

Public and Products Liability

Definitions and interpretation

For the purposes of this section only

act of terrorism means an activity that

- a) involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure, or a threat thereof; and
- b) appears to be intended to
 - i) intimidate or coerce a civilian population, or
 - ii) disrupt any segment of the economy of a government de jure or de facto, state or country, or
 - iii) overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion, or
 - iv) affect the conduct of a government de jure or de facto by mass destruction, assassination, kidnapping or hostage taking

business means the business as stated in the schedule including

- a) provision and management of catering, social, sports, educational and welfare facilities for the benefit of employees, first aid, medical, ambulance, fire and security services and maintenance of the insured's premises
- b) private duties undertaken by an employee for the insured, or, with the insured's consent, for any director, partner or official of the insured
- c) ownership and maintenance of buildings, premises and land used in connection therewith
- d) participation as an exhibitor at trade shows or exhibitions

Child carer means anyone who is either

- a) under a contract of service or apprenticeship with the insured
or
- b) self-employed but represented by the insured to look after children for clients of the insured.

employee means any person under a contract of service or apprenticeship with the insured or supplied to or hired to or borrowed by the insured including any person under a work experience training scheme but excluding child carers, whilst engaged in work in connection with the business.

products means any goods, including containers, packaging, labelling and instructions for use, sold, supplied, processed, delivered, installed, tested, repaired, serviced, altered, treated or hired out by the insured in connection with the business from the premises and no longer in the insured's possession or control.

Cover

The Company will indemnify the insured against all amounts which the insured shall become legally liable to pay as damages in respect of

- a) accidental bodily injury to any person
- b) accidental loss or destruction of or accidental damage to material property
- c) accidental obstruction, accidental trespass or accidental nuisance resulting in interference with or loss of enjoyment of material property happening in connection with the business and occurring
 - i) during the period of insurance
 - ii) within the territorial limits

Additional cover

The cover under this section is extended to include the following

Contingent motor liability (non-owned vehicles)

Notwithstanding Special exclusion 2 iii) the Company will indemnify the insured named in the schedule and no other for the purposes of this extension in respect of legal liability for accidental bodily injury to any person or accidental loss or destruction of or accidental damage to material property arising out of the use of any motor vehicle not the property of nor provided by the insured but being used in connection with the business.

Provided that the Company shall not be liable under this extension

- a) in respect of loss or destruction of or damage to such vehicle or to goods conveyed therein or thereon
- b) for bodily injury to any person or loss or destruction of or damage to property arising while such vehicle is being driven by
 - i) the insured
 - ii) any person who to the knowledge of the insured or his representative does not hold a licence to drive such vehicle unless such person has held and is not disqualified for holding or obtaining such a licence
- c) in respect of liability more specifically insured under any other insurance
- d) in respect of liability arising outside the territorial limits.

Corporate Manslaughter

We will indemnify you against

- a) legal costs and expenses incurred with our prior written consent and
- b) prosecution costs awarded against you in the defence of any criminal proceedings including an appeal against conviction arising from such proceedings brought under The Corporate Manslaughter and Corporate Homicide Act 2007 as a result of any death happening in connection with the business during the period of insurance and which may be the subject of indemnity under this section.

Provided that

- i) our liability under this extension shall not exceed the limit of indemnity stated in the schedule during any one period of insurance
- ii) all amounts payable under this extension will form part of and not be in addition to the limit of indemnity stated in the schedule
- iii) where we have already provided an indemnity in respect of any legal costs or expenses incurred in connection with the defence of any criminal proceedings including appeals against conviction arising from such proceedings brought under The Corporate Manslaughter and Corporate Homicide Act 2007 arising out of the same occurrence which gave rise to such proceedings any amount paid or payable by us will be deducted from the amount payable under this extension
- iv) we agree in writing to the appointment of any solicitor or counsel who is to act on your behalf prior to their appointment.

We will not be liable for

- i) any fines or penalties or the cost of implementing any remedial order or publicity order
- ii) an appeal against any fines, penalties, remedial order or publicity order
- iii) any costs incurred which result from the failure to comply with any remedial order or publicity order
- iv) costs and expenses in connection with an appeal unless advice has been obtained from solicitors or counsel that there are strong prospects of success
- v) costs and expenses in connection with the defence of any criminal proceedings resulting from any deliberate or intentional criminal act or omission by you or any of your directors partners or employees
- vi) costs and expenses provided by any other source or any other insurance or where but for the existence of this extension would have been provided by such source or insurance
- vii) costs and expenses in connection with the defence of any criminal proceedings unless such proceedings are brought against you in a Court of Law in Great Britain, Northern Ireland, the Isle of Man or the Channel Islands.

Court attendance

In the event of any your directors, partners or employees attending court as a witness at our request in connection with any claim for which an indemnity is provided by this section, we will pay compensation to you at the rate of £250 per day for each day on which such attendance is required.

Cross liabilities

Where there is more than one person named as the insured in the schedule this section shall apply separately to each named person as if each is insured by a separate policy, provided always that the maximum liability of the Company in the aggregate for damages to all parties insured shall not exceed the Limit of liability.

Defective Premises Act 1972

The Company will indemnify the insured against all amounts which the insured shall become legally liable to pay as damages in respect of accidental bodily injury to any person or accidental loss or destruction of or accidental damage to material property occurring during a period of seven years immediately following disposal by the insured of buildings that have been insured by Section 1 - Property Damage of this policy.

Provided that such liability is incurred in connection with such buildings and by virtue of Section 3 of the Defective Premises Act 1972.

The Company will not be liable

- a) if at the date of their disposal by the insured such buildings were not insured by this policy or any other policies in respect of which this policy has been issued in substitution
- b) for the cost of repairing or rectifying any defect or alleged defect in such buildings
- c) if the insured is entitled to indemnity under any other policy.

Health and Safety at Work etc. Act 1974

The Company will indemnify the insured and, at the request of the insured, any director, partner or employee of the insured against legal costs and expenses incurred, with the Company's written consent, in the defence of any criminal proceedings brought in respect of a breach of the Health and Safety at Work etc. Act 1974 committed or alleged to have been committed during the period of insurance, including legal costs and expenses incurred with the written consent of the Company in an appeal against conviction arising from such proceedings.

The Company will not be liable for

- a) fines and penalties of any kind
- b) legal costs and expenses where an indemnity is provided by any other insurance
- c) proceedings arising out of any deliberate act or omission by the insured
- d) more than £10,000 in any one period of insurance.

Indemnity to other persons

The Company will indemnify at the request of the insured

- a) any director, partner or employee of the insured
- b) any officer, committee member or other person employed by the insured's catering, social, sports, educational or welfare organisations or first aid, medical, ambulance, fire or security services
- c) any director, partner or official for whom with the consent of the insured an employee is undertaking private work
- d) any principal or public or local authority as far as is necessary to meet the requirements of any contract or agreement entered into by the insured for the performance of work
- e) the owner of plant hired by the insured but only to the extent of the conditions of hire
- f) any legal representative of any of the above in the event of their death

against legal liability in respect of which the insured would have been entitled to indemnity under this policy if the claim had been made against the insured.

Provided that

- i) any person indemnified is not entitled to indemnity under any other insurance
- ii) any person indemnified shall observe, fulfil and be subject to the terms and conditions of the policy as far as they can apply
- iii) the Company will retain the sole conduct and control of any claim
- iv) the maximum liability of the Company in the aggregate for damages to the insured and any such persons shall not exceed the Limit of liability.

Leased, hired and rented premises

In the event of any premises being leased, hired or rented to or in the custody of or under the control of the insured, Special exclusion 3 relating to such property shall be deemed not to apply.

Provided that the Company will not be liable in respect of

- a) liability assumed by the insured under a contract or under a tenancy or other agreement if such liability would not have attached in the absence of such contract or agreement
- b) the first £250 of each claim.

Limit of liability

The Company's liability in respect of damages for any occurrence giving rise to any one claim against the insured or series of claims against the insured arising out of one cause will not exceed the amount stated in the schedule.

The Company will also pay

- a) all legal costs recoverable from the insured by any claimant
- b) any other costs and expenses of litigation incurred with the Company's written consent
- c) solicitors' and counsels' fees for legal representation at any coroner's inquest or fatal accident inquiry
- d) the costs incurred, with the Company's written consent, for defending in a Court of Summary Jurisdiction any proceedings arising out of any alleged breach of statutory duty in respect of any cause which may be the subject of indemnity under this section of the policy.

Special exclusions

The Company will not be liable under this section in respect of

- 1 bodily injury to any employee arising out of and in the course of his employment by the insured in the business
- 2
 - a) loss or destruction of or damage to property
 - b) bodily injury sustained by any person arising from the ownership, possession or use by or on behalf of the insured of
 - i) any aircraft, aerospace device, hovercraft, watercraft, caravan or animal
 - ii) any lift, elevator, hoist, crane, steam boiler or other apparatus operating under steam pressure, for which a statutory inspection certificate is required but which is not in force
 - iii) any mechanically propelled vehicle or plant or trailer attached thereto in circumstances in respect of which insurance or security is necessary to meet the requirements of road traffic legislation
- 3 loss or destruction of or damage to
 - a) property owned by or leased, hired or rented to the insured
 - b) property belonging to or held in trust by or in the custody of or under the control of the insured or any director, partner or employee of the insured other than
 - i) personal property of directors, partners or employees
 - ii) the property of customers or visitors temporarily on or about the premises, but excluding all property undergoing or awaiting testing, repair, servicing, alteration, maintenance, cleaning or inspection
- 4 liability which attaches solely under the terms of any contract or agreement if such liability would not have attached in the absence of such contract or agreement
- 5 liability arising from or caused by
 - a) breach of professional duty
 - b) the provision of advice or any plan, design, formula or specification given separately for a fee
 - c) any diagnosis, treatment (other than first aid treatment), therapy, medical advice, aerobic or other fitness related instruction given or performed or administration of drugs or medicines

- d) the use of solaria, sunbeds, saunas and hydro-massage facilities
- e) loss or destruction of or damage to property, buildings or land caused by vibration or by the removal or weakening of support
- 6 loss or destruction of or damage to products nor the cost of making good or recalling such products
- 7 loss or destruction of or damage to that part of any property upon which the insured is or has been working
- 8 liability arising directly or indirectly out of exposure or inhalation of, or fears of the consequence of exposure to, or inhalation of asbestos
- 9 the cost of cleaning up or removal of or damage to property arising out of any asbestos
- 10 liability at law for loss, damage, cost or expense of whatsoever nature directly or indirectly arising out of, contributed by, caused by, resulting from, or in connection with any of the following, or any action taken in controlling, preventing, suppressing, retaliating against or responding to any of the following, regardless of any other cause or event contributing concurrently or in any other sequence of the loss:
 - i) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, mutiny, revolution, rebellion, insurrection, uprising, military or usurped power, confiscation by order of any public authority or government de jure or de facto or martial law; or
 - ii) riots, strikes or civil commotion; or
 - iii) any act of terrorism
- If the Company alleges that by reason of this Special exclusion any actual or alleged losses, liabilities, damages, injuries, defence costs, costs or expenses is not covered by this section the burden of proving the contrary shall be upon the insured
- 11 fines, penalties or liquidated, punitive or exemplary damages
- 12 liability caused by or arising from products where the action is brought against you in any country not being a member of the European Union where you have a branch or a parent or a subsidiary company or are represented by a person or company holding your Power of Attorney
- 13 liability arising from the actions or omissions of any childcarer
- 14 the first £250 of each claim in respect of loss or destruction of or damage to property occurring away from the premises

Special condition

The Company may at any time pay to the insured the amount of the Limit of liability less any amount already paid, or any lesser amount for which any claim or claims can be settled and shall then cease to have the conduct and control of the negotiations, actions or proceedings and be under no further liability in respect of such claim or claims except for costs and expenses incurred prior to the date of such payment.