ie
- **Insurance Ireland**  
Insurance Centre, 5 Harbourmaster Place,  
IFSC, Dublin 1, DO1 E7E8.  
Phone: 01 676 1914  
Fax: 01 676 1943  
E-mail: iis@insuranceireland.eu  
Website: www.insuranceireland.eu

## Risks located in the UK

Where applicable, where insurance cover is provided under this Policy in respect of risks established or located in the United Kingdom [notified to and accepted by the Company], the insurance cover in respect of those risks will be provided through the Company's branch in the United Kingdom.

## Insurance Act 1936

All monies which become or may become due or payable by the Company under this policy shall in accordance with Section 93 of the Insurance Act 1936 be payable and paid in the Republic of Ireland.

## Stamp Duties Consolidation Act 1999

The appropriate stamp duty has been or will be paid in accordance with the provisions of Section 5 of the Stamp Duties Consolidation Act 1999.

## Government charges

The first premium herein includes any such charges.

## Cooling Off Period

If You cancel the Policy within 14 working days from the start date of the policy (the "Cooling Off Period"), the Company will refund the premium for the period of insurance remaining.

If You cancel the Policy after the Cooling Off Period, please refer to General Condition 8 Cancellation of this Policy for terms and conditions.

**Aviva Insurance Ireland DAC**  
Aviva Insurance Ireland Designated Activity Company, trading as Aviva, is regulated by the Central Bank of Ireland.  
A private company limited by shares.  
Registered in Ireland No. 605769.  
Registered Office: One Park Place, Hatch Street, Dublin 2, Ireland, D02 E651.

# Special Notes

## Important

In case of accident immediate notice must be given to Us. Aviva is very proud of its claims service. We know that this is when You need Us most and We provide a speedy and efficient service to make the process as easy as possible for You.

## Accident Line

You can contact Us 24 hours a day, 365 days a year on **1800 147 147**.



For help and advice on all motor and property claims

## DEFINITIONS

Throughout the policy certain words have a specific meaning wherever they appear and We have defined these below.

### Vehicle

Any Vehicle You have given Us details of and which We describe under the heading of 'Vehicles or classes of Vehicles, the use of which is covered' in the Certificate We have given You and which is still in force.

### Plant

Any machinery plant or equipment mentioned by description or identification number in the Schedule We have given You and which is still in force.

### Certificate

The current document that proves You have the motor insurance You need by law. The Certificate shows who can drive Your Vehicle and what You can use it for. It is proof that You can use Your Vehicle on a road or in any other public place, as needed by road traffic legislation. The Certificate does not show the cover You have.

### Endorsement

Changes in the terms of Your policy. These are shown in Your Schedule and described in Section 4 of Your policy.

### Excess

The amount You will have to pay towards any claim.

### Period of Insurance

The period of time covered by this policy, as shown in the Schedule, and any further period that We agree to insure You for.

### Schedule

The document which gives details of cover You have.

### We, Us, Our, the Company

Aviva Insurance Ireland DAC.

### You, your, the Insured, the Policyholder

The policyholder named in the Schedule.

### Clause

Where appearing on any Endorsement hereon shall have the same meaning as the word 'section'.

Aviva Insurance Ireland DAC (hereinafter referred to as "We, Us, Our, the Company") will provide insurance as expressed in this Policy in respect of bodily injury loss or damage occurring during any Period of Insurance in respect of which the Policyholder has paid or agreed to pay the premium.

If more than one person is named as the Policyholder the insurance granted by this Policy applies jointly and individually to all such persons.

## Territorial Limits

### The Policy will apply in respect of

- 1 Events occurring in (a) the Republic of Ireland and (b) Great Britain Northern Ireland Channel Islands or the Isle of Man or in the course of transit by sea between any ports therein including processes of loading and unloading.
- 2 The minimum indemnity required to comply with the laws relating to compulsory insurance of vehicles in any country which is a member of the European Union and any other country in respect of which the Commission of the European Union is satisfied that arrangements have been made to meet the requirements of Article 8(1) of the EC Directive on insurance of civil liabilities arising from the use of motor vehicles (number 2009/103/EC).

# Section 1 – Loss of or Damage to the Vehicle/Plant

The Company will indemnify the Insured against loss of or damage to the Vehicle/Plant described in the Schedule from any cause not excluded by the Policy.

The limit of the Company under Section 1 and by Endorsement(s) operative on this Policy in respect of any item of Plant shall not exceed the sum insured stated in the Schedule against such item and operative Endorsement(s).

## **Additional Benefits**

### **Immobilised Plant**

- 1 This policy extends to include the necessarily incurred cost of recovery or withdrawal of unintentionally immobilised Plant provided that such recovery or withdrawal is not necessitated solely by electrical or mechanical breakdown or derangement and provided that the Company's liability shall not exceed in total 110% of the value of such immobilised Plant.

### **Fire Brigade Charges**

- 2 The Company will indemnify the Insured in respect of fire brigade attendance charges as may be levied by any local authority in dealing with any fire which results in a claim under the policy. The Company's liability in respect of these charges shall not exceed €5,000.

### **Reinstatement (applicable to warehouse forklifts only)**

- 3 The basis upon which indemnity for Section 1 (in relation to Warehouse Forklifts only) is calculated shall be Reinstatement of the Vehicle/Plant lost or damaged and Reinstatement shall mean

in respect of Section 1

- (a) where the Vehicle/Plant is lost its replacement by similar property in a condition equal to but not better or more extensive than its condition when new
- (b) where the Vehicle/Plant is damaged the cost of repair of the damage except that where all the necessary parts to repair the damage are not obtainable from the manufacturer or the agents or factors of the manufacturer at listed prices Reinstatement shall mean the cost of an equivalent repair of which all spare parts are obtainable from the manufacturer or the agents or factors of the manufacturer at listed prices.

In respect of Section 1 reinstatement in relation to warehouse forklifts only shall not apply to Vehicles/Plant which are greater than 5 years old.

## Section 2 – Liability to Third Parties

The Company will indemnify the Insured Person against all sums which he shall become legally liable to pay for damages and claimant's costs and expenses and any other costs and expenses incurred with its written consent in respect of bodily injury (fatal or otherwise) or damage to property (payment in respect of such damage being limited to €1,300,000 in respect of any one claim or number of claims arising out of one cause) arising as a result of an accident caused by or in connection with

- (a) the Vehicle
- (b) the loading or unloading of the Vehicle
- (c) the bringing of a load to the Vehicle for loading thereon or the taking away of a load after unloading therefrom by
  - (i) the driver or attendant of the Vehicle
  - (ii) any other person but only in respect of an accident caused or arising in a Public Place within the meaning of any relevant road traffic legislation.

### Legal Representation

In addition the Company will pay

- 1 The solicitor's fee for
  - (i) representation at any coroner's inquest or fatal accident inquiry
  - (ii) defending in any court of summary jurisdiction any proceedings relating to any event which may be the subject of payment under this Section.
- 2 At the request of the Insured legal defence costs up to €1,300 for manslaughter proceedings or dangerous driving charges under sub-section (2) (a) of Section 53 of the Road Traffic Act 1961 where such proceedings relate to any event which may be the subject of payment under this Section.

### Insured Person

"Insured Person" shall mean any one or more of the following on whose behalf payment is claimed

- 1 The Policyholder
- 2 Any person entitled to drive under the terms of the Certificate other than a person in the motor trade driving the Vehicle for purposes of overhaul, upkeep or repair
- 3 The employer or partner of any person whose business use is permitted by the terms of the Certificate
- 4 Any person using (but not driving) the Vehicle with the permission of the Policyholder for social domestic and pleasure purposes provided that such use is permitted by the terms of the Certificate
- 5 At the request of the Policyholder any person (other than the person driving) in or getting into or getting out of the Vehicle
- 6 At the request of the Policyholder the owner of the Vehicle
- 7 The attendant of the Vehicle.

### Application of Policy Limits

In the event of any accident involving payment on behalf of more than one Insured Person any limitation by the terms of this Policy (or of any Endorsement thereon) of the amount of any payment shall apply to the aggregate amount of such payment on behalf of all such Insured Persons and such payment shall apply in priority to the Policyholder.

### Attached Trailer

For the purposes of this Section only the Vehicle shall include any trailer or any one disabled mechanically propelled Vehicle which is attached to the Vehicle.

### Unlicensed Drivers

Any requirement of the Certificate that the person driving must hold or have held a licence to drive shall be inoperative when a licence is not required by law provided that the terms of the Certificate are otherwise observed and that the person driving is of an age to hold a licence to drive the Vehicle.

### Indemnity to Hirers

The insurance provided by Section 2 of the Policy shall apply in respect of any person to whom the Vehicle is let on hire by the Insured but only in respect of the negligence of the Insured or any employee of the Insured.

Provided that

- 1 such hire is permitted by the terms of the Certificate
- 2 the hirer is not entitled to indemnity under any other policy .

### Emergency Treatment

The Company will pay the cost of emergency treatment of injuries caused by or arising out of the use of the Vehicle where statutory liability for such treatment arises.

### No Claims Discount

We will reduce the renewal premium applicable to the cover under Section 2 at next renewal of this Policy according to Our scale of no claims discount applying at that time

No claim must have been made or have arisen under Section 2 of this Policy in respect of the Vehicle during the Period of Insurance.

### Exceptions to Section 2

Except so far as is necessary to meet the requirements of any road traffic legislation the Company shall not be liable in respect of

- 1 bodily injury to any person driving or in charge of the Vehicle for the purpose of driving the Vehicle
- 2 loss of or damage to
  - (a) material property belonging to or held in trust by or in the custody or control of the Policyholder or the Insured Person
  - (b) the Vehicle
  - (c) property being conveyed by the Vehicle
- 3 bodily injury to any person arising out of and in the course of such person's employment by the Insured Person
- 4 any claim if the Insured Person (other than the Policyholder) is entitled to claim payment or indemnity under any other policy
- 5 the operation as a tool of the Vehicle where the Vehicle is designed to operate primarily as a tool or of plant forming part of the Vehicle or attached thereto
- 6 any person claiming in respect of personal injury to or illness to himself or herself caused by or through or in connection with or arising from
  - (i) poisoning of any kind or foreign or deleterious matter in food or drink
  - (ii) anything harmful in the condition of any goods supplied at or from the Vehicle or the defective condition of the container of such goods
  - (iii) anything harmful or defective in any treatment given at or from the Vehicle
- 7 any person claiming in respect of personal injury or illness (including personal injury or illness causing death) to another person where such last mentioned person would be an excepted person under the preceding paragraph 6 if he or she were claiming himself or herself in respect of such personal injury or illness and (where appropriate) such personal injury or illness had not caused his or her death
- 8 any skip bin whilst detached from the Vehicle
- 9 any person claiming in respect of injury to person or property arising out of the explosion of any vessel under pressure being part of plant attached to or forming part of the Vehicle
- 10 any claim if to the knowledge of the Insured Person the Vehicle is at the time of the accident being driven or used other than in accordance with the terms of the Certificate.

## Section 3 – Inspection clause

The Company may periodically examine and supply reports (including reports required by statute) in respect of the Vehicle/Plant described in the Schedule to which Section 3 is operative

Provided always that

1. nothing in this clause will relieve the Insured of his/her legal responsibility to ensure that all statutory inspections are carried out
2. the Company accepts no liability arising from the Insured's failure or refusal to present any Vehicle/Plant for inspection as required by the special condition below.

### **Special Condition applicable to Inspection Clause**

Upon request by the Company the Policyholder shall have the Vehicle/Plant properly cleaned and prepared for examination at a mutually agreed time. All expenses in connection with such cleaning and preparation and of assembly thereafter shall be borne by the Policyholder.

The Policyholder shall render all assistance reasonably required by the Company, its servants or agents in carrying out the inspections.

### **Exceptions to Inspection Clause**

#### **Maintenance & Repair**

The Company shall not be liable to maintain or repair the Vehicle/Plant.

#### **Excluded Services**

The periodical examinations by the Company exclude

- a. Inspections required to be done outside the Company's normal business hours or on Saturdays Sundays or Bank Holidays at the request of the Policyholder.
- b. Pre-commissioning inspection laboratory services consultation work the provision of written schemes load testing non destructive testing thermographic testing radiography checking of drawings or designs or inspections prior to sale or purchase
- c. Inspections required under statutory provisions which require more than twice- yearly inspections

unless such services are agreed separately with the Company at the appropriate terms and conditions.



# Section 4 - Endorsements

**This Policy is subject to those Endorsements in this Section which are stated in the Policy Schedule as being operative**

## Indemnity to Hirers

- 1 The insurance provided under Section 1 only of this Policy is extended to indemnify any hirer of the Vehicle/Plant.

## Vehicle/Plant Permanently Installed

- 2 General Exception 14 of the Policy is cancelled.

## Deletion of Average

- 3 General Condition 16 is cancelled.

## Site Huts/Caravans- Contents Included

- 4 The insurance provided under section 1 of this Policy is extended to include the contents of site huts and caravans.

## Site Huts/Caravans- Contents Excluded

- 5 This Policy excludes the contents of any site huts or caravans unless such contents are otherwise insured under this policy.

## Foreshore and Tidal Situations

- 6 At all times when an item of Vehicle/Plant is situated on the foreshore there must be a further item retained above the high water or spring tides mark which shall be capable of winching to a safe place the aforementioned item if it becomes stranded or bogged down on the foreshore and every effort shall be made to winch such stranded or bogged down item to a safe place above the high water or spring tide mark before such item becomes engulfed by the tide.

## Inexperienced Driver Exception

- 7 This Policy excludes loss of or damage to the Vehicle/Plant while being driven by any person who does not hold a full EU or full UK driving licence (appropriate to the Vehicle/Plant).

## Underground Exclusion

- 8 This Policy excludes loss of or damage to any part of an item or Vehicle/Plant while that part is used underground.

## Concrete Mixers

- 9 This Policy excludes loss of or damage to the drum or hopper of any concrete mixer/agitator or carrier and any machinery pipe or hose used for the processing or discharging of the load resulting from the solidification of the concrete or any like substance.

## Breakdown

- 10 The Policy extends to include loss of or damage to the Vehicle/Plant consisting of or resulting from its Breakdown.

Breakdown means sudden and unforeseen

- (a) breaking distortion or electrical burn-out of any part of the Vehicle/Plant
- (b) complete severance of a rope forming part of the Vehicle/Plant designed for lifting (but not breakage or abrasion

of wires or strands although replacement is necessitated thereby)

whilst the Vehicle/Plant is in use arising from defects in the Vehicle/Plant causing immediate stoppage of its function and requiring repair or replacement.

## Damage to Goods Lifted

- 11 The Policy extends to include loss of or damage to property belonging to the Insured or in the charge or under the control of the Insured or any servant of the Insured caused by the lifting lowering handling or conveying of such property by the Vehicle/Plant not being loss or damage resulting from a fault in or fragility of the property or its container or loss of or damage to any portion of the property not being lifted lowered handled or conveyed by the Vehicle/Plant at the time damage occurs.

Notwithstanding anything contained in this Policy to the contrary the total liability of the Company in respect of lifted goods shall not exceed in any one Period of Insurance the amount of indemnity as shown on the Schedule.

Provided that the cover by this Endorsement shall not apply to loss of or damage to the Vehicle/Plant causing the loss.

## Hire Charges Liability

- 12 The Policy extends to include the payment of continuing hire charges for which the Insured is responsible under a hiring agreement (not being a hire purchase agreement) as a result of loss of or damage for which the Company is liable under Section 1 of this Policy or would have been liable but for the application of an Excess.

Provided that if such hiring agreement does not incorporate the current General Conditions of Hire as approved by the Irish Contractors Plant Association and the Civil Engineering Contractors Association the amount payable as indemnity under this Section shall not exceed the amount which would have been payable had the aforementioned conditions applied.

The amount of indemnity applicable to this Endorsement shall be in respect of any one accident or series of accidents arising out of one occurrence.

The Company shall not be liable for the hire charges accruing during the 24 hours immediately following the occurrence of the loss or damage.

## Hire of Temporary Replacements

- 13 The Policy extends to include
  - (a) the additional costs necessarily incurred in hiring a temporary replacement Vehicle/Plant for Vehicle/Plant owned by the Insured
  - (b) loss of or damage thereto for which the Insured is responsible from any cause not herein excluded

Provided that the hiring in of such temporary replacement Vehicle/Plant is necessary solely as a result of loss of or damage to Vehicle/Plant for which the Company is liable under Section 1 of this Policy or would have been but for the application of an Excess.

The amount of indemnity applicable to this extension shall be in respect of any one accident or series of accidents arising out of one occurrence.

The Excess applicable to (a) is seven days and (b) is €650 in respect of each and every loss

#### **Specified Trailers**

14 The cover granted by Section 2 of the Policy will extend to the trailers described in the Schedule while attached to the Vehicle for the purpose of being operated or drawn or detached and out of use.

The Company shall not be liable in respect of any loss damage liability and/or injury arising out of any event occurring while any such Vehicle is drawing a greater number of trailers in all than is permitted by law.

#### **Increased "Property Damage" Cover**

15 The limit of indemnity referred to in Section 2 against liability for damage to property is increased to the amount specified in the Schedule against this Endorsement number.

#### **Inclusion of Third Party Working Risk (full cover)**

16 Exception 5 in Section 2 of the Policy is deleted provided that in respect of each and every occurrence or series of occurrences arising out of one cause in connection with the Vehicle the Company shall not be liable for the first €650 of any expenditure (including costs, fees or expenses) for which provision is made under this Endorsement.

#### **Inclusion of Third Party Working Risk (excluding subsidence etc)**

17 Exception 5 in Section 2 of the Policy is deleted provided that while the Vehicle or any Plant forming part of or attached to the Vehicle is being operated as a tool the Company shall be under no liability under Section 2 for or arising out of subsidence flooding or water pollution except so far as is necessary to meet the requirements of any road traffic legislation.

Provided also that in respect of each and every occurrence or series of occurrences arising out of one cause in connection with the Vehicle the Company shall not be liable for the first €650 of any expenditure (including costs, fees or expenses) for which provision is made under this Endorsement.

#### **Inclusion of Third Party Working Risk (Limited)**

18 Exception 5 in Section 2 of the Policy is deleted provided that while the Vehicle or any Plant forming part of or attached to the Vehicle is being operated as a tool the Company shall be under no liability under Section 2 for or arising out of

- (1) subsidence flooding or water pollution
- (2) damage to pipes or cables

except so far as is necessary to meet the requirements of any road traffic legislation.

Provided also that in respect of each and every occurrence or series of occurrences arising out of one cause in connection with the Vehicle the Company shall not be liable for the first €650 of any expenditure (including costs, fees or expenses) for which provision is made under this Endorsement.

# Section 5 - General Exceptions

## **This Company does not cover or indemnify the Insured in respect of**

### **Contractual Liability**

- 1 Liability assumed by the Policyholder by agreement and which would not have attached in the absence of such agreement

### **Radioactive Contamination**

- 2 (a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss  
(b) any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from  
(i) ionising radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel  
(ii) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof  
(iii) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter  
(iv) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter

### **War etc.**

- 3 Any consequence whatsoever which is the direct or indirect result of any of the following, or anything connected with any of the following, whether or not such consequence has been contributed to by any other cause or event  
(a) war, invasion, act of foreign enemy, hostilities or a warlike operation or operations (whether war be declared or not), civil war, civil commotion assuming the proportions of or amounting to an uprising, insurrection, rebellion, revolution, military or usurped power, mutiny or military uprising or martial law  
(b) any action taken in controlling, preventing, suppressing or in any way relating to (a) above

### **Terrorism**

- 4 Any liability loss damage cost or expense of whatsoever nature (except so far as is necessary to meet the requirements of the road traffic acts) directly or indirectly caused by resulting from or in connection with any act of terrorism, regardless of any other cause contributing concurrently or in any other sequence to the loss.

For the purpose of this exclusion, terrorism means an act and/or threat of force or violence by any person or persons, whether acting alone or on behalf of or in connection with any organisation committed for political or other purposes with including the intention to influence any government and/or to put the public or any section of the public in fear.

The exclusion also excludes loss, damage, cost or expense of

whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Company maintain that by reason of this exclusion any loss damage cost or expense is not covered by this policy, the burden of proving the contrary shall be upon the Policyholder.

### **Earthquake Riot and Civil Commotion**

- 5 Any bodily injury loss of or damage to property (except under Section 2) arising during or in consequence of  
(a) earthquake  
(b) riot or civil commotion.

### **Sonic or Supersonic Damage**

- 6 Loss destruction or damage (except under Section 2) directly occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.

### **Overloading**

- 7 Any loss, damage or liability arising from the application of a loading to the Vehicle/Plant in excess of that stipulated in the report of the last examination of the Vehicle/Plant by a competent person or in the certificate of a subsequent test of the Vehicle/Plant by a competent person (whichever is the lower) or where an examination or test by a competent person has never been carried out in excess of the design manufacturers design loading for the Vehicle/Plant or in excess of that stipulated by the Company in writing.

But this exception shall not apply where the application of the excess loading is completely outside the control of the Policyholder.

### **Consequential Loss**

- 8 Consequential loss incurred by the Policyholder including loss of use of any Vehicle/Plant.

### **Testing**

- 9 Loss damage or liability directly caused by and occurring during testing.

### **Cyber Risk**

- 10 1 Any loss, damage, liability, claim, cost or expense of whatsoever nature, directly or indirectly caused by, contributed to by, resulting from, arising out of, or in connection with a Cyber Incident or the fear or threat (whether actual or perceived) of a Cyber Incident, regardless of any other cause or event contributing concurrently or in any other sequence thereto including, without limitation to the scope of the foregoing, any action taken in controlling, preventing, suppressing or remediating any Cyber Incident.  
2 This endorsement supersedes and, if in conflict with any other wording in this Policy having a bearing on a Cyber Incident, Electronic Data or Malware or Similar Mechanism, replaces that wording.

- 3 However, subject to all the terms, conditions, limitations and exclusions of this Policy, paragraph 1 shall not apply to physical loss or destruction of, or physical damage to, property and any resulting consequential loss, to the extent that an insured establishes that such physical loss, destruction or damage was directly caused by a Specified Peril listed in paragraph 5, where specifically insured by this Policy. Nevertheless, any loss, damage, destruction, distortion, erasure, corruption or alteration of Electronic Data, directly occasioned by a Cyber Incident, shall not be recoverable hereunder nor be considered as physical loss, destruction or damage for the purposes of paragraphs 3 or 4.
- 4 Notwithstanding the foregoing, subject to all the terms, conditions, limitations and exclusions of this Policy, in the event of physical loss or destruction of, or physical damage to, hardware or an Electronic Data storage device of a Computer System directly caused by a Specified Peril listed in paragraph 5, where specifically insured by this Policy, which results in loss or destruction of, or damage to, Electronic Data then this Policy will cover reasonable and necessary expenses incurred in recreating, gathering or assembling such Electronic Data, but excludes the value of the Electronic Data to an insured or any other party.
- 5 For the purposes of this clause only, a "Specified Peril" means one of the following perils: Fire; lightning; explosion; aircraft and aerial devices dropped from them.
- 6 The following definitions apply to this clause and retain the same meaning throughout:
- 6.1 "Cyber Incident" shall include
- (i) unauthorised or malicious acts regardless of time and place, or the threat or hoax thereof;
  - (ii) Malware or Similar Mechanism;
  - (iii) programming or operator error whether by the insured or any other person or persons;
  - (iv) any unintentional or unplanned – wholly or partially - outage of the insured's Computer System not directly caused by physical loss or damage, affecting access to, processing of, use of or operation of any Computer System or any Electronic Data by any person or group(s) of persons.
- 6.2 "Computer System" means any computer, hardware, information technology and communications system or electronic device, including any similar system or any configuration of the aforementioned and including any associated input, output or Electronic Data storage device, networking equipment or back up facility.
- 6.3 "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.

- 6.4 "Malware or Similar Mechanism" means any programme code, programming instruction or other set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programmes, data files or operations (whether involving self-replication or not), including but not limited to 'virus', 'Trojan horses', 'worms', 'logic bombs' or 'denial of service attack'.

- 6.5 "Policy" means this policy and any endorsement thereto

#### **Inventory Losses**

- 11 Loss of Vehicle/Plant by disappearance or by shortage where such loss is revealed only by the making of an inventory or periodic stocktaking.

#### **Mechanical failure, wear etc.**

- 12 Repairs to or replacement of Vehicle/Plant necessitated by
- (a) mechanical or electrical failure or derangement of such Vehicle/Plant but this exception shall not apply to Vehicle/Plant for which the Policyholder is responsible under the terms of a hiring agreement not being a hire purchase agreement.
  - (b) wasting away or wearing out of any part of an item resulting from use or working chipping of painted surfaces, scratching of any surfaces gradual deterioration or rust.

However we will indemnify you for any subsequent damage which results from a cause not otherwise excluded.

#### **Waterborne Vessels, Air Transit, Expendable Parts and Tyres**

- 13 Loss of or damage to
- (a) waterborne vessels or craft or Vehicle/Plant in or on such vessels or craft
  - (b) Vehicle/Plant whilst in transit by air
  - (c) bands belts trailing cables flexible hoses or non metallic linings unless such loss or damage is attributable to the same occurrence of loss or damage to other parts of the same item of Vehicle/Plant for which liability is admitted under this policy
  - (d) tyres by the application of brakes or by punctures cuts or bursts.

#### **Premises**

- 14 Vehicle/Plant permanently installed and/or permanently used at a premises.

#### **Policy Excess**

- 15 Each and every claim
- (a) under Section 1 for the amount specified in the Schedule as the Excess
  - (b) In respect of any item of property occurring during

tipping operations for twice the amount of Excess as stated in the Schedule.

#### Multiple Lifting Operations

16 Loss of or damage caused by the use of

- (a) two or more lifting machines insured by this Policy or
- (b) a lifting machine insured by this Policy with any other lifting equipment

for the purpose of the lifting lowering handling or conveying of a load if

- (1) the maximum safe working load of any lifting machine so used is 50 tons or more
- (2) the weight of the load being lifted lowered handled or conveyed is 65 tons or more

unless after being given prior notification of such intended use together with all material facts thereto the Company agrees to waive this exception in which case the insurance provided by this Policy in respect of that operation will be interpreted as if this exception had not been incorporated herein and all the terms and conditions and limitations of this Policy will apply.

#### Date Recognition

17 Liability in respect of any claim of whatsoever nature which arises directly or indirectly from or consisting of the failure or inability of any

- (a) electronic circuit microchip integrated circuit micro processor embedded system hardware software firmware program computer data processing equipment telecommunication or systems of any similar device
- (b) media or systems used in connection with any of the foregoing

whether the Property of the Insured or not at any time to achieve any or all of the purposes and consequential effects intended by the use of any number symbol or word to denote a date including without limitation the failure or inability to recognise capture save retain or restore and/or correctly to manipulate interpret transmit return calculate or process date data information command logic or instruction as a result of

- (i) recognising using or adopting any date day of the week or period of time otherwise than as or the true or correct date day of the week or period of time
- (ii) the operation of any command or logic which has been programmed or incorporated into anything referred to in (a) and (b) above

#### Exemption to Date Recognition

Provided always that this exclusion shall not apply to:

Subsequent damage to or loss or destruction of property owned by in the possession of or held in trust by the Insured and / or the Insured's consequential loss arising from loss or destruction of or damage to any property if directly caused by fire lightning explosion aircraft and other aerial devices dropped therefrom riot civil commotion strikers locked out workers persons taking

part in labour disturbances malicious persons other than thieves earthquake storm flood escape of water from any tank apparatus or pipe impact by any road vehicle or animal or stealing only where these covers are provided by the Policy.

#### Temporary Buildings etc

18 Caravans site huts and their contents, scaffolding, shuttering, tarpaulins, ladders, hand tools, portable containers, temporary bridges and similar equipment other than as specified in the Schedule of this Policy.

#### Plans & Money etc

19 Plans, designs, drawings, specifications, cash, bank notes, treasury notes, cheques, postal orders, money orders, stamps or securities.

#### Civil Commotion in Northern Ireland

20 Loss or destruction or damage to any property whatsoever directly or indirectly caused by resulting from or in connection with civil commotion in Northern Ireland regardless of any other cause contributing concurrently or in any other sequence to the loss.

# Section 6 - General Conditions

## Identification

- 1 This Policy and any Endorsement thereon the Policy Schedule and any Certificate(s) are to be read together and any word(s) or expressions to which a specific meaning has been attached in any of them shall bear the same meaning wherever it/they may appear.

## Proposal Form and Information you provide

- 2 You are under a duty to answer all questions, which we ask, honestly and with reasonable care. The answers in any proposal, statement of fact, declaration and any other document provided by you to us for this insurance must be true and complete. Any proposal, statement of fact, declaration and any other document provided by you to us will form part of your contract with us

In addition, any obligation of the Company to make any payment under this Policy is conditional upon the Policyholder or any other person on whose behalf payment is claimed observing the terms and conditions of this Policy in so far as they apply

## Duty of Disclosure and Alteration of Risk

- 3 The Insured is under a duty to answer all questions, which the Company ask, honestly and with reasonable care. The answers in any proposal, statement of fact, declaration and any other document provided by the Insured to the Company for this insurance must be true and complete.

This is for the Insured's protection because, if the Insured does not give the Company all the information the Company needs, the policy may not provide the Insured with the cover the Insured needs, a claim may not be paid, the policy could be declared invalid and void or may be cancelled, and the Insured may encounter difficulty trying to purchase insurance elsewhere.

The Insured may lose all cover under this policy if, since the start date of the policy or the last renewal date (whichever is the latest), there is a material change in the Insured's circumstances (which includes any new circumstances or changes in circumstances which alter the subject matter of this policy or the nature of the risk underwritten) including but not limited to such changes relating to the Premises, the Business, the occupancy, the duties or the activities of the Insured.

If the Insured is not sure whether to tell the Company about a change in respect of the Insured's circumstances, the Insured should contact their broker immediately.

In addition, the Insured must tell the Company immediately about changes, that have not already been advised to the Company, relating;

- 1 to any accident, loss or claims made against the Insured in the last five years, and/or any claims currently outstanding/pending;
- 2 to any convictions, offences or prosecutions pending of any nature (for example, but not limited to, fraud, theft or handling stolen goods) that are not considered

a 'spent conviction'\* under the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016,

- 3 to the Insured's access to any hazardous sites or locations;
  - 4 to (where a Certificate of Motor Insurance has been issued under this policy) the way the vehicle(s) is used, or the circumstances of any driver (whose driving is covered) relating to that driver being disqualified from driving or having had any accident, loss or claim in the last five years or having any outstanding/pending claim or having a medical condition that has not been advised to the National Driving Licence Service;
- and/or
- 5 to the Insured's business being wound up or carried on by a liquidator or receiver or permanently discontinued.

## Additional Duty of Disclosure for Non-Consumer Customers

### PLEASE NOTE - IF THE INSURED IS NOT A CONSUMER (AS DEFINED BELOW) THE FOLLOWING DUTY ALSO APPLIES.

In addition to the above, the Insured must also tell the Company about **any other facts**, which are likely to affect whether the Company agrees to provide cover, or how the Company assess the risks proposed for insurance.

If the Insured is not sure whether they should tell the Company about something, they should tell the Company anyway. This is for the Insured's own protection because, if the Insured does not give the Company all the information the Company needs, the policy may not provide the Insured with the cover the Insured needs, a claim may not be paid, the policy may be declared invalid and void or may be cancelled, and the Insured may encounter difficulty trying to purchase insurance elsewhere.

### Consumer Definition:

Consumer means a 'consumer' as defined by section 2(1) of the Financial Services and Pension Ombudsman Act 2017. For the avoidance of doubt, the definition of 'consumer' shall include:

- (i) a natural person, not acting in the course of business
- (ii) a sole trader, partnership, trust club or charity (not being a body corporate), with an annual turnover in its previous financial year (within the meaning of section 288 of the Act of 2014) of €3 million or less, or
- (iii) an incorporated body that
  - (a) had an annual turnover in its previous financial year (within the meaning of section 288 of the Act of 2014) of €3 million or less, and
  - (b) is not a body corporate that is a member of a group of companies (within the meaning of section 8 of the Act of 2014) with a combined annual turnover (in the previous financial year (within the meaning of section 288 of the Act of 2014) of the group of companies), of greater than €3 million

\* An individual is not required to disclose a spent conviction when supplying information on past convictions. To determine if a

conviction is a 'spent conviction' under the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 please visit [www.Irishstatutebook.ie](http://www.Irishstatutebook.ie).

#### Claims Procedure

- 4 Injury loss or damage involving the Vehicle/Plant must be reported to the Company in writing with full details as soon as possible.

In the event of the Vehicle/Plant being stolen immediate notice must be given to the nearest Garda Station.

Every communication relating to such occurrence must be sent to the Company immediately and the Policyholder or any other person on whose behalf payment is claimed shall give all such assistance as the Company may require Notice shall also be given in writing to the Company immediately the Policyholder or any other person on whose behalf payment is claimed shall have knowledge of any impending prosecution or inquest in connection with any such event.

No admission of liability or offer or promise of payment whether expressed or implied shall be made without the written consent of the Company which shall be entitled at its own discretion to take over the conduct in the name of the Policyholder (or any other person entitled to indemnity or payment under this Policy) the defence or settlement of a claim or to prosecute in the name of the Policyholder (or such other person) for its own benefit a claim for indemnity or damages or otherwise.

#### Claims Control

- 5 In connection with any one claim or number of claims arising out of one cause for payment against liability in respect of loss of or damage to the Vehicle/Plant the Company may at any time pay to the Policyholder the amount of the indemnity provided by this Policy (after deduction of any sum or sums already paid as compensation) or any less amount for which such claim or claims can be settled.

Upon such payment being made the Company shall relinquish the conduct and control of and be under no further liability in connection with such claim or claims except for the payment of costs and expenses of litigation recoverable or incurred in respect of matters prior to the date of such payment.

#### Other Insurances

- 6 If at the time any claim arises under this Policy there is any other existing insurance covering the same accident injury loss or damage the Company shall not be liable to pay or contribute more than its rateable proportion of any loss damage compensation costs or expenses.

Nothing however in this condition shall impose on the Company any obligation to make any payment under this Policy from which it would have been relieved under Exception 4 to Section 2 or the clause headed "Indemnity to Hirers" in Section 2 but for the terms of this condition.

#### Vehicle/Plant Maintenance Safeguarding from Loss

- 7 The Policyholder shall take all reasonable steps to safeguard

against bodily injury loss of or damage to material property and shall maintain the Vehicle/Plant in efficient condition. At all times the Company shall have free access to examine the Vehicle/Plant.

#### Policy Cancellation Procedure

- 8 (i) The Company may cancel this Policy by sending 10 days' notice by registered post to the Insured at their last known address 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.
- (ii) The Insured may cancel this Policy **after** the "Cooling Off Period" by giving the Company written notice and provided that there have been no:
- (a) claim(s) made under the policy for which the Company have made a payment
  - (b) claim(s) made under the policy which are still under consideration
  - (c) incident(s) which the Insured is aware of and are likely to give rise to a claim which has already been or is yet to be reported to the Company during the current Period of Insurance, the Company will refund to the Insured a proportionate part of the premium paid for the unexpired period.

For information on how to cancel within the "Cooling Off Period" please read page 3

#### Arbitration

- 9 Any dispute between the Policyholder and the Company on the Company's liability in respect of a claim or the amount to be paid shall, in default of agreement, be referred within twelve months of the dispute arising, to an arbitrator, appointed jointly by the Policyholder and the Company in agreement, or failing agreement appointed by the President for the time being of the Incorporated Law Society of Ireland and the decision of such arbitrator shall be final and binding on both parties If the dispute has not been referred to arbitration within the aforesaid twelve month period, then it shall be deemed to have been abandoned and not recoverable thereafter.

#### Avoidance of Certain Terms and Right of Recovery

- 10 Nothing in this Policy or any Endorsement thereon shall affect the right of any person insured by this Policy (or of any other person) to recover an amount under or by virtue of the provisions of the law of any territory in which this Policy operates relating to the insurance of liability to third parties.

But the Policyholder shall repay to the Company all sums paid by the Company which the Company would not have been liable to pay but for the provisions of such law.

#### Entry & Possession

- 11 On the happening of any occurrence which might result in a claim under this policy the Company and every person authorised by the Company may without thereby incurring any

liability enter any premises where the occurrence has happened and may take and keep possession of and deal with any salvage.

#### **Right to Inspect**

- 12 The Company shall have the right at all reasonable times to inspect and examine the Vehicle/Plant. Dismantling and reassembling in connection with any examinations shall be carried out by the Insured on such date or dates as the Company and Insured shall mutually agree for the making of such examinations.

#### **VAT**

- 13 To the extent that the Insured is accountable to the tax authorities for value added tax all terms in this policy shall be exclusive of such tax.

#### **Premium Adjustment**

- 14 If any part of the premium for this policy is based on estimates furnished by the Insured the Insured shall as soon as possible after the expiry of each Period of Insurance furnish such information as the Company may reasonably require to adjust the premium. Any refund of premium resulting from such adjustment is subject to the retention by the Company of the amount specified in the Schedule as the minimum premium.

#### **Repairable Damage**

- 15 No deduction shall be made for wear and tear against the cost of repair of any item of Vehicle/Plant not more than 12 months old provided that the cost of such repair shall not exceed the current market value of the Vehicle/Plant at the time of the damage.

#### **Underinsurance**

- 16 Where the value of the lost or damaged item of Vehicle/Plant insured immediately prior to the occurrence exceeds the amount of indemnity for the particular item the Insured shall be his own Insurer for the difference and shall bear a proportionate amount of the loss accordingly.

#### **Settlement**

- 17 In the event of loss of or damage to any item of Vehicle/Plant for which indemnity is provided under this Policy the Company may at its option reinstate replace or repair the item or may pay in cash the amount of loss or damage. The Company shall not be liable for the cost of any reinstatement or replacement or repair undertaken without its consent.

If the Company agree to pay the Insured in respect of loss or destruction of or damage to the property insured, the Company reserves the right to make staged payments and a portion of the agreed sum will be retained by the Company until all works are completed within the agreed scope and final invoice submitted.

#### **Mid Term Alterations**

- 18 If You make an alteration to Your Policy and this results in a

change of premium, We will not charge or refund any amount under €20.

#### **Fraud and Misrepresentation**

- 19 The Insured may lose all benefit under this Policy if any claim is fraudulent in any way or if the Insured or anyone acting on their behalf has used any type of fraud relating to this insurance Policy (this includes exaggerating a claim, making a claim which is in any way false, or use of any false or stolen documents when making a claim).

The Insured may lose some or all benefit under this Policy if they have not answered all questions, which the Company have asked, honestly and with reasonable care (including any answers or information the Insured has provided to us that may have affected our decision to provide cover or in calculating the Policy premium) or if the Insured has used any false or stolen documents in applying for the cover provided under this Policy.

In the event of any fraud relating to this insurance Policy the Company may cancel the Policy and retain the premium paid.





*For our joint protection, we may record and monitor phone calls.*

**Aviva Insurance Ireland DAC**

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