



POLICY WORDING

COMMERCIAL LIABILITY

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The Contract of Insurance

Zurich Insurance Europe AG (The Insurer) having accepted the first or any renewal premium for this Policy agrees subject to the terms and conditions herein to indemnify the **Insured** named in the Schedule if any of the within mentioned contingencies occurs during the Period of Insurance stated in the Schedule or during any subsequent period for which the Insurer shall have accepted the premium required for renewal of the Policy.

Other than where expressly provided in this Policy, compliance with all the terms provisions conditions and endorsements of the Policy shall be a condition precedent to the right of the **Insured** to recover under this Policy.

For your own protection you are recommended to read your Policy and all its Conditions to ensure that it is in accordance with your intentions. We would draw your attention specifically to the Exceptions section of the Policy and the exceptions set out in each section of the Policy.

The Insurer has agreed to provide Policy cover, and has calculated the applicable premium, based on information provided by or on behalf of the **Insured** including but not limited to:

- information provided in any proposal, or otherwise in response to specific questions asked by the Insurer;
- information provided and recorded in any Statement of Facts issued to the **Insured**;
- any declarations made by or on behalf of the **Insured**; and/or
- any additional information voluntarily provided.

This is a legal document and should be kept in a safe place.

General Definitions

Applicable to all sections of the policy

The Business

The Business or Profession stated in the Schedule and none other for the purpose of this insurance except as specified below

The **Business** shall also include:

- (a) the ownership use repair decoration and the maintenance of property and premises owned or occupied by the **Insured** in connection with the **Business** as described in the Schedule of the Policy
- (b) the provision and management of canteen social sports and welfare organisations for the benefit of **Employees** of the **Insured**
- (c) first aid, fire and ambulance services run by or on behalf of the **Insured**
- (d) private work carried out by **Employees** for any director of the **Insured** including duties as a chauffeur provided always that the director is not entitled to indemnity under any other Policy
- (e) participation in exhibitions
- (f) the repair or maintenance of vehicles or plant owned or used by the **Insured**

Continuing Restrictive Condition

Any condition in this Policy, however expressed, that purports to require the **Insured** to do, or not to do, a particular act or acts, or requires the **Insured** to act, or not to act, in a particular manner (and any condition the effect of which is that a given set of circumstances is required to exist or to be maintained or not to exist shall be taken as falling within this definition).

Employee

- (a) any person under a contract of service or apprenticeship with the **Insured**
- (b) any labour master or labour only subcontractor or persons supplied by any of them
- (c) any self employed person
- (d) any person under a work experience scheme
- (e) any person hired or borrowed by the **Insured** working for the **Insured** in connection with the **Business**

Insured

The term "Insured" shall at the request of the **Insured** (named in the Schedule) be deemed to include:

- (a) any director partner executive or **Employee** of the **Insured** in respect of private work undertaken by the **Insured's Employees** for such director partner or executive provided such work is undertaken with the prior consent of the **Insured** and is not undertaken in connection with any trade or **business**
- (b) any officer member or committee of the **Insured's**
 - (i) canteen social sports welfare and safety organisations
 - (ii) fire and ambulance services
 - (iii) first aid and medical services (other than a qualified medical practitioner) in their respective capacities as such
- (c) any director partner or executive of the **Insured** or any person under a contract of service or apprenticeship with the **Insured** in respect of liability for which the **Insured** would have been entitled to indemnity under this Policy if the claim had been made against him/her

Employers Liability Section

Indemnity provided

The Insurer will indemnify the **Insured** in respect of all sums which the **Insured** shall become legally liable to pay in respect of any claim for damages by an **Employee** for **Bodily Injury or Disease** caused during the Period of Insurance within the Territorial Limits and arising out of and in the course of his/her employment by the **Insured** in connection with the **Business**

The liability of the Insurer for all compensation payable by the **Insured** under this section of the Policy to any claimant or number of claimants in respect of any one occurrence or all occurrences of a series arising out of one original cause shall not exceed the Limit of Liability specified in the Schedule of the Policy

The Limit of Liability shall be inclusive of

- (i) all legal costs and other expenses incurred by any claimant or claimants
- (ii) all legal costs and other expenses incurred in defending any claim or claims
- (iii) solicitors fees incurred with the consent of the Insurer for representation at any Coroner's Inquest or Fatal Enquiry in respect of any death or defending in any Court of Summary Jurisdiction any proceeding in respect of any act or omission causing or relating to any event which may be the subject of indemnity under this Policy

Where the Insurer agrees to indemnify more than one party then nothing in the Policy shall increase the liability of the Insurer to pay any amount in excess of the amount stated as the Limit of Liability

The Territorial Limits

Anywhere within Ireland or whilst temporarily elsewhere in respect of **Employees** under a contract of service or apprenticeship with the **Insured** provided that the contract of service or apprenticeship was entered into in Ireland and the action for damages is brought against the Insured in a Court of Law in Ireland or any member country of the European Union

Bodily Injury or Disease

Bodily injury or disease shall mean

- (i) bodily injury disease or illness
- (ii) wrongful arrest detention imprisonment or eviction of any **Employee** by the **Insured** up to a maximum limit of liability of €6,500 any one accident and €25,500 in the aggregate in any Period of Insurance the Limit of Liability shall be inclusive of all costs and expenses

Exceptions to The Employers Liability Section

1. Offshore installations

This section of the Policy does not indemnify the **Insured** in respect of any claim(s) for damages for **Bodily Injury or Disease** caused during any Period of Insurance and sustained by any **Employee**

(a) on any offshore installation or support or accommodation vessel for any offshore installation

or

(b) in transit to or from or between any offshore installation or support or accommodation vessel for any offshore installation

2. Road Traffic Act Liability

This section of the Policy shall not apply to liability for which compulsory insurance or security is required by any road traffic legislation

Extension to Employers Liability Section

Indemnity to Principal

Where any contract or agreement entered into by the Insured with any Public Authority Company Firm or Person (hereinafter called "the Principal") so requires the Insurer will

1. indemnify the **Insured** against liability arising in connection with and assumed by the **Insured** by virtue of such contract or agreement

or

2. indemnify the Principal in like manner to the **Insured** in respect of the Principal's liability arising from the performance of such contract or agreement

but only so far as concerns liability as described in this section of the Policy to an Employee of the **Insured**

Provided always that

(i) the Insurer shall not be liable in respect of any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from

(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel

(b) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

(ii) the **Insured** shall have arranged with the Principal for the conduct and control of all claims to be vested in the Insurer

(iii) the Principal shall as though he were the **Insured** observe fulfil and be subject to the terms and conditions of this section of the Policy in so far as they can apply

Public Liability Section

Indemnity provided

The Insurer will indemnify the **Insured** in respect of their legal liability for

- A Accidental death or accidental **Bodily Injury or Disease**
- B Accidental loss of or accidental damage to material property including consequential loss arising directly therefrom
- C Accidental obstruction accidental trespass accidental nuisance or accidental interference with pedestrian road rail air or waterborne traffic

occurring during the currency of this section of the Policy within the Territorial Limits in connection with the **Business**

The liability of the Insurer for all compensation payable by the **Insured** under this section of the Policy to any claimant or number of claimants in respect of any one occurrence or all occurrences of a series arising out of one original cause shall not exceed the Limit of Liability specified in the Schedule of the Policy.

Where the Insurer agrees to indemnify more than one party then nothing in the Policy shall increase the liability of the Insurer to pay any amount in excess of the amount stated as the Limit of Liability

The Territorial Limits

Anywhere within the limits of Ireland Great Britain Northern Ireland the Channel Islands and the Isle of Man and including non-manual work carried out during temporary visits elsewhere in connection with the **Business** by directors and **Employees** normally resident in and travelling from Ireland Great Britain Northern Ireland the Channel Islands and the Isle of Man

Products

Products shall mean any commodities or goods whether as a unit or part thereof or a thing in whole or in part (including packaging containers and labels) sold supplied manufactured hired out constructed erected installed treated repaired serviced processed stored handled transported or disposed of by or on behalf of the **Insured** or any structure constructed erected installed or contract work executed by or on behalf of the **Insured** in the course of the **Business**

Bodily Injury or Disease

Bodily injury or disease shall mean

- (i) bodily injury disease or illness
- (ii) wrongful arrest detention imprisonment or eviction of any person (other than any **Employee**) by the **Insured** up to a maximum limit of liability of €6,500 any one incident and €25,500 in the aggregate in any Period of Insurance the Limit of Liability shall be inclusive of all costs and expenses

Exceptions to Public Liability Section

The indemnity granted by this section of the Policy shall not apply to or include

1. liability arising directly or indirectly from the ownership or possession or use by or on behalf of the **Insured** of any mechanically propelled vehicle or mobile plant

(a) which is licensed for road use

or

(b) for which compulsory motor insurance or security is required

or

(c) which is more specifically **Insured**

Provided always that this exception shall not apply in respect of

- (i) liability not more specifically **Insured** under any other Policy arising during the act of loading or unloading mechanically propelled vehicles or mobile plant or the bringing to or the taking away of a load from such vehicle or such plant
 - (ii) the use of any mechanically propelled vehicle or mobile plant solely as a tool of trade unless more specifically **insured** or unless compulsory motor insurance or security is required
 - (iii) the unauthorised movement on the **Insured's** premises or contract site of any mechanically propelled vehicle or mobile plant unless more specifically insured or unless compulsory motor insurance or security is required
2. liability arising directly or indirectly from the ownership or possession or use by or on behalf of the **Insured** of craft designed to travel through air or space hovercraft or watercraft other than non-mechanically powered craft used on inland waterways
 3. liability arising directly or indirectly from the ownership or possession or use by or on behalf of the **Insured** of vehicle trailers whether attached or not attached to a vehicle while in use in a place for which compulsory insurance is required under the Road Traffic Act 1961 or any subsequent amending legislation to this Act
 4. liability arising directly or indirectly from **Products** after they have ceased to be in the custody or control of the **Insured** other than food or beverages supplied by the **Insured** in connection with the **Business** for consumption at any premises where the **Insured** is carrying on the **Business** within the **Territorial Limits**
 5. loss of or damage to that part of any property upon which the **Insured** or any servant or agent of the **Insured** is or has been working where the loss or damage is the direct result of such work
 6. loss of or damage to property belonging to the **Insured** or held in trust by or borrowed rented leased or hired for use by the **Insured** but this exception shall not apply to the personal effects (including vehicles and their contents) of directors **Employees** and visitors for which the **Insured** is legally responsible
 7. liability for damage to property or land or building or loss caused directly or indirectly by
 - (i) subsidence

or

 - (ii) collapse

or

 - (iii) removal or weakening of support
 8. liability in respect of liquidated damages fines penalties aggravated exemplary or punitive damages

9. liability which attaches by virtue of an agreement but which would not have attached in the absence of such agreement
10. liability arising directly or indirectly out of advice designs or specifications provided by the **Insured** for a fee or in circumstances where a fee would normally be charged
11. liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from
 - (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - (b) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
12. liability for death **Bodily Injury or Disease** sustained by any **Employee** whilst working for the **Insured** in connection with the **Business** where such death **Bodily Injury or Disease** arises out of and in the course of the employment
13. any consequence whether direct or indirect of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power
14. all liability in respect of Pollution or Contamination other than caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance

All Pollution or Contamination which arises out of one incident shall be deemed to have occurred at the time such incident takes place

The liability of the Insurer for all compensation payable in respect of all Pollution or Contamination which is deemed to have occurred during the Period of Insurance shall not exceed in the aggregate the Limit of Liability stated in the Schedule of this section of the Policy

Provided always that the total liability of the Insurer to pay compensation shall not exceed the Limit of Liability stated in the Schedule of this section of the Policy

For the purposes of this condition "Pollution or Contamination" shall be deemed to mean

 1. all pollution or contamination of buildings or other structures or of water or land or the atmosphere
 2. all loss or damage or **Bodily Injury or Disease** directly or indirectly caused by such Pollution or Contamination
15. any excess specified in the Schedule

Extensions to Public Liability Section

1. Legal Costs

In addition to the indemnity provided by this section of the Policy the Insurer will indemnify the **Insured** in respect of all legal costs awarded to any claimant or incurred in the defence of any claim that is contested by or with the consent of the Insurer

2. Additional Benefit

In addition the Insurer will pay solicitors fees incurred with the consent of the Insurer for representation at any Coroner's Inquest or Fatal Enquiry in respect of any death or defending in any Court of Summary Jurisdiction any proceeding in respect of any act or omission causing or relating to any event which may be the subject of indemnity under this section of the Policy

3. Indemnity to Principal

In the event of any claim in respect of which the **Insured** would be entitled to receive indemnity under this section of the Policy being brought or made against any Public or Local Authority or other Principal the Insurer will at the request of the **Insured** indemnify the said Public or Local Authority or other Principal against such claim and/or any costs charges and expenses in respect thereof

Provided always that the Insurer shall not be liable under this extension unless the Insurer has the sole conduct and control of all claims

4. Tenants Liability

Notwithstanding anything to the contrary contained in Exception 6 and subject otherwise to the terms limitations and conditions of this section of the Policy it is agreed that the exception shall not apply in the event of accidental loss or accidental damage to premises (or any fixtures and fittings or other contents therein) hired rented leased or lent to the **Insured**

Provided always that

- (a) this extension shall not apply to liability in respect of such loss or damage if the liability is assumed by the **Insured** under a tenancy or other agreement and would not have attached in the absence of such agreement
- (b) the Insurer shall not be liable for the first €625 of such loss or damage under this extension

5. Cross Liabilities

Where there is more than one party named as the **Insured** in the Schedule this section of the Policy will apply separately to each such **Insured** in the same manner and to the same extent as if a separate Policy had been issued to each **Insured** and the Insurer agrees to waive all rights of subrogation against any of these parties

6. Personal Liability

At the request of the **Insured** this Policy shall apply to the personal liability of any director or **Employee** of the **Insured** or any member of the family of such director or **Employee** whilst accompanying such director or **Employee** during temporary visits anywhere in the world in connection with the Business of the **Insured**

provided always that

- (a) this Extension shall not apply to liability more specifically insured under any other insurance
- (b) any person indemnified under this Extension shall as though he were the Insured observe fulfil and be subject to the terms limitations and conditions of this Policy
- (c) the Insurer shall not be liable under this Extension unless the Insurer has the sole conduct and control of all claims

7. Liability for Buildings Temporarily Occupied

Where buildings (other than buildings comprising the Works) are temporarily occupied by the **Insured** for the purposes of carrying out work therein or thereon the Insurer will provide indemnity against legal liability in respect of accidental loss of or damage to such buildings or their contents occurring during the **Insured's** occupancy

Provided that such buildings are not owned leased hired or rented by the **Insured** or any subcontractor acting for or on behalf of the **Insured**

Products Liability Section

Indemnity Provided

The Insurer will indemnify the **Insured** in respect of their legal liability for

- A Accidental death or accidental **Bodily Injury or Disease**
- B Accidental loss of or accidental damage to material property including consequential loss arising directly therefrom

occurring within the **Territorial Limits** during the currency of this section of the Policy and caused by **Products**

The liability of the Insurer for all compensation payable by the **Insured** under this section of the Policy to any claimant or number of claimants in respect of any one occurrence or all occurrences of a series arising out of one original cause shall not exceed the Limit of Liability specified in the Schedule of this section of the Policy

Where the Insurer agrees to indemnify more than one party then nothing in the Policy shall increase the liability of the Insurer to pay any amount in excess of the amount stated as the Limit of Liability

The Territorial Limits

Anywhere in the world in respect of **Products** supplied in or from Ireland Great Britain Northern Ireland the Channel Islands and the Isle of Man provided always that the action for damages is brought against the **Insured** in a Court of Law in Ireland or any member country of the European Union

Products

Products shall mean any commodities or goods whether as a unit or part thereof or anything in whole or in part (including packaging containers and labels) sold supplied manufactured hired out constructed erected installed treated repaired serviced processed stored handled transported or disposed of by or on behalf of the **Insured** or any structure constructed erected or installed or contract work executed by or on behalf of the **Insured** in the course of the **Business**

Bodily Injury or Disease

Bodily injury or disease shall mean

- (i) bodily injury disease or illness
- (ii) wrongful arrest detention imprisonment or eviction of any person (other than any **Employee**) by the **Insured** up to a maximum limit of liability of €6,500 any one incident and €25,500 in the aggregate in any period of insurance. The Limit of Liability shall be inclusive of all costs and expenses

Exceptions to Products Liability Section

The indemnity granted by this section of the Policy shall not apply to or include

1. (a) replacing reinstating rectifying repairing or recalling any **Products**
 - (b) guaranteeing the performance of any **Products**
2. liability arising from any Products
 - (a) which at the time of the contract of sale or supply are knowingly
 - (i) sold or supplied for use in any aircraft spacecraft hovercraft watercraft or mechanically propelled vehicle
 - (ii) exported to the United States of America or Canada
 - (b) in the custody or control of the **Insured**
3. liability in respect of liquidated damages fines penalties aggravated exemplary or punitive damages
4. liability which attaches by virtue of an agreement but which would not have attached in the absence of such agreement
5. liability arising directly or indirectly out of advice designs or specifications provided by the **Insured** for a fee or in circumstances where a fee would normally be charged
6. liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from
 - (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - (b) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
7. liability for death **Bodily Injury or Disease** sustained by any **Employee** whilst working for the **Insured** in connection with the **Business** where such death **Bodily Injury or Disease** arises out of and in the course of the employment
8. any consequence whether direct or indirect of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power
9. all liability in respect of Pollution or Contamination other than caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance

All Pollution or Contamination which arises out of one incident shall be deemed to have occurred at the time such incident takes place

The liability of the Insurer for all compensation payable in respect of all Pollution or Contamination which is deemed to have occurred during the Period of Insurance shall not exceed in the aggregate the Limit of Liability stated in the Schedule of this section of the Policy

Provided always that the total liability of the Insurer to pay compensation shall not exceed the Limit of Liability stated in the Schedule of this section of the Policy

For the purposes of this memorandum "Pollution or Contamination" shall be deemed to mean

1. all pollution or contamination of buildings or other structures or of water or land or the atmosphere
 2. all loss or damage or **Bodily Injury or Disease** directly or indirectly caused by such Pollution or Contamination
10. any excess specified in the Schedule

Extensions to Products Liability Section

1. Legal Costs

In addition to the indemnity provided by this section of the Policy the Insurer will indemnify the **Insured** in respect of all legal costs awarded to any claimant or incurred in the defence of any claim that is contested by or with the consent of the Insurer

2. Additional Benefit

In addition the Insurer will pay solicitors fees incurred with the consent of the Insurer for representation at any Coroner's Inquest or Fatal Enquiry in respect of any death or defending in any Court of Summary Jurisdiction any proceeding in respect of any act or omission causing or relating to any event which may be the subject of indemnity under this section of the Policy

3. Indemnity to Principal

In the event of any claim in respect of which the **Insured** would be entitled to receive indemnity under this section of the Policy being brought or made against any Public or Local Authority or other Principal the Insurer will at the request of the **Insured** indemnify the said Public or Local Authority or other Principal against such claim and/or any costs charges and expenses in respect thereof

Provided always that the Insurer shall not be liable under this extension unless the Insurer has the sole conduct and control of all claims

4. Cross Liabilities

Where there is more than one party named as the **Insured** in the Schedule this section of the Policy will apply separately to each such **Insured** in the same manner and to the same extent as if a separate Policy had been issued to each **Insured** and the Insurer agrees to waive all rights of subrogation against any of these parties

Exception Applicable to Public Liability and Products Liability Sections of The Policy

This Policy does not cover

Loss Damage Consequential Loss or Legal Liability of whatsoever nature directly or indirectly caused by or consisting of or contributed to by or arising from the total or partial failure of any computer or other equipment or system for processing storing retrieving or otherwise dealing with data or electronic equipment (including embedded chips) whether the property of the **Insured** or not and whether occurring before during or after the year 2000 to do all or any of the following

- (1) to correctly recognise any date as it's true calendar date
- (2) to capture save or retain and/or to manipulate interpret or process any data or information or command or instruction as a result of treating any date otherwise than as it's true calendar date
- (3) to capture save or retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software being a command which causes the loss or the inability to capture save retain or correctly process such data on or after any date

Extensions Applicable to All Sections of The Policy

1. Legal Personal Representatives

In the event of the death of the Insured the indemnity provided by this Policy shall apply to any legal personal representative(s) of the Insured in respect of liability incurred by the **Insured**

2. Safety Health and Welfare at Work Legislation

The Policy subject to its terms and limitations extends to indemnify the **Insured** or any director or **Employee** of the **Insured** in respect of legal fees or expenses including the costs of appeal against conviction reasonably incurred by the solicitor or firm of solicitors engaged with the Insurer's consent to act for or on behalf of the **Insured** or any director or **Employee** in his defence against a criminal charge for a breach or an alleged breach of the Safety Health and Welfare at Work Legislation committed or alleged to have been committed during the Period of Insurance including costs of prosecution awarded against such director or **Employee** or the **Insured** arising from such proceedings

Provided always that

- (1) This extension shall apply only to proceedings brought in a Court of Law in Ireland
- (2) The Insurer will be under no liability
 - (a) where the **Insured** or any director or **Employee** is insured by any other Policy
 - (b) where the criminal charge is in respect of any deliberate or intentional criminal act of the **Insured** or any director or **Employee**
 - (c) in respect of legal fees and expenses which the **Insured** or any director or **Employee** may be ordered to pay by a court of criminal jurisdiction in respect of the deliberate or intentional criminal act or omission of the director or **Employee**
 - (d) in respect of fines or penalties of any kind or the costs of appeal against improvement or prohibition notices
 - (e) for any part of the cost of any investigation or inquiry other than a solicitor's investigation restricted to a criminal charge as above defined
- (3) The **Insured** or any director or **Employee** shall give to the Insurer immediate notice of any summons or other process served upon the **Insured** or any director or **Employee** and of any event that may give rise to proceedings against the **Insured** or any director or **Employee**

General Conditions

1. Interpretation

The Schedule and any endorsements attaching thereto and the Sections forming part of this Policy and the expression "this Policy" wherever used in this Contract shall be read as including the said Schedule Endorsements and Sections. Any word or expression to which a specific meaning has been attached in any part of any Section shall bear such meaning wherever it may appear in such Section

2. Duty to Comply with Policy Conditions

The **Insured** must comply with the terms, limitations, exceptions, conditions and endorsements of this Policy so far as they relate to anything to be done or complied with by the **Insured**, to include the **Insured** cooperating with the Insurer in the investigation of insured events, including by responding to reasonable requests for information in an honest and reasonably careful manner.

Other than where expressly provided in this Policy, compliance by the **Insured** with the terms, limitations, exceptions, conditions and endorsements of this Policy shall be a condition precedent to any liability of the Insurer to make any payment under the Policy.

Breach of any period specified in a term or condition of this Policy for notification to the Insurer of a claim, or circumstance that may give rise to a claim, or any other matter referenced in the General Conditions section of this Policy, will entitle the Insurer to refuse payment of a claim where the Insurer has been prejudiced by the breach in question.

3. (1) Pre-Contractual Representations

The **Insured** acknowledges and accepts the following:

- (a) the **Insured** has a legal duty prior to entering into the Policy and/or prior to the renewal of the Policy to provide responses to questions asked by the Insurer in relation to the risk(s) to be insured.
- (b) a matter about which the Insurer asks a specific question is material to the risk undertaken by the Insurer or the calculation of the premium by the Insurer, or both.
- (c) the **Insured** has a legal duty to answer all questions asked by the Insurer honestly and with reasonable care.
- (d) while the Insurer acknowledges that the **Insured** has no legal duty of voluntary disclosure, the **Insured** shall ensure that information which is voluntarily provided by or on behalf of the **Insured** is provided honestly and with reasonable care.

3. (2) Remedies for Misrepresentation

- (a) The term "negligent misrepresentation" means a representation made without reasonable care but which was not fraudulent. Where a claim is made under the Policy but an answer which was provided, or information which was volunteered, by or on behalf of an **Insured** involves a negligent misrepresentation, the remedy available to the Insurer shall reflect what the Insurer would have done had it been aware of the full facts and shall be based on a compensatory and proportionate test, as follows:
 - (i) if the Insurer would not have entered into the Policy on any terms, the Insurer may avoid the Policy from inception or renewal (as the case may be) and refuse all claims, but shall return the premium paid;
 - (ii) if the Insurer would have entered into the Policy, but on different terms, the Policy is to be treated as if it had been entered into on those different terms if the Insurer so requires;

- (iii) if the Insurer would have entered into the Policy, but would have charged a higher premium, the Insurer may reduce proportionately the amount to be paid on the relevant claim.
- (b) Where an answer which was provided, or information which was volunteered, involves a negligent misrepresentation which is identified at a time prior to there being any claim under the Policy, the Insurer may either:
 - (i) give notice to the Insured that in the event of a claim it will exercise the remedies in paragraphs (a)(i)-(iii) above as appropriate; and/or
 - (ii) terminate the Policy by giving reasonable notice.
- (c) Where a claim is made under the Policy but an answer which was provided, or information which was volunteered, by the **Insured** involves a fraudulent misrepresentation, or where any conduct by the **Insured** (relative to the Policy or the steps leading to its formation) involves fraud of any other kind, the Insurer shall be entitled to avoid the Policy from the date of commencement or renewal (as the case may be) without return of premium.

4. Fraudulent Claims

If a claim contains information that is false or misleading in any material respect and the **Insured** either knows that it is false or misleading or consciously disregards whether it is false or misleading, or a claim is otherwise fraudulent in any respect, (**Fraudulent Claim**) the Insurer shall be entitled to:

- (a) refuse to pay the claim; and
- (b) terminate the Policy by written notice in which case cover under the Policy shall be treated as having terminated with effect from the date on which the **Fraudulent Claim** was submitted.

In such circumstances of termination the Insurer shall refuse all liability to the **Insured** under the Policy in respect of any claim made after the date of submission of the **Fraudulent Claim** (but not in respect of any claim(s) made before submission of the **Fraudulent Claim**) and the Insurer need not return any of the premiums paid under the Policy.

5. Alteration of Risk

The **Insured** must tell the Insurer immediately of any changes to the following provided by the **Insured** to the Insurer prior to the commencement or renewal of this Policy:

- (a) the information provided in any Proposal Form or otherwise in response to specific questions asked by the Insurer;
- (b) the information provided and recorded in any Statement of Fact issued to the **Insured**;
- (c) the declarations made by or on behalf of the **Insured**; and/or
- (d) any additional information voluntarily provided.

When the **Insured** notifies the Insurer about a change as above, or if the **Insured** otherwise becomes aware of any such change, as referenced above, the Insurer may reassess the premium chargeable and Policy cover more generally.

The Insurer may refuse a claim made by the **Insured** where there has been a change in the subject matter of the Policy which results in a new risk which the Insurer did not agree to cover and which was beyond the reasonable contemplation of the Insurer and the **Insured** when the Policy was entered into. Failure to disclose any such change may result in difficulty obtaining insurance in the future.

6. Other Insurances

If at the time of any claim arising under this Policy there shall be any other insurance covering the Insured's liability the Insurer shall not be liable to pay or contribute more than its rateable proportion of any such claim and costs and expenses in connection therewith

7. Subrogation

For the purposes of this clause only, the expression "Insured Person" shall mean the **Insured** (as stated on the Schedule) and any other person entitled to be indemnified under this Policy.

Save as provided below, the Insurers shall be entitled to take the benefit of any rights of the Insured Person against any other party before or after the Insured Person has received indemnification under this Policy and the Insured Person shall give all assistance as may be reasonably required by the Insurer.

This clause applies where the Insurer has the right to be subrogated to the Insured Person's rights against some other person but the Insured Person has not exercised those rights and might reasonably be expected not to exercise those rights because the Insured Person and the other person are members of the same family (to be construed in accordance with the Employment Equality Act 1998), or are cohabitants (to be construed in accordance with the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010).

Where in the above circumstances the other person is not insured in respect of their liability to the Insured Person, the Insurer does not have the right to be subrogated to the Insured Person's rights against that other person.

Where the other person is so insured, the Insurer may not recover from the other person an amount greater than the amount that that person may recover under their insurance policy.

This clause does not apply where the conduct of the other person that gave rise to the loss involved serious or wilful misconduct.

If the Insured Person is an employer, the Insurer will not exercise its right of subrogation against an employee except where the loss was caused by an employee intentionally or recklessly and with knowledge that the loss would probably result.

8. Premium Adjustment

If any part of the premium is calculated on estimates furnished by the **Insured** the **Insured** shall

- (a) keep an accurate record containing all particulars relating to such estimates
- (b) if requested allow the Insurer to inspect such record
- (c) within thirty days of the expiry of each Period of Insurance supply the Insurer with a correct declaration of such particulars and information as the Insurer may require in respect of the preceding Period of Insurance duly certified by the **Insured's** external auditor or accountant. If the amount so paid shall differ from the amount on which premium has been paid the difference in the premium shall be met by a further proportionate payment to the Insurer or by a refund by the Insurer as the case may be subject to the retention by the Insurer of any minimum premium as stated in the Policy or endorsed thereon

9. Reasonable Care

The Insured shall

- (a) exercise reasonable care that only competent **Employees** are employed

- (b) take all reasonable steps
 - (i) to prevent accidents
 - (ii) to comply with all statutory or other obligations and regulations imposed by any competent authority
- (c) maintain the premises works machinery plant and ways in sound condition
- (d) as soon as possible after the discovery of any defect or danger cause such 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

10. Effect of Continuing Restrictive Conditions

In this Policy, any term that imposes a **Continuing Restrictive Condition**, including one that is intended to reduce the risk of a particular type of loss, or reduce the risk of loss occurring at a particular time or in a particular location, shall be treated as a suspensive condition. This means that if:

- (a) the **Insured** breaches any such term; and
- (b) during the period of breach the **Insured** suffers a relevant loss; and
- (c) such breach increased, in the circumstances concerned, the risk of the loss suffered by the **Insured**,

the Insurer will have no liability for the loss.

11. Claims

On the happening of any occurrence which could give rise to a claim the **Insured** shall

- (a) give immediate notice in writing to the Insurer
- (b) forward to the Insurer immediately on receipt any letter claim writ summons, PIAB notice or process received in connection with the occurrence
- (c) give all necessary information and assistance to the Insurer to enable it to deal with settle or resist any claim as the Insurer may think fit. Such information and assistance shall be given without any delay
- (d) so far as reasonably practicable ensure that no alteration or repair is made to any machinery appliance plant way or fitting after an accident has occurred until the Insurer has had an opportunity of carrying out an inspection

12. Control of Claims

- (a) The Insured shall not
 - (i) except at their own cost take any steps to compromise or settle any claim or admit liability without specific instructions in writing from the Insurer
 - (ii) give any information or assistance to any person claiming against them without the consent of the Insurer
- (b) The Insurer
 - (i) shall for so long as they desire take absolute conduct and control of all proceedings (including arbitrations) in respect of any claim for which the Insurer may be liable under the Policy
 - (ii) may before or after settlement of any claim use the name of the **Insured** to enforce for the benefit of the Insurer any order made for costs or otherwise or to make or defend any claim for indemnity or damages against any third party or for any other purposes connected with this Policy

13. Discharge of Liability – Public Liability and Products Liability Sections

The Insurer may at any time pay to the **Insured** in connection with any claim or series of claims the amount of the Limit of Liability (after deduction of any sum or sums already paid as compensation) or any lesser amount for which such claim or claims can be settled and 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 except for the payment of costs and expenses recoverable or incurred prior to the date of such payment

14. Discharge of Liability – Employers Liability Section

The Insurer may at any time pay to the **Insured** in connection with any claim or series of claims the amount of the Limit of Liability (after deduction of any sum or sums already paid as compensation) or any lesser amount for which such claim or claims can be settled and 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

15. Cancellation

The Insurer may cancel this Policy or any Section thereof at any time by sending fourteen days notice by registered post to the **Insured** at the **Insured's** last known address and in such event the Insured shall become entitled to a return of a proportionate part of the premium (provided the premium has been paid to the Insurer) corresponding to the unexpired period of Insurance.

16. Arbitration

If any difference shall arise under this Policy such difference shall be referred to an arbitrator to be appointed by the parties in accordance with applicable statutory provisions in that behalf for the time being in force.

Where any difference is by this condition to be referred to arbitration the making of any award shall be a condition precedent to any right of action against the Insurer

Claims not referred to arbitration within 12 months from the date of disclaimer of liability shall be deemed to have been abandoned

17. Insurance Act 1936

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

18. Stamp Duty

Stamp Duty has been or will be paid in accordance with the provisions of Section 5 of the Stamp Duties Consolidation Act 1999 as amended

19. Instalment Premium Clause

Where the Insurer has agreed to accept payment by instalments, any default in payment on the due date may result in the Policy cover being terminated.

20. Currency

It is understood and agreed that the currency of all premiums sums insured indemnities and excesses shown in the Schedule of this Policy or any renewal Notice or endorsement relating thereto shall be deemed to be Euro

Complaints Procedure

At Pen Underwriting, we care about our customers and believe in building long-term relationships by providing quality products combined with a high standard of service. If it should happen that you have cause for complaint, either in relation to your policy or any aspect regarding the standard of our service, please see the steps outlined below.

- If you have arranged your policy with Pen Underwriting through a Broker, you should firstly direct your complaint to the Broker with whom you arranged your policy.
- If the complaint is not resolved to your satisfaction you should contact The General Manager, Pen Underwriting Ireland Limited, Ardcavan Business Park, Ardcavan, Wexford, Y35 FP8A. Telephone (053) 916 7100.
- If the complaint is still not resolved to your satisfaction, you should write to the Chief Executive Officer, Zurich Insurance, PO Box 78, Wexford. Telephone (01) 667 0666, or alternatively you may wish to contact:
 - (i) Financial Services and Pensions Ombudsman, Lincoln House, Lincoln Place, Dublin 2, D02 VH29. Telephone: (01) 567 7000. Email: info@fspo.ie. Website: www.fspo.ie.
 - (ii) The Central Bank of Ireland, P.O. Box 559, Dublin 1. Telephone: 0818 681 681 or (01) 224 5800.
 - (iii) Insurance Ireland, First Floor, 5 Harbourmaster Place, IFSC, Dublin 1. Telephone: (01) 676 1914.

Your right to take legal action is not affected by following any of the above procedures.

Data Protection

About this section

Everyone has rights with regard to the way in which their personal data is handled. During the course of our business activities, [Zurich Insurance Europe AG] (**'we'**, **'our'**, **'us'**) and Pen Underwriting Ireland Limited (Pen Underwriting) will collect, store and process personal data about **you**. The purpose of this section is to give **you** some information about the collection and processing of your personal data. Further information can be obtained in our privacy policy which is available at www.zurich.ie/privacy-policy and Pen Underwriting's Privacy Notice which is available at www.penunderwriting.ie/privacy-notice.

Pen Underwriting is an underwriting agency regulated by the Central Bank of Ireland. Pen Underwriting distributes insurance products on behalf of insurance companies through its broker network in Ireland. As our Managing General Agent, Pen Underwriting has been granted authority by **us** to bind cover on our behalf, service your policy and to handle and settle any claims thereunder.

We and Pen Underwriting are the data controllers for this contract under data protection legislation.

For the purpose of this section, **'you'** or **'your'** shall mean, **you**, the policyholder, or any other person entitled to indemnity under this policy of insurance.

The Data we and/or Pen Underwriting collect

Where appropriate, **we** and Pen Underwriting may collect the following personal data ('Data') from and/or about **you**:

- **Contact and identifying information** such as title, name, address, email address, telephone number, date and place of birth, gender, marital status, PPS number, VAT number, country of residence, and photographic identification.
- **Financial information** such as bank account details, credit/debit card details and income details.

- **Employment and qualification details** such as occupation, job position, employment and education history.
- **Medical and health details** including information related to personal habits (such as smoking or consumption of alcohol), medical history, details of any disability, injuries sustained and prognosis for recovery.
- **Other sensitive information** such as details of any criminal convictions and offences (including penalty points), civil litigation history as well as pending prosecutions. **We** and Pen Underwriting may also, in certain cases, receive sensitive information from which it may be possible to infer your trade union membership, religious or political beliefs (for example, if **you** are a member of a group scheme through a professional, trade, religious, community or political organisation).
- **Information pertaining to the risk insured** such as description of the risk, value of the risk, location of the risk and claims history.
- **Claims data** such as details of the circumstances of any incident giving rise to a claim under this policy, details of activities carried out following any such incident, details of any other claims that **you** have made, as well as financial, medical, health and other lawfully obtained information relevant to your claim including social welfare information.

The above list covers the main data types collected by **us** and/or Pen Underwriting. Full details are available in our Privacy Policy at www.zurich.ie/privacy-policy and Pen Underwriting's Privacy Notice which is available at www.penunderwriting.ie/privacy-notice.

We and Pen Underwriting require this Data in order to manage and administer our relationship with **you**, evaluate the risk and assess the premium to be paid, bind cover, validate and settle any claims, bring and/or defend legal proceedings, prevent, detect and investigate fraud, and in order to generally take any steps required to fulfil your contract /comply with legal obligations.

Note: If **you** provide **us** with Data relating to another person **you** must first: (a) inform that person about the content of our Privacy Policy and Pen Underwriting's Privacy Notice and (b) obtain any legally required consent from that person to the sharing of their Data in this manner.

Data collected from third parties

We and Pen Underwriting may collect Data from third parties if **you** engage with **us** or Pen Underwriting through a third party e.g. through a broker or, in the case of a group scheme, through your employer. **We** and Pen Underwriting may also obtain Data from other third parties such as financial institutions, claims service providers (including private investigators) and insurance industry and government bodies for the purposes described above.

What we and Pen Underwriting do with your Data

We and Pen Underwriting may use, process and store the Data for the following purposes:

- Assessing which insurance products are appropriate for **you**, risk evaluation, premium setting, policy quotation, premium collection, policy administration, policy renewal, claims assessment, claims processing, claims payment, bringing and/or defending legal proceedings, recovering debt, marketing, survey purposes, statistical analysis, preventing, detecting and investigating fraud, as well as generally taking any steps in order to fulfil your contract and comply with legal obligations.

In order to prevent and detect fraud as well as the non-disclosure of relevant information, **we** and Pen Underwriting may at any time:

- Share information about **you** with other companies in our group as well as other organisations outside the group including, where appropriate, private investigators and law enforcement agencies.

- Check your details with fraud prevention agencies, as well as against databases and other sources of information. Below is a sample of the databases/sources used:
 - the insurance industry claims database known as InsuranceLink maintained by Insurance Ireland (for more information see www.inslink.ie)
 - the Integrated Information Data Service ('IIDS') which allows members of Insurance Ireland to verify information including penalty points and no-claims discount information provided by their customers
 - the National Vehicle and Driver File, maintained and supported by the Department of Transport, Tourism and Sport, containing details of all registered vehicles in the State
 - Motor Insurance Anti-Fraud and Theft Register (MIAFTR) operated by the Association of British Insurers in the UK to log all insurance claims relating to written-off and stolen vehicles in the UK
 - the Companies Registration Office

The above list is not intended to be exhaustive (please see our Privacy Policy as well as Pen Underwriting's Privacy Notice for more information).

In addition, **we** and Pen Underwriting may check the Data **you** have provided against international/economic or financial sanctions laws or regulated listings to comply with legal obligations or otherwise to protect our legitimate business interests and/or the legitimate interests of others.

Sharing of Data

We and Pen Underwriting may share your Data (where appropriate/applicable) as follows:

- With business partners, suppliers, sub-contractors and agents with whom **we** and/or Pen Underwriting work/engage (including, but not limited to, tied agents, managing general agents, auditors, legal firms, medical professionals, cloud service providers, private investigators, third-party claim administrators and outsourced service providers) to assist **us** and Pen Underwriting in carrying out business activities which are in our and Pen Underwriting's legitimate business interests and where such interests are not overridden by your interests.
- With other companies in our group, partners of our group, coinsurance and reinsurance companies located in Ireland and abroad, including outside the European Economic Area ('EEA'). Where transfers take place outside the EEA, **we** ensure that they are undertaken lawfully and pursuant to appropriate safeguards.
- With other insurers and/or their agents.
- With any intermediary or third party acting for **you**.
- In order to comply with our and Pen Underwriting's legal obligations, a Court Order or to cooperate with State and regulatory bodies (such as the Revenue Commissioners or the Central Bank of Ireland), as well as with relevant government departments and agencies (including law enforcement agencies).
- On the sale, transfer or reorganisation of our or Pen Underwriting's business (or any part of it).

For further information regarding the third parties that **we** may share Data with, please see our Privacy Policy www.zurich.ie/privacy-policy and Pen Underwriting's Privacy Notice which is available at www.penunderwriting.ie/privacy-notice.

In addition, information about claims (whether by customers or third-parties) is collected by **us** and/or Pen Underwriting when a claim is made under a policy and placed on InsuranceLink. This information may be shared with other insurance companies, self-insurers or statutory authorities.

The purpose of InsuranceLink is to help **us** and Pen Underwriting identify incorrect information and fraudulent claims and, therefore, to protect customers. Under data protection legislation **you** have a right to know what information about **you** and your previous claims is held on InsuranceLink. If **you** wish to exercise this right then please contact **us** or Pen Underwriting at the address below.

Finally, where **you** have consented to our doing so, **we** and Pen Underwriting may share information that **you** provide to companies within our group and with other companies that **we** and/or Pen Underwriting establish commercial links with so **we**, Pen Underwriting and they may contact **you** (by email, SMS, telephone or other appropriate means) in order to tell **you** about carefully selected products, services or offers that **we** and/or Pen Underwriting believe will be of interest to **you**.

Data Retention

The time periods for which **we** and Pen Underwriting retain your Data depend on the purposes for which **we** and Pen Underwriting use it. **We** and Pen Underwriting will keep your Data for no longer than is required or legally permitted. Please see our Data Retention Policy at www.zurich.ie/privacy-policy and www.penunderwriting.ie/privacy-notice.

Automated Decision Making and Profiling

You have a right not to be subjected to decisions based solely on automated processing, including profiling, which produce legal effects concerning **you** or similarly significantly affects **you** other than where the decision is:

1. Necessary for entering into a contract, or for performing a contract with **you** (e.g. your policy of insurance);
2. Based on your explicit consent – which **you** may withdraw at any time; or
3. Is authorized by EU or Member State law.

Where **we** and Pen Underwriting base a decision on solely automated decision-making, **you** will always be entitled to have a person review the decision so that **you** can contest it and put your point of view and circumstances forward.

Data subject rights

You have the following rights in relation to your Data which is held by **us** and Pen Underwriting:

1. To ask for details of your Data held.
2. To ask for a copy of your Data.
3. To have any inaccurate or misleading Data rectified.
4. To have your Data erased.
5. To restrict the processing of your Data in certain circumstances.
6. To object to the processing of your Data.
7. To transfer your Data to a third party.
8. A right not to be subject to automated decision making.
9. The right to receive notification of a Data breach.
10. Where processing is based on consent, the right to withdraw such consent.
11. The right to lodge a complaint to the Data Protection Commission.

However, these rights may not be exercised in certain circumstances, such as when the processing of your data is necessary to comply with a legal obligation or for the exercise or defence of legal claims. If **you** wish to exercise any of your rights in this regard a request must be submitted in writing to our or Pen Underwriting's Data Protection Officer, as appropriate (see contact details below). In order to protect your privacy, **you** may be asked to provide suitable proof of identification before your request can be processed

Privacy Policy

Please note that this Data Protection section is not a standalone section. It contains a brief description of the information you need to understand how your Data is used by us and should be reviewed in conjunction with our Privacy Policy which is available online at www.zurich.ie/privacy-policy and Pen Underwriting's privacy notice which is available at www.penunderwriting.ie/privacy-notice.

If **you** have any questions about your Data, **you** can contact **us** or Pen Underwriting using the contact details below.

Zurich Insurance Europe AG

- **Customer Services on 053 915 7775**
- **Email us at dataprotectionofficer@zurich.ie**
- **Data Protection Officer, Zurich Insurance Europe AG, FREEPOST, PO Box 78, Wexford, Ireland.**

Pen Underwriting Ireland Limited

- **Customer Services on 053 916 7100**
- **Email at dataprotectionofficer.ie@penunderwriting.com**
- **Data Protection Officer, Pen Underwriting Ireland Limited, Ardavan Business Park, Ardavan, Co. Wexford, Ireland.**

Customer Information

Law Applicable to this Contract

The Insurer with which your contract is concluded is Zurich Insurance Europe AG which is established in Ireland. Under the relevant European and Irish Legal Provisions, the parties to this contract of insurance are free to choose the law applicable to the contract. This contract is governed by Irish Law.

Pen Underwriting Ireland Limited

Ardcavan Business Park
Ardcavan
Wexford
Y35 FP8A

Phone: +353 53 916 7100

www.penunderwriting.ie

Pen Underwriting Ireland Limited is regulated by the Central Bank of Ireland. Pen Underwriting Combined Hauliers Liability is underwritten by Zurich Insurance Europe

Zurich Insurance Europe AG is authorised by the Federal Financial Supervisory Authority (BaFin) in Germany and is regulated by the Central Bank of Ireland for conduct of business rules.

Zurich Insurance Europe AG is registered in Frankfurt, Germany (registration number 133359) with its registered seat at Platz der Einheit 2, 60327, Frankfurt A.M.

Registered in Ireland as a branch (registration number 910127) with registered branch office at Zurich House, Frascati Road, Blackrock, Co. Dublin, A94X9Y3.