

# PUBLIC LIABILITY – BUILDING AND ALLIED TRADES SECTION

*Only applicable if this Section is shown as operative in the Schedule*

## **1. Definitions**

Wherever the following words and phrases appear in this Section they will always have these meanings

### **Injury**

bodily injury death disease illness or nervous shock

### **Business**

the business stated in the Schedule conducted by the Insured at or from premises in Great Britain Northern Ireland the Channel Islands or the Isle of Man including

- a) the provision and management of canteen sports social or welfare organisations for the benefit of Employees and fire security first aid medical and ambulance services
- b) private work undertaken with the prior consent of the Insured by Employees for any director or senior official of the Insured
- c) the ownership maintenance and repair of premises within such territories

### **Employee**

- a) any person under a contract of service or apprenticeship with the Insured
- b) any person who is hired to or borrowed by the Insured
- c) any person engaged in connection with a work experience or training scheme
- d) any labour master or person supplied by him
- e) any person engaged by labour only sub-contractors

- f) any self-employed person working on a labour only basis under the control or supervision of the Insured

- g) any voluntary helper

while working for the Insured in connection with the Business

### **Territorial Limits**

- a) anywhere within Great Britain Northern Ireland the Channel Islands or the Isle of Man other than Offshore
- b) member countries of the European Community other than Offshore in connection with temporary visits undertaken in the course of the Business by any person normally resident in the territories described in a) above
- c) elsewhere in the world other than Offshore in respect of business journeys which do not involve manual labour or the supervision thereof

### **Works Executed**

Works executed including goods or materials used by or on behalf of the Insured in the course of the Business

### **Offshore**

From the time of embarkation onto a conveyance at the point of final departure from land to any offshore rig or any offshore platform and until such time of disembarkation from a conveyance onto land upon return from any offshore rig or any offshore platform

### **2. Interpretation**

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#### Additional Persons Insured

- a) In the event of the death of any person entitled to indemnity under this Section the Company will indemnify in the terms of this Section the deceaseds legal personal representatives but only in respect of liability incurred by such deceased person
- b) At the request of the Insured the Company will indemnify in the terms of this Section any principal in respect of liability arising out of the performance by the Insured of any agreement entered into by the Insured with the principal to the extent required by such agreement
  - a) i) any director of the Insured or Employee in respect of liability arising in connection with the Business

provided that the Insured would have been entitled to indemnity under this Section if the claim had been made against the Insured

- b) i) any officer committee or member of the Insureds canteen sports social or welfare organisations fire security first aid medical or ambulance services in their respective capacities as such
- ii) any director or senior official of the Insured in respect of private work undertaken by any Employee for such director or senior official

provided that

- i) each such person shall as though he were the Insured observe fulfil and be subject to the terms of this Section in so far as they can apply
- ii) the Company shall retain the sole conduct and control of all claims

- iii) where the Company is required to indemnify more than one party the total amount of indemnity payable to all parties in respect of damages shall not exceed the Limit of Indemnity

#### **Cross Liabilities**

If more than one Insured is referred to in the Schedule this Section shall apply to each one as if a separate policy had been issued to each (provided that the total amount of indemnity payable to all parties in respect of damage shall not exceed the Limit of Indemnity)

### **3. Indemnity**

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The Company will indemnify the Insured against all sums that the Insured shall become legally liable to pay as damages and costs and expenses in respect of accidental

- a) Injury to any person
- b) loss of or damage to material property
- c) nuisance or trespass obstruction loss of amenities or interference with any right of way light air or water
- d) wrongful arrest detention imprisonment or eviction of any person or invasion of the right of privacy

occurring within the Territorial Limits during the Period of Insurance and happening in connection with the Business

#### **Limit of Indemnity**

The liability of the Company for all damages payable to any claimant or number of claimants as a result of any one occurrence or all occurrences of a series consequent upon or attributable to one source or original cause shall not exceed the amount stated in the Schedule to this Section as the Limit of Indemnity

**Costs**

The Company will in addition pay all other costs and expenses incurred with its written consent in respect of any claim which may be the subject of indemnity under this Section

pay solicitors fees incurred with its written consent for

- a) defence in any Court of Summary Jurisdiction of any proceedings brought against the Insured in respect of breach or alleged breach of any statutory duty resulting in Injury
- b) representation at a Coroners Court or Fatal Accident Inquiry in respect of any death

which may be the subject of indemnity under this Section

indemnify the Insured and at the request of the Insured any director or Employee in respect of legal costs and expenses incurred with the Companys written consent and costs awarded against the Insured or director or Employee arising in connection with a prosecution (including an appeal against conviction resulting from a prosecution) as a result of an alleged offence occurring during the Period of Insurance under the Health and Safety at Work etc Act 1974 or similar safety legislation of Great Britain Northern Ireland the Channel Islands or the Isle of Man provided that

- a) the proceedings relate to the health safety or welfare of persons other than Employees
- b) the Company will not indemnify the Insured in respect of
  - i) fines or penalties
  - ii) costs and expenses insured by any other policy

indemnify the Insured in respect of legal costs and expenses incurred with the Companys written consent in the defence of any criminal proceedings brought or in an appeal against conviction arising from such proceedings in respect of a breach of Part II of the Consumer Protection Act 1987 provided that

- a) the proceedings relate to an offence alleged to have been committed in the course of the Business during the Period of Insurance
- b) the Company will not indemnify the Insured in respect of
  - i) fines or penalties
  - ii) costs and expenses insured by any other policy

**Exclusions**

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The indemnity will not apply to legal liability

- 1. Injury to Employees**  
in respect of Injury to any Employee
- 2. Property under Insureds Control**  
in respect of loss of or damage to
  - a) property belonging to the Insured
  - b) property which is leased let rented hired or lent to or which is the subject of a bailment to the Insured
  - c) property comprising the permanent or temporary works undertaken by the Insured in the course of any contract or agreement and which are under the control of the Insured or for which the Insured is responsible

### 3. Rectification Costs

- a) in respect of the cost or value of any Works Executed or replacement repair removal rectification or reinstatement thereof where legal liability arises from a defect in or the unsuitability of such Works Executed
- b) for the costs of remedying any defect or alleged defect in land or premises sold or disposed of by the Insured or for any reduction in the value thereof

### 4. Aviation and Craft

arising out of

- a) work in or on aircraft
- b) work in or on airport or aerodrome runways manoeuvring areas or aprons or those parts of airports or aerodromes to which aircraft have access
- c) the ownership possession or use by or on behalf of the Insured of any
  - i) aircraft
  - ii) Watercraft (other than watercraft not exceeding 8 metres in length or any hand-propelled boat or pontoon)

### 5. Vehicles

arising out of the ownership possession or use by or on behalf of the Insured of any mechanically propelled vehicle or trailer attached thereto in circumstances where compulsory insurance or security is required or where insurance is provided by another policy

### 6. Liability under Agreement

assumed by the Insured under agreement unless the conduct and control of all claims is vested in the Company but indemnity shall not in any event apply to

- a) liquidated damages fines or penalties
- b) an agreement to arrange insurance under the terms of Clause 21.2.1 of

the JCT Conditions of Contract or of any other contract condition requiring insurance of a like kind

- c) liability which attaches solely by reason of an agreement relating to the performance of work outside Great Britain Northern Ireland the Channel Islands or the Isle of Man

### 7. War Risks

arising from any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power

### 8. Radioactive Contamination

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

## Exclusions and Limitation

### Pollution or Contamination

- a) this Section excludes 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

- b) The liability of the Company 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 amount shown in the Schedule to this Section as the Limit of Indemnity

- c) For the purpose of this Exclusion and Limitation Pollution or Contamination shall be deemed to mean
  - i) all Pollution or Contamination of buildings or other structures or of water or land or the atmosphere and
  - ii) all loss or damage or injury directly or indirectly caused by such Pollution or Contamination

### **Extensions**

#### **Compensation for Court Attendance**

In the event of the undermentioned persons attending court as a witness at the request of the Company in connection with a claim in respect of which the Insured is entitled to indemnity under this Section the Company will provide compensation to the Insured at the following rates per day for each day on which attendance is required

- a) any director or partner of the Insured £100
- b) any Employee £50

#### **Rented Premises**

Exclusion 2b) shall not apply to premises leased let rented hired or lent to the Insured provided that the indemnity will not apply to legal liability in respect of

- a) loss or damage under agreement unless liability would have attached to the Insured in the absence of such agreement
- b) loss of or damage to premises caused by fire or any other peril against which a tenancy or other agreement stipulates that insurance shall be effected by or on behalf of the Insured
- c) the first £250 of each and every occurrence of loss or damage caused otherwise than by fire or explosion

#### **Defective Premises Act**

Legal liability in respect of Injury loss or damage arising solely by reason of Section 3 of the Defective Premises Act 1972 or Article 5 of the Defective Premises (Northern Ireland) Order 1975 in respect of any premises previously owned for purposes pertaining to the Business and since disposed of by the Insured is included within the terms of the indemnity provided by this Section but indemnity will not apply if the Insured is entitled to indemnity under any other insurance

#### **Contingent Motor Liability**

Notwithstanding Exclusion 5 the Company will indemnify the Insured against legal liability in respect of Injury loss or damage arising out of the use in connection with the Business of any motor vehicle not owned or provided by the Insured

The indemnity will not apply to legal liability

- a) in respect of loss of or damage to any such vehicle or to goods conveyed therein or thereon
- b) in respect of Injury loss or damage arising while such vehicle is being
  - i) driven by the Insured
  - ii) driven with the general consent of the Insured or of his representative by any person who to the knowledge of the Insured or his representative does not hold a licence to drive a vehicle unless such person has held and is not disqualified from holding such a licence
  - iii) used elsewhere than in Great Britain Northern Ireland the Channel Islands or the Isle of Man
- c) in respect of which the Insured is entitled to indemnity under any other insurance

### **Overseas Personal Liability**

The Company will indemnify the Insured and if the Insured so request any director or partner of the Insured or any Employee or spouse of such person against legal liability incurred in a personal capacity whilst temporarily outside Great Britain Northern Ireland the Channel Islands or the Isle of Man

The indemnity will not apply to legal liability

- a) arising out of the ownership or occupation of land or buildings
- b) in respect of which any person referred to above is entitled to indemnity under any other insurance

Subject otherwise to the terms Exclusions and Conditions of this Section

### **Fire Precautions Condition**

It is a condition precedent to liability under this Section that in respect of use away from the Insureds premises of blow lamps blow torches flame guns hot air guns electric oxy-acetylene or other welding or cutting equipment and angle grinders (in circumstances where sparks are emitted) the undernoted precautions will be complied with on each occasion –

#### **Blow lamps blow torches flame guns and hot air guns**

- i) the area in which work is to be carried out to be examined and combustible property within the vicinity of the work either removed or as far as practicable covered by non-combustible materials
- ii) suitable fire extinguishing appliances to be kept available for immediate use at the point of work or as near as is practicable
- iii) blow lamps blow torches and flame guns not to be lighted until required for use and extinguished immediately after use
- iv) lighted blow lamps blow torches and flame guns not to be left unattended

- v) hot air guns to be switched off when unattended
- vi) upon completion of each period of work a thorough fire safety check to be made of the vicinity of the work

#### **Electric oxy-acetylene or other welding or cutting equipment and angle grinders**

- i) the area in which the work is to be carried out including adjoining shafts or openings and the area on the other side of any wall or partition to be inspected to see whether any combustible property other than the property to be worked upon is in danger of ignition either directly or by conduction of heat
- ii) all combustible property to be removed to a distance of not less than 6 metres from the point of work and property which cannot be moved to be covered and fully protected by overlapping sheets of non-combustible material or equivalent protection
- iii) the Insured shall arrange for a person who is competent in the use of fire extinguishing appliances to work in conjunction with the operative using the equipment to act as a firewatcher and to remain in attendance at all times until lighted flame equipment is extinguished
- iv) suitable fire extinguishing appliances to be made available for immediate use at the point of work
- v) gas cylinders not in use to be kept outside the building in which the work is taking place where practicable but in any event at least 15 metres from the point of application of the heat
- vi) upon completion of each period of work a thorough fire safety check to be made of all areas referred to in paragraph i) above

The fire safety check to be undertaken at regular intervals for a period of at least one hour after completion

## Special Conditions

### **1. Observance of Terms**

It is a condition precedent to any liability on the part of the Company under this Section that the terms hereof so far as they relate to anything to be done or complied with by the Insured shall be duly and faithfully observed

### **2. Material Facts**

The Insured shall give immediate notice to the Company of any alteration in risk which materially affects this insurance

### **3. Reasonable Precautions**

The Insured shall

- a) take all reasonable precautions to prevent occurrences which may give rise to liability under this Section
- b) take all reasonable steps to comply with statutory requirements obligations and regulations imposed by any authority
- c) forthwith make good or remedy any defect or danger which becomes apparent or take such additional precautions as the circumstances may require

### **4. Notification of Claims**

In the event of any occurrence which may give rise to a claim under this Section the Insured shall immediately

- a) give written notice with full particulars to the Company
- b) forward to the Company upon receipt every letter claim writ summons or process
- c) notify the Company of any knowledge of impending prosecution inquest fatal accident or ministry inquiry

### **5. Claims Control**

- a) no admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company
- b) the Company shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured at its own expense and for its own benefit any claim for indemnity or damages or otherwise
- c) the Company shall have full discretion in the conduct of any proceedings and in the settlement of any claim
- d) the Insured shall give all information and assistance the Company may require

### **6. Discharge of Liability**

The Company may pay the Limit of Indemnity or any lesser sum for which any claim or claims against the Insured can be settled and the Company shall be under no further liability in respect of such claim or claims except for costs or expenses incurred prior to the date of such payment

### **7. Other Insurances**

The Company will not indemnify the Insured in respect of liability which is insured by or would but for the existence of this Section be insured by any other policy except in respect of any excess beyond the amount payable under such other policy or which would have been payable under such other policy had this insurance not been effected

**8. Premium Adjustment**

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If any part of the premium has been calculated on estimates the Insured shall within one month from the expiry of each Period of Insurance furnish such particulars and information as the Company may require and shall at the request of the Company provide an auditors certificate in support thereof The premium for such period shall then be adjusted subject to the Company retaining 75% of the premium paid for the Period of Insurance which corresponds to the period which is being adjusted Should the Insured fail to supply such particulars the Company shall be entitled to charge a reasonable additional premium in respect of that Period of Insurance

**THE GENERAL CONDITIONS OF THE POLICY SHALL NOT APPLY TO THIS SECTION OTHER THAN THOSE HEADED INSTALMENTS AND CANCELLATION**