

# Contractors Combined Insurance

## SCHEDULE TO THE POLICY

Insurance Broker

**Trust Insurance Services Ltd**

Policy Number

**B1141C20M8200/11890**

Policyholder

**Mr S Spiers T/as Town & Country Tree Services, 6 Mountain Ash Close, Hailsham, East Sussex, BN27 3XN**

Business

**Tree Surgery, Stump Grinding and Landscaping but excluding Railway Clearance & Power-line Clearance**

Period of Insurance

From **11/06/2020 00:00** Local Standard Time to **10/06/2021 23:59** Local Standard Time both dates inclusive

Offshore Risks

Does this Policy provide coverage in respect of risks located offshore? **No**

### Combined Liability

Limits of Indemnity

Operative Cover A Employer's Liability :**GBP 10,000,000** but **GBP 5,000,000** in respect of Bodily Injury arising from Terrorism or occurring Offshore (if applicable) or arising out of exposure to asbestos

Operative Cover B Public Liability :**GBP 10,000,000** any one occurrence

Operative Cover C Products Liability :**GBP 10,000,000** in all in the Period of Insurance

Operative Cover D Pollution Liability :**GBP 10,000,000** in all in the Period of Insurance

### Contractors All Risks

Operative Cover E: Property Insured: **Tree Surgery equipment**

ITEM NO.	DESCRIPTION	SUMS INSURED
1)	Construction plant tools machinery and equipment but excluding property as described in any other item	<b>GBP 5,500.00 (indemnity)</b> subject to an inner limit of <b>£1,000,000</b> any one occurrence  <b>GBP 27,000.00 (new for old)</b> subject to an inner limit of <b>£1,000,000</b> any one occurrence
2)	Property as described in item No. 1 hired by the Assured (but not on free loan unless otherwise agreed)	<b>GBP Nil</b> any one occurrence

**General Excess (not to apply in respect of Operative Cover A)**

GBP 500 each and every loss

**General Excess – Operative Cover E**

GBP 500 each and every loss

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**Premium**

	<i>Deposit</i>	<i>Minimum</i>	<i>Insurance Premium Tax</i>
Operative Cover A:	GBP <b>825.00</b>	GBP <b>825.00</b>	GBP <b>99.00</b>
Operative Cover B:	GBP <b>723.00</b>	GBP <b>723.00</b>	GBP <b>86.76</b>
Operative Cover C:	GBP <b>Included</b>	GBP <b>Included</b>	GBP <b>Included</b>
Operative Cover E:	GBP <b>865.00</b>	GBP <b>865.00</b>	GBP <b>103.80</b>

*Subject to adjustment by General Condition 3*

**SEVERAL LIABILITY NOTICE**

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

08/94  
LSW1001 (Insurance)

100% Convex Insurance UK Limited



Signed in London this

day of **12th June 2020**

# Certificate of employers' liability insurance

(Where required by regulation 5 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (the Regulations), one or more copies of this certificate must be displayed at each place of business at which the Assured employs persons covered by the policy)

Policy Number: B1141C20M8200/11890  
Assured: Mr S Spiers T/as Town & Country Tree Services  
Date of commencement of Insurance: 11/06/2020 00:00  
Date of Expiry of Insurance: 10/06/2021 23:59

## We certify that subject to paragraph 2:

1. The policy to which this certificate relates satisfies the requirements of the relevant law applicable in Great Britain, Northern Ireland, the Isle of Man, the Island of Jersey, the Island of Guernsey and Island of Alderney, or to offshore installations in any waters outside the United Kingdom to which Employers' Liability (Compulsory Insurance) Act 1969 or any amending primary legislation applies (b): and
2. The minimum amount of cover provided by this policy is no less than GBP 10,000,000 other than claims relating to work Offshore, Terrorism and Asbestos where the amount of cover provided by this policy is no less than GBP 5,000,000

Signed for and on behalf of Convex Insurance UK Limited



(Authorised Insurer)

## Notes

- a) Where the employer is a company to which regulation 3(2) of the Regulation applies, the certificate shall state in a prominent place, either that the policy covers the holding company and all its subsidiaries, or that the policy covers the holding company and all its subsidiaries except and specifically excluded by name, or that the policy covers the holding company and only the named subsidiaries.
- b) Specify applicable law as provided for in regulation 4(6) in the regulations.
- c) See regulations 3(1) of the Regulations and delete whichever paragraphs 2(a) or 2(b) does not apply. Where 2(b) is applicable, specify the amount of cover provided by the relevant policy.

## CERTIFICATE OF PUBLIC LIABILITY INSURANCE

Policy No: B1141C20M8200/11890

1. Name of policy holder: Mr S Spiers T/as Town & Country Tree Services
2. Date of commencement of insurance policy: 11th June 2020 00:01
3. Date of expiry of insurance policy: 10th June 2021 23:59

We hereby certify that the following limit of liability is in force for the above Period:

GBP 10,000,000 any one accident

Signed on behalf of Convex Insurance UK Limited (Authorised Insurers)

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a series of loops and a long horizontal stroke that tapers to a point.

.....Signature

Name and address of issuing intermediary:

Issuing intermediary's reference: 11890  
(if different from the Policy Number stated above)



## **CNVXCAS227 - Height Limit Amendment – Forestry Contractors**

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The following is added to EXCLUSIONS TO ALL SECTIONS

This Policy does not provide indemnity in respect of liability arising from any work carried out at a height in excess of 5 metres unless a copy of the following certificate(s):

- NPTC CS22
- NPTC CS39
- Lantra Rope and Chainsaw Qualification

have been provided to Insurers.

All other terms, conditions, exclusions and limitations remain unchanged.

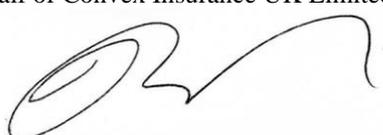
# CONVEX INSURANCE UK LIMITED

## Contractors Combined Liability Policy

CNVXCCv1

A large, abstract graphic at the bottom of the page. It consists of several overlapping, curved shapes in various shades of green, ranging from a light, pale green to a dark, forest green. The shapes are layered and curved, creating a sense of depth and movement. The overall effect is a modern, organic design that complements the company's branding.

# Contents

We certify that subject to paragraph 2: .....	3
1. The policy to which this certificate relates satisfies the requirements of the relevant law applicable in Great Britain, Northern Ireland, the Isle of Man, the Island of Jersey, the Island of Guernsey and Island of Alderney, or to offshore installations in any waters outside the United Kingdom to which Employers' Liability (Compulsory Insurance) Act 1969 or any amending primary legislation applies (b): and .....	3
2. The minimum amount of cover provided by this policy is no less than GBP 10,000,000 other than claims relating to work Offshore, Terrorism and Asbestos where the amount of cover provided by this policy is no less than GBP 5,000,000 .....	3
Signed for and on behalf of Convex Insurance UK Limited.....	3
	
(Authorised Insurer) .....	3
Notes.....	3
<b>Section 1</b>	<b>3</b>
Introduction and Definitions	3
<b>Section 2</b>	<b>6</b>
Operative Cover A – Employers' Liability	6
Operative Cover B – Public Liability	8
Operative Cover C – Product Liability	11
Operative Cover D – Pollution Liability	12
Operative Cover E – Contractors All Risks	14
<b>Section 3</b>	<b>21</b>
General Extensions	21
General Exclusions	23
General Terms and Conditions	25

# Section 1

## Introduction

Convex Insurance UK Limited (the “Underwriters”) agrees to insure the Assured (as named in the Schedule) against loss as provided by the terms of this Policy. The Assured has presented information in connection with its application for insurance. The Underwriters have relied on the information which the Assured has provided to them in deciding to accept this Policy and in settling its terms and premium.

This Policy consists of: Introduction and Definitions, the Operative Covers and Extensions stated as operative in the Schedule, Exclusions, General Terms and Conditions and any Endorsements (if issued), all of which are a single document to be read as one contract (together the “Policy”).

Please read this Policy carefully and make sure this Policy meets your needs. If the Policy is incorrect, please speak to your Broker.

Please keep this Policy safe and quote the Policy Number appearing in the Schedule in all communications.

## Definitions

Capitalised words and terms are defined in the Definitions below. As used herein:

1. **Assured means:**  
the person(s), partnership, corporation or organization specified in the Schedule.
2. **Bodily Injury means:**  
death, bodily injury, illness or disease of or to any person.
3. **Business means:**  
the ordinary business of the Assured specified under Business Description in the Policy Schedule.
4. **Claimant means:**  
any party making a claim against the Assured.
5. **Damages means:**  
monetary compensation capable of being awarded in civil proceedings but excluding aggravated and exemplary damages and criminal fines and penalties
6. **Defence Costs means:**  
all costs, fees, and expenses incurred by the Assured, with the Underwriters’ prior written consent, in the defence or settlement of any claim under this Policy including legal expenses:
  - a) arising out of representation at any Coroner’s Inquest or Fatal Accident inquiry;
  - b) arising out of any criminal prosecution or proceedings relating to an offence alleged to have been committed during the Policy Period and in the course of the Business of the Assured in respect of matters which may form the subject of indemnity by this Policy (including with the Underwriters’ prior written consent Employees, partners or directors of the Assured) provided that:
    - i. the Underwriters shall not be liable for any fines or penalties imposed as a consequence of such prosecution;
    - ii. the Underwriters shall not be responsible for Defence Costs where, at the Underwriters’ discretion, they may require the opinion of counsel (whose appointment is at the Underwriters’ sole discretion) as to whether or not such costs should extend or continue to extend to the support of such defence, and where such counsel’s opinion is that there is no reasonable defence to the prosecution;

- iii. the Underwriters' liabilities for Defence Costs in cases of breach or alleged breach of the English Health & Safety at Work Act 1974 (and/or any legislation of similar effect) are limited to prosecutions under Section 33(1)(a) to (c) of the Act or similar duty imposed under consolidating legislation or legislation in Scotland, Northern Ireland, the Isle of Man or the Channel Islands; and
  - iv. the Underwriters' liabilities for Defence Costs in cases of breach or alleged breach of the English Consumer Protection Act 1987 (and/or any legislation of similar effect) are limited to proceedings not consequent upon a deliberate act or omission; and
- c) arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of Indemnity by this Policy.
- 7. Employee means:**  
any person under a contract of service or apprenticeship with the Assured or engaged by the Assured to perform a contract constituting the provision of labour only; while working for the Assured in connection with the Business.
- 8. Endorsement means:**  
changes to the terms and conditions or scope of this Policy agreed by the Underwriters that can add, delete or otherwise alter the cover provided by this Policy.
- 9. Excess means:**  
the first amount of each and every claim, as ascertained after the application of all other terms and conditions of this Policy, that is to be paid by the Assured and for which the Underwriters are not liable to pay as specified in the Schedule.
- 10. Limit of Liability means:**  
the limit of liability applicable to the relevant Operative Cover (or sub-limit or item insured under such Operative Cover) and as specified in the Schedule.
- 11. Offshore means:**  
the time from which an Employee of the Assured embarks onto a conveyance at the point of final departure to an offshore rig or offshore platform within the territorial waters of the United Kingdom, until such time the Employee disembarks from the conveyance onto land upon return from an offshore rig or an offshore platform.
- 12. Policy Period means:**  
the period specified in the Schedule and will be the period of time over which this Policy provides indemnity.
- 13. Pollutants means:**  
any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, dust, fibres, fungi, mould, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed. For the avoidance of doubt, bacteria, viruses or other pathogens, do NOT fall within the definition of Pollutants.
- 14. Pollution means:**  
any pollution, discharge, seepage, migration, dispersal, release or escape of Pollutants at any time or contamination of any kind of the atmosphere or of any water, land, buildings or other tangible property.
- 15. Premium means:**  
the amount of premium specified in the Schedule.
- 16. Principal means:**  
a person, persons or corporate body or other entity who engages the Assured, in writing, to perform a contract.
- 17. Product means:**  
any tangible property after it has left the custody or control of the Assured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, leased, loaned, free issued, altered or repaired by or on behalf of the Assured but shall not include any structure or contract works and/or materials for incorporation therein.
- 18. Property Damage means:**  
physical loss of or damage to or destruction of tangible property.

- 19. Schedule means:**  
the document entitled Schedule which relates to and forms part of this Policy.
- 20. Territorial Limits means:**  
the United Kingdom.
- 21. Terrorism means:**  
an act or series of acts including the use of force or violence, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s), committed for political, religious, or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.
- 22. Underwriters means:**  
Convex Insurance UK Limited.
- 23. United Kingdom means:**  
England, Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man.

# Section 2

## Operative Cover A – Employers' Liability

### 1. Operative Clause

The Underwriters will indemnify the Assured for all sums which the Assured becomes legally liable to pay as Damages (including claimants' costs fees and expenses) and Defence Costs in respect of Bodily Injury sustained by an Employee

- a) arising out of and in the course of their employment by the Assured; or
- b) arising out of and in the course of their employment or participation in the performance of a contract with the Assured the primary purpose of which is the provision of labour only;

in connection with the Business of the Assured and caused during the Policy Period.

The indemnity provided shall only apply to Bodily Injury sustained:

- a) within the Territorial Limits;
- b) by Employees of the Assured undertaking non-manual work during temporary visits abroad provided that such Employees are ordinarily resident in the Territorial Limits.

### 2. Limit of Liability and Defence Costs

The Underwriters' liability to pay Damages (including Claimants' costs fees and expenses) and Defence Costs shall not exceed the Limit of Liability stated in the Schedule as applicable to this Operative Cover in respect of any one occurrence or series of occurrences arising out of one originating cause.

For the avoidance of doubt, Defence Costs will be payable as part of and not in addition to the Limit of Liability.

### 3. Extensions Applicable to Operative Cover A

#### a) Asbestos

This Operative Cover A will apply, subject to all its terms and conditions, to Bodily Injury caused to an Employee arising out of the exposure to asbestos or alleged exposure to asbestos or materials or products containing asbestos where a sub Limit of Liability is specified in the Schedule.

#### b) Data Protection

This Operative Cover A will apply, subject to all its terms and conditions, to the Assured's legal liability to pay compensation to any Employee as a result of Bodily Injury under Article 82 of the General Data Protection Regulation (EU) 2016/679 where a sub Limit of Liability is specified in the Schedule.

#### c) Medical Treatment

Indemnity shall be extended to the Assured and any medical doctor or dentist employed by the Assured in respect of liability to any person under a contract of service or apprenticeship with the Assured resulting from treatment given, provided that any such doctor or dentist shall be subject to the terms of this Policy as if they were the Assured so far as they can apply and provided that the Assured would have been entitled to indemnity under this Operative Cover A if the claim had been made against the Assured.

#### d) Offshore

This Operative Cover A will apply, subject to all its terms and conditions, to Bodily Injury caused to an Employee occurring Offshore where a sub Limit of Liability is specified in the Schedule.

#### e) Terrorism

This Operative Cover A will apply, subject to all its terms and conditions, to Bodily Injury caused to an Employee arising out of Terrorism where a sub Limit of Liability is specified in the Schedule.

#### f) Unsatisfied Court Judgements

In the event of a Judgement for Damages being obtained by any Employee or the personal representative of any Employee:

- i. in respect of Bodily Injury sustained by the Employee that arises out of and in the course of employment by the Assured in the Business during the Policy Period;

- ii. against any Underwriters or individuals operating within premises in the United Kingdom in any court situated in those territories;
- iii. which remains unsatisfied in whole or in part six (6) months after the date of such judgment;

the Underwriters will, at the request of the Assured, pay to the Employee or the personal representative of the Employee the amount of any such Damages and any awarded costs to the extent they remain unsatisfied. Provided always that:

- i. there is no appeal outstanding;
- ii. if any payment is made under the terms of this Extension to Operative Cover A the Employee or the personal representative of the Employee shall assign any Judgement to the Underwriters;
- iii. any payment made by the Underwriters shall be only in respect of liability for which the Assured would have been entitled to indemnity under Operative Cover A of this Policy if the judgement had been made against the Assured.

#### **4. Exclusions Applicable to Operative Cover A**

- a) This Operative Cover does not provide any indemnity in respect of liability for which compulsory motor insurance or security is required under any applicable legislation.

#### **5. Employers' Liability Compulsory Insurance Claims**

The indemnity granted by this Operative Cover is deemed to be in accordance with the provisions of any law relating to compulsory insurance of liability to Employees in the United Kingdom and offshore installations in territorial waters around Great Britain and its Continental Shelf BUT the Assured shall repay to the Underwriters all sums paid by the Underwriters which the Underwriters would not have been liable to pay but for the provisions of such law ordinance or statute.

## Operative Cover B – Public Liability

### 1. Operative Clause

The Underwriters will indemnify the Assured for all sums which the Assured becomes legally liable to pay as Damages (including Claimants' costs fees and expenses) and Defence Costs in respect of accidental

- a) Bodily Injury;
- b) Property Damage;

arising out of or in connection with the Business of the Assured and occurring during the Policy Period.

The indemnity provided shall only apply to Bodily Injury or Property Damage occurring

- a) within the Territorial Limits;
- b) during the course of temporary visits abroad by Employees of the Assured undertaking non-manual work.

### 2. Limit of Liability and Defence Costs

- a) The Underwriters' liability to pay Damages (including Claimants' costs fees and expenses) shall not exceed the Limit of Liability stated in the Schedule as applicable to this Operative Cover in respect of any one occurrence or series of occurrences arising out of one originating cause.
- b) Defence Costs will be payable in addition to the Limit of Liability stated in the Schedule as applicable to this Operative Cover.

### 3. Extensions Applicable to Operative Cover B

#### a) Data Protection Legislation

This Operative Cover B extends to cover the Assured for legal liability in respect of any claim for compensation as a result of Bodily Injury and/or Property Damage under Section 169 of the Data Protection Act 2018 or under Article 82 of the General Data Protection Regulation (EU) 2016/679.

Cover in respect of such claims shall be available only under the terms and conditions of this extension and nowhere else in this Policy.

For the purposes of this extension non-material damage which is the subject of such claim shall be considered as Bodily Injury and will be treated as having occurred when the claimant first had knowledge or alleges that they first had knowledge of the event giving rise to that Bodily Injury.

This extension applies where claims are made against the Assured during the Policy Period arising from Bodily Injury and/or Property Damage occurring on or after the Retroactive Date specified in the Schedule and before the expiry date of the Policy. If a circumstance, which is likely to give rise to a claim being made against the Assured, occurring subsequent to the Retroactive Date and before the expiry date of the Policy is notified to the Underwriters in accordance with General Condition 1 – Claims Procedure, the Underwriters will not deny any subsequent claim arising out of that circumstance solely because the claim was made after the expiry date of the Policy.

The Underwriters' liability under this extension shall be limited to GBP 50,000 any one occurrence and in the aggregate, inclusive of Defence Costs, which shall be a part of and not in addition to the Limit of Liability.

The Excess under this extension shall be 10% of each claim subject to a minimum of GBP 1,000 and shall be applicable to Defence Costs:

- i. against liability caused by or arising from a deliberate act by or omission of any person entitled to insurance under this Policy if the result could have been expected having regard to the nature and circumstances of such act or omission;
- ii. for the costs of replacing, reinstating, rectifying or erasing any Personal Data, as defined in Data Protection Act 2018;
- iii. against liability caused by or arising from the recording, processing or provision of data for reward or the determining of the financial status of a person; or
- iv. against liability which attaches by virtue of a contract or agreement, but which would not have attached in the absence of such contract or agreement.

#### b) Denial of Access

The indemnity granted by this Operative Cover B is extended to indemnify the Assured against legal liability to pay Damages (including Claimant's costs and expenses), as a result of a denial of access that occurs during the Policy Period and arises out of or in connection with the Business. For the purpose of this extension of cover, denial of access means nuisance, trespass or interference with any easement, right of air, light, water or way.

c) **Overseas Liability**

The indemnity granted by this Operative Cover B is extended, at the request of the Assured, to indemnify the Assured and its Employees and directors (including their families or persons ordinarily resident with them), against legal liability for Bodily Injury, Property Damage or denial of access (as per Operative Cover B.3.b above) incurred in a personal capacity while temporarily outside the United Kingdom in connection with the Business, provided that such Property Damage or denial of access does not arise out of the ownership or occupation of land or buildings.

d) **Private work**

The indemnity granted by this Operative Cover B is extended to indemnify the Assured against legal liability in respect of work carried out on behalf of Principals and/or directors of the Assured by Employees engaged or borrowed from the Assured in their private capacity.

**4. Exclusions Applicable to Operative Cover B**

This Operative Cover does not provide any indemnity in respect of liability:

a) for Bodily Injury;

- i. sustained by any Employee arising out of and in the course of their employment by or under a contract of service with the Assured; or
- ii. arising out of and in the course of their employment or participation in the performance of a contract with the Assured the primary purpose of which is the provision of labour only;

in connection with the Business of the Assured.

b) For Property Damage to tangible property owned, leased or hired by the Assured or under hire purchase or on loan to the Assured or in the Assured's care custody and control other than:

- i. Employees' and visitors' clothing, tools and personal effects up to a limit of GBP 500;
- ii. premises (including contents thereof) not owned or rented by the Assured but temporarily occupied by them for the purpose of work therein or thereon;
- iii. premises tenanted by the Assured to the extent that the Assured would be held liable in the absence of any specific agreement.

c) arising out of ownership, possession or use of any mechanically propelled vehicle where a Certificate of Motor Insurance or surety is required under the Road Traffic Act or any similar legislation other than:

- i. vehicles designed primarily to operate as tools of trade (which term shall be deemed to include any plant primarily designed to operate on or about a contract site);
- ii. other vehicles brought on to site for use on site.

This exclusion will not apply to any liability arising out of or from the operation or use of any mechanically propelled vehicle not owned, hired or borrowed by or leased to the Assured and used in the course of Business provided that the Underwriters will not be liable for:

- i. Property Damage to such vehicle or to property conveyed therein/thereon;
- ii. Bodily Injury or Property Damage arising while such vehicle is being driven by any Assured person other than the Employee or any person who, to the Assured's knowledge or the knowledge of any Principal, director, officer or manager of the Assured, does not hold a licence to drive such vehicle;
- iii. Bodily Injury or Property Damage caused or arising while such vehicle is engaged in racing, pace-making, reliability trials or speed testing;
- iv. Bodily Injury or Property Damage caused or arising while such vehicle is being used outside the United Kingdom;
- v. Bodily Injury or Property Damage in respect of which the Assured is entitled to indemnity from other any other insurance.

d) caused by the ownership or operation by or on behalf of the Assured of any waterborne craft, hovercraft aircraft, or rail borne vehicle;

e) arising out of or in connection with any Pollution;

f) arising out of or in connection with any Product;

g) arising out of or from advice, design, plans, specifications, formulae, surveys or directions prepared or given by the Assured for a fee.

## Operative Cover C – Product Liability

### 1. Operative Clause

The Underwriters will indemnify the Assured for all sums which the Assured becomes legally liable to pay as Damages (including Claimants' costs fees and expenses) and Defence Costs in respect of accidental:

- a) Bodily Injury; or
- b) Property Damage;

arising out of or in connection with any Product occurring during the Policy Period.

### 2. Limit of Liability and Defence Costs

- a) The Underwriters' liability to pay Damages (including Claimants' costs fees and expenses) shall not exceed the Limit of Liability stated in the Schedule as applicable to this Operative Cover in respect of any one occurrence or series of occurrences arising out of one originating cause.
- b) Defence Costs will be payable in addition to the Limit of Liability stated in the Schedule as applicable to this Operative Cover.

### 3. Exclusions Applicable to Operative Cover C

This Operative Cover does not provide any indemnity in respect of liability:

- a) for Bodily Injury;
  - i. sustained by any Employee arising out of and in the course of their employment by or under a contract of service with the Assured; or
  - ii. arising out of and in the course of their employment or participation in the performance of a contract with the Assured the primary purpose of which is the provision of labour only;in connection with the Business of the Assured.
- b) for Property Damage to tangible property owned, leased or hired by the Assured or under hire purchase or on loan to the Assured or in the Assured's care custody and control other than:
  - i. Employees' and visitors' clothing, tools and personal effects up to a limit of GBP 500;
  - ii. premises (including contents thereof) not owned nor rented by the Assured but temporarily occupied by them for the purpose of work therein or thereon; and
  - iii. premises tenanted by the Assured to the extent that the Assured would be held liable in the absence of any specific agreement.
- c) arising out of or in connection with any Pollution;
- d) arising out of the recall of any Product;
- e) for Damage to any Product or part thereof;
- f) for costs incurred in the repair, reconditioning or replacement of any Product or part thereof and/or any financial loss consequent upon the necessity for such repair, reconditioning or replacement;
- g) arising out of any Product which, with the Assured's knowledge, is intended for incorporation into the structure, machinery, or controls of any aircraft except where specifically included in the Business;
- h) arising out of any Product which is intended for use in a motor vehicle except where specifically included in the Business;
- i) arising out of any Product which is intended for incorporation into any marine equipment upon which the navigation or safety of a waterborne vessel depends or use in a waterborne vessel except where specifically included in the Business;
- j) arising out of or from advice, design, plans, specifications, formulae, surveys or directions prepared or given by the Assured for a fee.

## Operative Cover D – Pollution Liability

### 1. Insuring Clause

The Underwriters will indemnify the Assured for all sums which the Assured becomes legally liable to pay as Damages (including Claimants' costs fees and expenses) and Defence Costs in respect of accidental:

- a) Bodily Injury; or
- b) Property Damage;

arising out of or in connection with Pollution occurring in its entirety during the Policy Period within the Territorial Limits in connection with the Business of the Assured but only to the extent that the Assured can demonstrate that such Pollution:

- i. was the direct result of a sudden specific and identifiable event occurring during the Policy Period;
- ii. was not the direct result of the Assured failing to take reasonable precautions to prevent such Pollution during the Policy Period.

### 2. Limit of Liability and Defence Costs

- a) The Underwriters' liability to pay Damages (including Claimants' costs fees and expenses) shall not exceed the Limit of Liability stated in the Schedule as applicable to this Operative Cover in respect of any one occurrence or series of occurrences arising out of one originating cause.
- b) Defence Costs will be payable in addition to the Limit of Liability stated in the Schedule as applicable to this Operative Cover.

### 3. Extensions Applicable to Operative Cover D

#### a) Denial of Access

The indemnity granted by this Operative Cover D is extended to indemnify the Assured against legal liability to pay Damages (including Claimant's costs and expenses), as a result of a denial of access that occurs during the Policy Period and arises out of or in connection with the Business. For the purpose of this extension of cover, denial of access means nuisance, trespass or interference with any easement, right of air, light, water or way.

#### b) Private work

The indemnity granted by this Operative Cover D is extended to indemnify the Assured against legal liability in respect of work carried out on behalf of Principals and/or directors of the Assured by Employees engaged or borrowed from the Assured in their private capacity.

### 4. Exclusions Applicable to Operative Cover D

This Operative Cover does not provide any indemnity in respect of liability:

- a) for Bodily Injury;
  - i. sustained by any Employee arising out of and in the course of their employment by or under a contract of service with the Assured; or
  - ii. arising out of and in the course of their employment or participation in the performance of a contract with the Assured the primary purpose of which is the provision of labour onlyin connection with the Business of the Assured.
- b) for Property Damage to tangible property owned, leased or hired by the Assured or under hire purchase or on loan to the Assured or in the Assured's care custody and control other than:
  - i. Employees' and visitors' clothing and personal effects up to a limit of GBP 500;
  - ii. premises (including contents thereof) not owned nor rented by the Assured but temporarily occupied by them for the purpose of work therein or thereon;
  - iii. premises tenanted by the Assured to the extent that the Assured would be held liable in the absence of any specific agreement.
- c) arising out of ownership, possession or use of any mechanically propelled vehicle where a Certificate of Motor Insurance or surety is required under the Road Traffic Act or any similar legislation other than:

- i. vehicles designed primarily to operate as tools of trade (which term shall be deemed to include any plant primarily designed to operate on or about a contract site);
- ii. other vehicles brought on to site for use on site.

This exclusion will not apply to any liability arising out of or from the operation or use of any mechanically propelled vehicle not owned, hired or borrowed by or leased to the Assured and used in the course of Business provided that the Underwriters will not be liable for:

- i. Property Damage to such vehicle or to property conveyed therein/thereon;
  - ii. Bodily Injury or Property Damage arising while such vehicle is being driven by any Assured person other than the Employee or any person who, to the Assured's knowledge or the knowledge of any Principal, director, officer or manager of the Assured, does not hold a licence to drive such vehicle;
  - iii. Bodily Injury or Property Damage caused or arising while such vehicle is engaged in racing, pace-making, reliability trials or speed testing;
  - iv. Bodily Injury or Property Damage caused or arising while such vehicle is being used outside the United Kingdom;
  - v. Bodily Injury or Property Damage in respect of which the Assured is entitled to indemnity other any other insurance.
- d) caused by the ownership or operation by or on behalf of the Assured of any waterborne craft hovercraft aircraft or railborne vehicle;
  - e) arising out of or in connection with any Product;
  - f) arising out of or from advice, design, plans, specifications, formulae, surveys or directions prepared or given by the Assured for a fee;
  - g) for Property Damage to premises presently or at any time owned or tenanted by the Assured;
  - h) for Property Damage to land or water within or below the boundaries of any land or premises presently or at any time previously owned or leased by the Assured or otherwise in the Assured's care custody or control.

## Operative Cover E – Contractors All Risks

### 1. Operative Clause

The Underwriters will indemnify the Assured by payment or, at the Underwriters' option, reinstatement or repair in respect of Property Damage which is being used or is intended for use in connection with the works on any contract site which is the subject of this Policy:

- a) arising from any cause not otherwise excluded;
- b) occurring anywhere within the Territorial Limits; and
- c) during the Policy Period.

Such tangible property shall include:

- a) the works whether permanent or temporary, materials incorporated or for incorporation therein, other than property insured by item b. below, being the property of the Assured or for which the Assured is responsible including all transits in respect of any contract or work undertaken whether such contract or work was commenced during the Policy Period or otherwise, together, "Contract Works". Provided that the Underwriters shall be under no liability in respect of contracts originally scheduled to be of longer duration than two (2) years (exclusive of the maintenance period) or with an estimated contract value at inception exceeding GBP 2,000,000 unless otherwise agreed;
- b) contractors' plant, tools and equipment demountable and temporary buildings and/or caravans and/or other items of a like nature and materials and/or stores and/or any other property of whatsoever nature used or intended for use in connection with any contract works being undertaken by the Assured and Assured under this Policy all being the property of the Assured or hired by the Assured under the Contractors Plant Association conditions or conditions no more onerous including transit by road rail or inland waterways, together, "Plant, Tools and other Equipment";
- c) Employees' effects for which the Assured is responsible whilst on any site or for which the Assured is responsible under the terms of any joint working agreement, together, "Employees' Effects". The indemnity provided pursuant to this subclause is limited to GBP 500 per Employee unless otherwise agreed

the above, together, "Property Insured".

### 2. Excess

Where an excess is stated in the Schedule, the Assured shall not be liable to pay that first part of every claim as set out in the Schedule.

### 3. Exclusions Applicable to Operative Cover E

No indemnity is provided in respect of:

- a) consequential loss, loss of use, penalties for delay or non-completion or liquidated damages or costs of any nature;
- b) loss of or damage to:
  - i. aircraft, aero spatial devices or hovercraft;
  - ii. waterborne craft or vessels other than safety boats, non-self propelled craft or other craft up to 20 feet in length on or about the contract site;
- c) loss of or damage to mechanically propelled vehicles other than:
  - i. vehicles designed primarily to operate as tools of trade (which shall be deemed to include any plant primarily designed to operate on or about a contract site);
  - ii. other vehicles brought on to a site for use only on such site;

- d) All costs rendered necessary by defects of material workmanship, design, plan or specification and should damage occur to any portion of the Property Insured containing any of the said defects, the cost of replacement or rectification which is hereby excluded is that cost which would have been incurred if replacement or rectification of the Property Insured had been put in hand immediately prior to the said damage.
- e) For the purposes of this Operative Cover, the Property Insured shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design, plan, specification, materials or workmanship in the Property Insured or any part thereof;
- f) the cost of making good:
  - i. mechanical or electrical breakdown or derangement;
  - ii. wear, tear, or gradual deterioration;
  - iii. any form of corrosion, erosion, rust, oxidation or mildew howsoever the same may arise

but this Exclusion shall be limited to the parts immediately affected and shall not apply to accidental loss or damage arising in consequence thereof;
- g) loss of or damage to stock and materials in trade and/or materials for incorporation into the contract works whilst away from any contract site unless in transit;
- h) loss of or damage to cash notes, postal and/or money orders, cheques, stamps or negotiable instruments of whatsoever nature or other securities for money;
- i) loss of or damage to any part of the Property Insured arising out of the works being taken into use or occupation (except for testing and commissioning when applicable) unless the Assured shall give notice to the Underwriters as soon as possible and shall agree to pay such additional premium as the Underwriters may reasonably require. This Exclusion shall not apply:
  - i. to the use of any property as a show house with a value up to GBP 250,000 and contents with a value up to GBP 50,000; or
  - ii. during the period of 14 days from the date of issue by the Engineer of a Certificate of Completion when a contract is subject to the Standard Conditions of Contract of the Institute of Civil Engineers or equivalent conditions of contract;
- j) any loss of property either by disappearance or by shortage if such disappearance or shortage is only revealed when a routine inventory is made or is not traceable to an individual event or Occurrence;
- k) destruction or damage directly occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds;
- l) loss or damage for which the Assured is relieved of responsibility under the terms of any contract;
- m) loss or damage arising from directional drilling operations unless otherwise agreed;
- n) the cost of normal upkeep or normal making good;
- o) loss or damage which under the terms or conditions of the contract is the responsibility of the Employer or Principal (as applicable) unless the Assured has agreed under the terms or conditions of the said contract to accept responsibility to indemnify or to arrange insurance on the Employer's or Principal's behalf in respect of such liability loss or damage;
- p) loss or damage caused by the wilful act or wilful negligence of the Assured;
- q) loss or damage to existing structures and/or existing property being worked upon unless otherwise agreed;
- r) loss or damage arising from transits by sea or air except for roll on roll off ferries;

- s) loss or damage caused by contamination of asbestos or asbestos dust;
- t) loss or damage arising from Terrorism as follows:

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, unless an endorsement is issued that expressly overrides the provisions contained herein, the Policy does not provide indemnity:

- i. for Property Damage to any property whatsoever or any loss or cost or expense of whatsoever nature resulting or arising there from or any consequential loss;
- ii. against any legal liability of whatsoever nature directly or indirectly caused by, resulting from or contributed to, by or arising from or in connection with:
  - 1) any act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
  - 2) any action taken in controlling, preventing, suppressing or in any way relating to any act of Terrorism;

If the Underwriters allege that by reason of this exclusion any loss, liability, damage, cost or expense or consequential loss is not covered by this Policy, the burden of proving the contrary shall be upon the Assured.

- u) loss or damage arising from contracts involving work in, on, over or adjacent to tidal waters, tunnels (but not cut and cover) and galleries with an estimated contract value greater than GBP 25,000 unless specifically agreed by the Underwriters;
- v) theft from unattended vehicles away from any contract sites, unless:
  - i. in respect of items carried inside any such vehicle or contained within vehicle storage boxes:
    - 1) the vehicle is secured by all factory fitted locks and alarm/immobiliser (where fitted); and
    - 2) any externally mounted vehicle storage boxes are locked; and
    - 3) the keys have been removed from the vehicle; or
    - 4) the vehicle is garaged in a locked building or parked in a secure compound;
  - ii. in respect of items carried upon or attached to any such vehicle:
    - 1) the vehicle is garaged in a locked building or parked in a secure compound; or
    - 2) the vehicle is in transit other than where parked overnight and the keys have been removed from the vehicle;
  - iii. in respect of theft from any Unsecure Location when not in use irrespective of whether the items are in, on or attached to a vehicle; and

An Unsecure Location shall be deemed to include driveways and public or private roads.

- w) loss or damage to any contract or plant or equipment within the High Radio Active Zone (HRZ) of any nuclear installation;
- x) liability arising out of:
  - i. any Damage to Data which shall include but shall not be limited to:
    - 1) loss, destruction, or corruption of Data whether in whole or in part;
    - 2) unauthorised appropriation, use, access to, or modification of Data;
    - 3) unauthorised transmission of Data to any third parties;
    - 4) Damage arising out of any misinterpretation, use or misuse of Data; or

- 5) Damage arising out of any operator error in respect of Data.
- ii. any Damage to the Property Insured arising directly or indirectly from:
    - 1) the transmission or impact of any Virus;
    - 2) unauthorised access to a System;
    - 3) interruption of or interference with electronic means of communication used in the conduct of the Assured's business including but not limited to any diminution in the performance of any website or electronic means of communication;
    - 4) Failure of a System; or
    - 5) any of the matters described in paragraph (x)(i) above.

Damage to the Property Insured caused by; fire, lightning, explosion, earthquake, aircraft or other aerial devices or articles dropped therefrom, riot, civil commotion except in Northern Ireland, strikers, locked-out workers, persons taking part in labour disturbances, storm, flood, escape of water from any tank apparatus or pipe, impact by any road vehicle or animal, accidental escape of water from any automatic sprinkler installation, subsidence, ground, heave or landslip, shall not be excluded by virtue of this exclusion, provided that such Damage does not arise by reason of any malicious act or omission or theft.

Definitions for the purposes of this exclusion only:

- i. Damage means: accidental loss or destruction of or damage to the Property Insured and any accidental loss or destruction or damage to data.
  - ii. Data means: information represented or stored electronically including but not limited to code or series of instructions, operating systems, software, programs and firmware.
  - iii. Failure of a System means: the complete or partial failure or inability whether in terms of availability, functionality and/or performance, or otherwise of a System whether or not owned by the Assured to operate at any time as desired as specified or as required in the circumstances of the Assured's business.
  - iv. Microchip means: a unit of packaged computer circuitry manufactured in small scale and made for program logic and/or computer memory purposes and expressly including integrated circuits and microcontrollers.
  - v. System means: including but not limited to computers, other computing and electronic equipment linked to computer hardware, electronic data processing equipment, Microchips and anything which relies on a Microchip for any part of its operation and includes for the avoidance of doubt any computer installation.
  - vi. Virus means: including but not limited to computers, other computing and electronic equipment linked to computer hardware, electronic data processing equipment, Microchips and anything which relies on a Microchip for any part of its operation and includes for the avoidance of doubt any computer installation.
- y) programming code or series of instructions designed to achieve an unexpected, unauthorised, and/or undesirable effect or operation, when loaded onto a System, transmitted between Systems, by transfer between computer systems via networks, extranets, internet or electronic mail or attachments thereto or via floppy diskettes or CD-ROMS or otherwise, and whether involving self-replication or not;
  - z) any tandem lifting operation or any lifting operation which involves the use of two (2) or more cranes or other lifting devices used in tandem to lift any item(s) unless otherwise agreed by the Underwriters;
  - aa) loss or damage to free issue materials unless the value of such free issue materials is included in the declared turnover.

#### 4. Additional Conditions Applicable to Operative Cover E only:

a) **Professional Fees**

This Operative Cover includes architects', surveyors', consulting engineers' and other professional fees necessarily incurred in connection with the reinstatement of the Property Insured. Provided that:

- i. such fees shall not exceed those authorised under the scale of the appropriate professional body or institute regulating such charges subject to a maximum of 15% of the estimated contract value or GBP 250,000 whichever is the less;
- ii. the Underwriters shall not provide indemnity against any fees incurred in preparing or pursuing any claim.

b) **Debris Removal**

This Operative Cover includes costs and expenses necessarily incurred in respect of removal of debris, dismantling, demolition (including off site storage), shoring, propping and clearance of drains and sewers following loss or damage insured up to 10% of the amount of the loss.

c) **Speculative Housing**

In the event of speculative housing being completed but unsold, cover under this Operative Cover shall continue for a period of six months unless otherwise agreed from the date of practical completion, but the Underwriters' liability shall not exceed GBP 250,000 any one Occurrence.

d) **Plans**

The Property Insured by Paragraph 1. of the Operative Clause shall be deemed to include plans and specifications or other contract documentation of the works or temporary works but only for the cost of reproducing such plans specifications and documentation up to maximum limit of GBP 10,000.

e) **New Activities and/or Subsidiaries**

This Operative Cover will automatically include new activities and/or subsidiaries of the Assured provided always that Underwriters herein shall receive notification within 30 days of the new or intended activity and/or subsidiary company and subject to such terms and conditions as the Underwriters may require.

f) **General Interest**

This Operative Cover duly notes the interest of any Bank, Finance Company, Building Society and any other institution or concern that have a financial interest in the Property Insured by this Operative Cover.

g) **Maintenance**

Where required by contract this Operative Cover includes Property Damage:

- i. occurring during the maintenance period (not exceeding twenty-four months unless otherwise agreed) from a cause arising before the issue of a certificate of practical completion; and
- ii. occasioned by the Assured in the course of fulfilling his obligations during the maintenance period as required by the terms of the contract.

h) **Occurrence**

For the purposes of indemnity under this Operative Cover only, the word "Occurrence", and only where it appears capitalised, shall mean all individual losses arising out of and directly occasioned by one event. However, the duration and extent of any Occurrence so defined shall be limited to 72 consecutive hours starting from the first loss.

i) **Employees' Effects Definition**

It is understood and agreed that for the purpose of this Operative Cover the Assured's Employees' Effects shall include physical loss of or physical damage to tools clothing and personal effects belonging to any:

- i. director or Employee of the Assured; or
- ii. clerk of works, resident engineer or his Employee

whilst on or about any contract site.

**j) Joint Code of Practice**

- i. In respect of all contracts or work whose estimated value (including free issue materials) exceeds GBP 1,000,000, the Assured undertakes to comply with the Joint Code of Practice on the Protection from Fire of Construction Sites and Buildings Undergoing Renovation Ninth Edition dated October 2015 (the Joint Code) or any subsequent edition thereof.
- ii. The appointed representative of the Underwriters shall have the right at all reasonable times to enter and inspect any such contract site for the purpose of ensuring that the conditions of such sites or work in all respects comply with the Joint Code.
- iii. For the purpose of Paragraph 6.3 of the Joint Code, any building site including those where demolition, alterations, fitting out, renovations, refurbishment, or repair work is carried out whose estimated value (including free issue materials) exceeds GBP 20,000,000 shall be deemed to be a "Large Project".
- iv. In the event of a breach of the Joint Code the Underwriters may inform the Employer or Principal and management of the Assured the nature of the breach and may specify the required remedial measures (the "Remedial Measures") and the reasonable period of time in which such Remedial Measures are to be completed. If the Assured should fail to complete such Remedial Measures within the specified time the Underwriters may confirm the same by notice in writing given by actual delivery or by registered post or by recorded delivery to both the Employer and the Assured at their respective addresses nominated by the Assured at the inception of cover or as otherwise subsequently amended.
- v. Such notice shall be at the discretion of the Underwriters to either suspend or cancel the Policy from the date named in the notice, which shall not be less than 30 days from the date of delivery of such notice, it being understood the Policy may be reinstated with effect from the date on which the Underwriters are satisfied that the Remedial Measures have been completed.
- vi. This clause shall not in itself be considered a condition precedent to liability, but its inclusion shall not prejudice, waive or remove the rights of the Underwriters or the Assured under the terms, exceptions and conditions of this Operative Cover.

**k) European Union and Public Authorities Requirements**

The Underwriters will indemnify the Assured for such additional costs of reinstatement of the works as may be incurred with the Underwriters' prior written consent in complying with the stipulations of European Union legislation or building or other regulations under or framed in pursuance of any Act of Parliament or bye-laws of any public authority first imposed upon the Assured following Property Damage provided that the reinstatement is completed within twelve months of the Occurrence of the Property Damage or within such further time as the Underwriters may in writing allow.

Provided that the Underwriters shall not be liable in respect of costs for:

- i. requirements relating to any undamaged part of the works other than foundations (unless foundations are specifically excluded from this Operative Cover);
- ii. any rate, tax, duty, development or other charge or assessment which may arise out of capital appreciation as a result of complying with any of the regulations or requirements referred to.

**l) Expediting Expenses**

In the event of Property Damage to items a. and b. of the Property Insured, the cost of repair reinstatement or replacement admitted under this Operative Cover shall, subject to the consent of the Underwriters, include the additional costs of overtime, weekend shift working, plant hire charges, express delivery (including air freight) necessarily and reasonably incurred in expediting repair reinstatement or replacement of such Property Damage (but excluding any such costs to expedite the completion of any construction erection or installation of property not lost or damaged) provided that the liability of the Underwriters shall not exceed GBP 50,000 in respect of each and every loss or series of losses arising out of one originating cause.

m) **Continuing Hire Charges**

Cover under this Operative Cover is extended to indemnify the Assured in respect of their legal liability for the payment of hiring charges in respect of plant hired in by the Assured under Contractors Plant Association and/or British Crane Hire Corporation Conditions of Hire or conditions imposing similar liability whilst such plant is out of use following Property Damage for which an indemnity is provided by this Operative Cover (or which would be provided thereunder but for the application of an Excess Clause).

The Underwriters will not be liable under this extension for:

- i. liability for a period longer than three months or GBP 50,000 whichever is the least; and
- ii. the first 7 days such plant is out of use.

n) **Negligent Breakdown**

The Underwriters will indemnify the Assured in respect of liability assumed under Clause 9(d) of the Model Conditions for the Hiring of Plant of the Construction Plant-Hire Association or any similar liability assumed under the Scottish Plant Owners Association Conditions or other Conditions no more onerous than these.

o) **Immobilised Plant**

In the event of constructional plant and/or equipment becoming unintentionally immobilised in any physical situation in or about the site of an Assured contract, the necessarily incurred cost of recovery and/or withdrawal shall be "Physical Damage" within the meaning of this Operative Cover. Always provided that the total liability in respect of the actual Physical Damage and the recovery cost shall not exceed the total value of the item at the time of the Physical Damage. No indemnity shall be provided hereon in respect of the cost of recovery and/or withdrawal following electrical or mechanical breakdown or derangement where such is the sole reason for the recovery and/or withdrawal.

p) **Increase**

If, during the Policy Period, the actual reinstatement value of the Property Insured shall be in excess of the sum insured stated in the Schedule, then the sum insured shall be deemed to be increased by the amount of such excess but not exceeding in all 110% of the sum insured stated in the Schedule.

q) **Automatic Reinstatement**

In consideration of the sum insured not being reduced by the amount of any Property Damage the Assured shall pay the appropriate additional premium calculated at pro rata of the applicable rate on the amount of the Property Damage from the date thereof to the expiry of the Policy Period such additional premium to be disregarded for the purposes of adjustment in accordance with General Condition 4, Adjustment of Premium.

r) **Offsite Storage**

Notwithstanding Exclusion f. to this Operative cover (above), the Underwriters will indemnify the Assured in respect of Property Damage to finished materials or goods designated for and awaiting incorporation into specific contract works while such goods are temporarily held In-store away from the contract site but not while such materials or goods are being worked upon subject to a limit of GBP 50,000 any one Occurrence.



- v. satisfy the Underwriters that any dispute referred to adjudication is or would be the subject of indemnity under this Policy and that the decision reached by the adjudicator represents the award against the Assured of a payment of money by the Assured which constitutes compensatory Damages which form the subject of such indemnity;
- vi. not agree to accept the decision of the adjudicator as finally determining the dispute without the prior written consent of the Underwriters;
- vii. in the event of a decision reached by the adjudicator that such an award as described in v. above is payable give the Underwriters every assistance in instituting legal proceedings (or arbitration if applicable in accordance with the Assured's contract) in order to challenge, reopen, stay the enforcement of, or overturn such adjudicator's decision or otherwise to recover such award if the Underwriters deems it appropriate.

The Underwriters shall have sole conduct of all such proceedings.

- b) Any provisions relating to adjudications pursuant to the Act in any contract entered into by the Assured shall:
  - i. provide that the adjudicator must be independent of the parties to the contract;
  - ii. not allow for any decision of the adjudicator to be binding or to determine any dispute finally;
  - iii. not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations;
  - iv. not prohibit the assistance or representation by advisers or representatives (whether legally qualified or not) at any adjudication;
  - v. not place any conditions upon the timing of commencement of legal or arbitration proceedings (other than adjudications pursuant to the Act).

The Underwriters shall have no liability under this Extension, if the Assured fails to comply with the above provisions, unless the Assured shows that non-compliance with this provision could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

#### **6. Corporate Manslaughter**

The indemnity granted by this Policy is extended to apply to the Underwriters' liabilities for Defence Costs in cases of an alleged offence under the Corporate Manslaughter and Corporate Homicide Act 2007 or any subsequent amending legislation, provided that:

- a) the proceedings relate to an offence alleged to have been committed during the Policy Period and in the course of the Business;
- b) the cover will not apply:
  - i. to fines or penalties of any kind;
  - ii. to liability assumed under a contract or agreement which would not have attached in the absence of such contract or agreement
  - iii. to proceedings consequent upon any deliberate act or omission.

The Underwriters' liability under this extension shall be limited to GBP 1,000,000 in the aggregate in any one Policy Period. This limit will form part of and not be in addition to the relevant Limit of Liability stated in the Schedule.

#### **7. All General Extensions are subject otherwise to the Policy Terms, Conditions, Limitations and Exclusions.**

## General Exclusions applicable to all Operative Covers

This Policy does not insure, apply to or include any cover for any loss, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to:

### 1. Abuse

- a) any act that results in the maltreatment of a person and which may be of, but not limited to, a physical, sexual, verbal, psychological or emotional or financial nature.

This exclusion does not apply to Section 3, Employers' Liability.

### 2. Asbestos:

- a) exposure or alleged exposure to asbestos or materials containing asbestos.

This exclusion does not apply to Section 3, Employers' Liability.

### 3. Cyber

- a) the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

This exclusion does not apply to the cover provided by Extension 3 (a), in Operative Cover B, Public Liability.

### 4. Data Loss

- a) the loss of or damage to data, documents, information or records stored on a computer, cloud or media system(s) and/or distortion or erasure caused by any means.

This exclusion does not apply to the cover provided by Extension 3 (a), in Operative Cover B, Public Liability.

### 5. Data Protection

- a) compensation, damages, losses, costs and expenses, fines, penalties, or any other sum arising out of, directly or indirectly, a breach of privacy rules or legislation including the General Data Protection Regulation (EU) 2016/679 or equivalent.

This exclusion does not apply to the cover provided by Extension 3 (a), in Operative Cover B, Public Liability.

This exclusion does not apply to Section 3, Employers' Liability.

### 6. Deliberate failure to prevent Bodily Injury or Property Damage

- a) arising out of deliberate, conscious or intentional disregard by the Assured's technical or administrative management of the need to take all practical steps to prevent Bodily Injury or Property Damage.

### 7. Liquidated Damages

- a) liquidated damages clauses, penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties.

This exclusion does not apply to Section 3, Employers' Liability.

### 8. Nuclear

- 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; or
- c) any weapon of war or mass destruction, whether or not employing atomic or nuclear fission or fusion or like reaction or radioactive force or matter, or pathogenic, chemical, biological or similar agents.

**9. Communicable disease**

- a) any Communicable Disease (as hereinafter defined), or any fear or threat (whether actual or perceived) of any Communicable Disease, or any action taken in controlling, preventing, suppressing or in any way relating to any outbreak of any Communicable Disease.
- b) For the purposes of this exclusion, Communicable Disease means any disease capable of being transmitted from an infected person or species to a susceptible host, either directly or indirectly.

**10. War**

- a) in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

**11. Terrorism**

- a) an act of Terrorism.

The exclusion does not apply to Section 3, Employers' Liability.

**12. Sanctions**

Underwriters shall not be deemed to provide cover and Underwriters shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Underwriters to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## General Terms and Conditions

### 1. Claims Procedure

It is a condition precedent to the right to indemnity under this Policy that the Assured must:

- a) give written notice of a claim or any incident that may give rise to a claim under this Policy to the Underwriters, or their appointed agent, as soon as reasonably practicable and, in any event, within 30 days of such knowledge;
- b) give all such additional information or documentation as the Underwriters, or their appointed agent, may require and continue to forward all such information and documentation immediately they are received (until otherwise instructed). Every claim, writ, summons or process and any other written notification of claim and all documents relating thereto shall be forwarded unanswered to the Underwriters, or their appointed agent, immediately when they are received;
- c) make no admission of liability, offer, promise, compromise or payment without the Underwriters' prior written consent or the prior written consent of their appointed agent; and
- d) where there has been Property Damage to plant or equipment which may be covered by the Contractors All Risks Operative Cover of this Policy, notify the Police immediately where theft, riot, arson or wilful or malicious damage is suspected and take all practicable steps to recover property lost and to discover the person or persons responsible for such Property Damage.

In the event of a breach of terms a. – d. above, the Underwriters shall be entitled to refuse to pay a Claim under this Policy in its entirety.

- e) In the event of any occurrence giving rise to any loss or damage insured under this Policy the Assured shall take such immediate action as is necessary to minimise the loss.
- f) The Underwriters shall be entitled to take over the conduct in the name of the Assured the defence or settlement of any claim or to prosecute in the name of the Assured for their own benefit any claim for indemnity or Damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Assured shall give all such information and assistance as the Underwriters may reasonably require.
- g) For the safety of the Property Insured and to prevent any loss or damage in the event of an occurrence giving rise or which may give rise to a claim under this Policy the Assured shall at their own expense take such immediate action as is necessary to minimise loss and prevent repetition.

### 2. Co-operation

In addition to their obligations set out in Claims Procedure (above), the Assured shall at all times afford such information, assistance and cooperation to the Underwriters or their appointed agents as may be requested. In the event of a breach of this term, the Underwriters shall be entitled to refuse to pay a Claim under this Policy in its entirety.

### 3. Document Retention

In addition to their obligations set out in Claims Procedure (above), the Assured shall at all times ensure that all documentation relevant to a Claim or circumstance likely to give rise to a Claim, are retained and not destroyed or disposed of. In the event of a breach of this term, the Underwriters shall be entitled to refuse to pay a Claim under this Policy in its entirety.

### 4. Alterations in Risk

The Assured is required to notify the Underwriters as soon as is reasonably practicable of all material facts or alterations in the risk which come to his knowledge or arise during the Policy Period. The Underwriters reserve the right to amend the Policy terms and conditions.

In the event of a breach of this term, the Underwriters shall have no liability under this Policy unless the Assured shows that the non-compliance with this term could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

### 5. Adjustment of Premium

If any of the Premium for this Policy has been calculated on estimates furnished by the Assured, the Assured shall keep accurate records containing all particulars relative thereto and shall at all times allow the Underwriters to inspect such records. The Assured shall, within three months from the expiry of each Policy Period furnish such particulars to Underwriters and the Premium for such period shall thereupon be adjusted and the difference paid by or allowed to the Assured as the case may be subject to any minimum Premium required. The Underwriters reserve the right to request that the Assured supplies an auditor's certificate with such calculations that are the subject to adjustment under this Policy attesting to the accuracy thereof. Such calculations shall include all remuneration paid to Employees and all payments made to self-employed persons or employees of labour only sub-contractors for whom liability is assumed or on such other basis as may be agreed. If due, any additional Premium shall be paid within 30 days of advice to the Assured of any adjustment due.

If the Assured fails to produce such particulars within the timeframe required or pay any additional Premium due in accordance with this clause, the Underwriters shall be entitled to refuse to pay, or reduce the amount they pay, for any claim under this Policy.

#### **6. Jurisdiction of Covered Judgements**

It is hereby agreed between Underwriters and the Assured that indemnity provided by this Policy shall apply only to judgements of first instance against the Assured in the Courts of Law of the United Kingdom and not to judgements obtained elsewhere nor to judgements or orders obtained in the said courts for the enforcement of foreign judgements whether by way of reciprocal agreements or otherwise unless the Assured has requested that there shall be no such limitation and has accepted the terms offered by Underwriters in granting such cover which offer and acceptance must be signified by specific endorsement to this Policy.

The Premium for this insurance has been calculated accordingly and no consideration has been paid in respect of sums payable under any other law or the jurisdiction of any other courts.

#### **7. Discharge of Liability**

The Underwriters may at any time pay to the Assured in connection with any claim or series of claims under this Policy to which a Limit of Liability applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled. Upon such payment being made, and the payment of Defence Costs incurred prior to the date of such payment where such Defence Costs are stated as being in addition to the relevant Limit of Liability, Underwriters shall relinquish the conduct and control of and be under no further liability in connection with such claims.

#### **8. Apportionment of Defence Costs**

Except where the Limit of Liability is inclusive of Defence Costs, if a payment exceeding the Limit of Liability has to be made to dispose of a claim, the liability of the Underwriters to pay all Defence Costs in connection therewith shall be limited to such proportion of the said Defence Costs as the Limit of Liability bears to the amount paid to dispose of a claim.

#### **9. Other Insurance**

If any claim or loss covered by this Policy is also covered in whole or in part by any other valid and collectable insurance (other than insurance that is specifically stated to be in excess of this Policy) the insurance afforded by this Policy shall be in excess of and shall not contribute with such other insurances.

#### **10. Fraudulent Claims**

- a) If the Assured makes a fraudulent claim under this Policy:
  - i. the Underwriters are not liable to pay the claim;
  - ii. the Underwriters may recover from the Assured any sums paid by the Underwriters to the Assured in respect of the claim; and
  - iii. in addition, the Underwriters may by notice to the Assured treat the Policy as having been terminated with effect from the time of the fraudulent act.
- b) If the Underwriters do treat the Policy as having been terminated:
  - i. they may refuse all liability to the Assured under Policy in respect of a relevant event occurring after the time of the fraudulent act; and
  - ii. they need not return any of the Premiums paid under the Policy.

#### **11. Cancellation Clause**

- a) The Assured is entitled to cancel this Policy by notifying the Underwriters.
- b) The Underwriters are entitled to cancel this Policy by giving the Assured thirty (30) days' notice in writing.

Upon such cancellation by either the Assured or the Underwriters, any return of Premium due to the Assured will be calculated at a proportional daily rate depending on how long the Policy has been in force unless the Assured have made a claim in which case the full annual Premium is due.

#### **12. Precautions**

The Assured shall at all times take all reasonable precautions or steps:

- a) to observe and comply with all Statutory or local authority laws, obligations and requirements;
- b) in the selection of Employees or sub-contractors;

- c) to see that construction plant equipment and machinery are substantial and sound and in proper order and fit for the purposes for which they are used;
- d) to prevent accidents, Bodily Injury or Property Damage; and
- e) If any defect in the Contract Works or construction plant equipment and machinery shall be discovered the Assured shall, until such defect has been made good, cause temporary precautions to be taken as the circumstances may require.

### **13. Personal Protective Equipment**

The Assured shall at all times ensure that:

- a) all Employees are made aware of the dangers of not using personal protective equipment including but not limited to by way of training;
- b) personal protective equipment is provided and signed for upon receipt by the Employee; and
- c) a register is maintained which demonstrates compliance with the above including but not limited to demonstrating that Employees have received appropriate training.

In the event of a breach of this term, the Underwriters shall have no liability under this Policy unless the Assured shows that the non-compliance with this term could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

### **14. Sub-Contractors**

The Assured shall take all steps to ensure that all subcontractors that they engage maintain policies of insurance (with insurers other than the Underwriters) no less comprehensive than:

- a) employers' liability coverage with a limit of liability of not less than GBP 5,000,000 any one occurrence;
- b) public liability coverage with a limit of liability equal to or greater than the limits provided by this Policy; and
- c) both such policies contain an Indemnity to the Assured as principal.

The Assured:

- a) shall obtain written evidence of the above; and
- b) shall not assume by agreement, any liability that would not have attached to them in the absence of such agreement, including but not limited to, the assumption of liability on behalf of any sub-contractor or the waiver of rights of recourse against any sub-contractor.

In the event of a breach of this term, the Underwriters shall have no liability under this Policy unless the Assured shows that the non-compliance with this term could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

### **15. Subrogation**

The Assured shall, at the request and at the expense of the Underwriters, do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Underwriters for the purpose of enforcing any rights and remedies of or obtaining relief or indemnity from other parties to which the Underwriters shall be or would become entitled or subrogated upon its paying for or making good any loss or damage insured by this Policy whether such acts and things shall be or become necessary or required before or after their indemnification by the Underwriters.

### **16. Rights of Recourse**

The Assured will all times retain full rights of recourse against those supplying products or otherwise providing a service in connection with any Product or any component part thereof, unless the Underwriters have agreed in writing to the waiver of such rights.

In the event of a breach of this term, the Underwriters shall be entitled to refuse to pay, or reduce the amount they pay, for any claim under this Policy.

### **17. Allocation of Recoveries**

If a recovery is made or recovery proceeds are received from a third party in respect of any loss or claims which may or have been paid, either in whole or in part, under this Policy, the recovery proceeds shall be applied as follows:

- a) the costs of pursuing the recovery shall first be deducted from the recovery proceeds and repaid to the Underwriters;
- b) from the remaining balance, the Assured should receive any sum paid or lost (excluding interest), in excess of its indemnification under this Policy;

- c) after payment of the above, the Underwriters should receive all sums they have paid (excluding interest) in respect of the loss which is the subject of the recovery;
- d) after payment of the above, the Assured receives any balance (excluding interest).
- e) after payment of above, any interest recovered should be distributed between the Assured and the Underwriters in the same manner outlined above.

#### 18. Duty of Fair Presentation

If, prior to entering into this Policy, the Assured shall breach the duty of fair presentation, the remedies available to the Underwriters are set out below:

- a) if the Assured's breach of the duty of fair presentation is deliberate or reckless:
  - i. the Underwriters may avoid the Policy and refuse to pay all claims; and
  - ii. the Underwriters need not return any of the Premium paid.
- b) if the Assured's breach of the duty of fair presentation is not deliberate or reckless, the Underwriters' remedy shall depend upon what the Underwriters would have done if the Assured had complied with the duty of fair presentation:
  - i. if the Underwriters would not have entered into the Policy at all, the Underwriters may avoid the Policy and refuse to pay all claims but must return the Premium paid.
  - ii. if the Underwriters would have entered into the Policy, but on different terms (other than terms relating to the Premium), the Policy is to be treated as if it had been entered into on those different terms, if the Underwriters so requires.
  - iii. if the Underwriters would have entered into the Policy, but would have charged a higher Premium, then the Underwriters may reduce proportionately the amount to be paid on a claim (and any amounts paid on prior claims). In those circumstances, the Underwriters shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ .

If, prior to concluding a variation, the Assured shall breach the duty of fair presentation, the remedies available to the Underwriters are set out below:

- a) if the Assured's breach of the duty of fair presentation is deliberate or reckless:
  - i. the Underwriters may by notice to the Assured treat the contract as having been terminated from the time when the variation was concluded; and
  - ii. the Underwriters need not return any of the Premium paid.
- b) if the Assured's breach of the duty of fair presentation is not deliberate or reckless, the Underwriters' remedy shall depend upon what the Underwriters would have done if the Assured had complied with the duty of fair presentation:
  - i. if the Underwriters would not have agreed to the variation at all, the Underwriters may treat the contract as if the variation was never made but must in that event return any extra Premium paid.
  - ii. if the Underwriters would have agreed to the variation to the contract, but on different terms (other than terms relating to the Premium), the variation is to be treated as if it had been entered into on those different terms, if the Underwriters so requires.
  - iii. if the Underwriters would have increased the Premium by more than it did or at all, then the Underwriters may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, the Underwriters shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{Premium actually charged/higher premium}) \times 100$ .
  - iv. if the Underwriters would not have reduced the Premium as much as it did or at all, then the Underwriters may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, the Underwriters shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/reduced total Premium}) \times 100$ .

#### 19. Interpretation

In this Policy:

- a) a reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

- b) headings are for general reference only and shall not be considered when interpreting or determining the meaning of this Policy.
- c) if any term, condition, exclusion, Endorsement or provision or part thereof is found to be or becomes invalid or unenforceable, this shall not affect the validity and enforceability of the remainder of the term, condition, exclusion, Endorsement or provision and the rest of this Policy.

## **20. Third Party Rights**

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

## **21. Currency**

The currency of all Premiums, sums insured, Limits of Liability and Excesses shown in this Policy, Schedule, Endorsement(s) or any renewal shall be Great British Pounds indicated as GBP.

## **22. Premium Payment**

- a) The Assured undertakes that premium will be paid in full to the Underwriters within 60 (sixty) days of inception of this Policy (or, in respect of instalment premiums, when due).
- b) If the premium due under this contract has not been so paid to the Underwriters by the 60<sup>th</sup> (sixtieth) day from the inception of this contract (and, in respect of instalment premiums, by the date they are due) the Underwriters shall have the right to cancel this contract by notifying the Assured via the broker in writing. In the event of cancellation, premium is due to Underwriters on a pro rata basis for the period that Underwriters are on risk but the full contract premium shall be payable to Underwriters in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this Policy.
- c) It is agreed that the Underwriters shall give not less than 15 (fifteen) days' prior notice of cancellation to the Assured via the broker. If premium due is paid in full to Underwriters before the notice period expires, notice of cancellation shall automatically be revoked. If not, the contract shall automatically terminate at the end of the notice period.
- d) If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, this shall not affect the validity and enforceability of the other provisions of this clause which will remain in full force and effect.

## **23. Excess**

Where an excess is stated in the Schedule the Assured shall be responsible for the first amount so specified each and every claim or series of claims arising out of any one originating cause, inclusive of costs and expenses.

For the avoidance of doubt, no cover will be granted under any liability Operative Cover for the amount of the Excess stated in the Schedule. The Limits of Liability stated in the schedule are in excess of and not reduced by the amount of any Excess.

Where an occurrence involves liability under Operative Covers B (Public Liability), C (Product Liability) and D (Pollution Liability), only the largest Excess of those Operative Covers shall apply in the event of a loss under more than one Operative Cover.

## **24. Limit of Liability**

Underwriters' liability to pay Damages (including claimants' costs fees and expenses) shall not exceed the sum stated in the Schedule in respect of any one occurrence or series of occurrences arising out of one originating cause.

In the event of any one originating cause giving rise to an occurrence or series of occurrences which form the subject of indemnity under Operative Covers B (Public Liability), C (Product Liability) and D (Pollution Liability), the total amount of Underwriters' liability shall not exceed:

- a) the greatest Limit of Liability available under the relevant Operative Cover providing indemnity for the occurrence or series of occurrences; and
- b) the separate Limits of Liability available under each Operative Cover involved.

Where an aggregate Limit of Liability is stated in the Schedule to apply, the Underwriters' total liability to pay Damages (including claimants' costs fees and expenses) in respect of the entire Policy Period shall not exceed the stated aggregate Limit of Liability regardless of the number or severity of occurrences or claims.

## **25. Law and Jurisdiction**

This Policy and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter, interpretation or formation shall be governed by and construed in accordance with the law of England and Wales.

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including contractual or non-contractual disputes or claims) arising out of or in connection with this Policy or its subject matter, interpretation or formation.

## 26. Complaints

The Underwriters aim to provide you with the best possible service at all times.

If the Assured feels that that the Underwriters have fallen short of that or has any concerns about the Policy or a claim, then please contact the broker or your normal contact at Convex.

The Assured can make a complaint at any time by contacting:

Chief Compliance Officer, Lorraine Mullins:

[lorraine@convexin.com](mailto:lorraine@convexin.com)

Tel: +44 (0)7919 603210

Convex Insurance UK Limited  
52-54 Lime Street  
London EC3M 7AG  
United Kingdom

The Underwriters will acknowledge the complaint promptly.

If the complaint had not been resolved to the Assured's satisfaction or the Assured has not received a final response within eight weeks of submitting the complaint, then the Assured may be eligible to refer its complaint to the Financial Ombudsman Service, the "FOS". Please note that there are time limits within which the Assured must contact the FOS.

The Financial Ombudsman Service  
Exchange Tower  
London E14 9SR

**Email:** [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

**Website:** <http://www.financial-ombudsman.org.uk>

## 27. Financial Services Compensation Scheme

The Underwriters are covered by the Financial Services Compensation Scheme. The Assured may be entitled to compensation from the Scheme if the Underwriters are unable to meet its obligations to you under this Policy. If the Assured were entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this Policy. Further information about the Scheme is available from the Financial Services Compensation Scheme (7<sup>th</sup> Floor, Lloyd's Chambers, Portoken Street, London E1 8BN) and on their website ([www.fscs.org.uk](http://www.fscs.org.uk)).

## 28. Regulatory Information

Convex Insurance UK Limited is a company registered in England & Wales with registration number 11796392.

Registered address at 52 Lime Street, London, EC3M 7AF United Kingdom.

Convex Insurance UK Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Financial Services Register Number 840616).

**Email:** [hello@convexin.com](mailto:hello@convexin.com)

**Website:** [www.convexin.com](http://www.convexin.com)

## 29. Privacy

- a) The Underwriters, Convex Insurance UK Limited, collect and process data, in order to deliver insurance services such as providing the Assured with a quote, processing claims and administration purposes. The Underwriters also process data for recruitment purposes, relationship management and dealing with complaints.
- b) The data that the Underwriters collect from you and how the Underwriters process that data will depend on the relationship with the Assured. Consequently, the Underwriters will collect relevant data dependent on whether the Assured is an applicant (policyholder), beneficiary, a claimant, a witness, a broker, a potential Employee or a third party. The type of personal information the Underwriters may collect will depend on the purpose for which it is collected.
- c) The Underwriters will process your data for a number of purposes, and these will be conducted under a 'lawful basis for processing' which means that we have a legitimate interest in processing your data.
- d) The Underwriters will keep personal data confidential and will only share it where necessary.
- e) Under data protection law the Assured has a number of rights in relation to the personal data held. The Assured can exercise those rights by contacting the Underwriters at any time.

- f) The Underwriters' full Privacy Notice is available at [www.convexin.com](http://www.convexin.com). If the Assured would like further information about any of the matters in this notice or has other questions about how the Underwriters collects, stores or uses personal data, contact our Data Protection Officer at [dataprotectionofficer@convexin.com](mailto:dataprotectionofficer@convexin.com) or by writing to Data Protection Officer, Convex Insurance UK Limited, 52 Lime Street, London, EC3M 7AF.



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