

# Terrorism

Policy wording



E.P.U.L

Coverholder at LLOYD'S

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## INTRODUCTION

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### POLICY INTERPRETATION

Any reference to the singular will include the plural and vice versa.

Any reference to any statute or statutory instrument will include any modifications or re-enactments thereto.

Any heading in this policy is for ease of reference only and does not affect its interpretation.

Please read this insurance policy, together with any endorsements and the policy schedule attached, very carefully. If it is incorrect, return it immediately for alteration.

### UNDERWRITERS

The Underwriters' obligations under this Policy are several and not joint and are limited solely to their individual subscriptions. The Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

#### Underwriters Proportion:

Ark Syndicate Management Limited	50%
Antares Managing Agency Limited	50%

## COVER

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### INSURING CLAUSE

Subject to the exclusions, limits and conditions hereinafter contained, this Insurance insures property as stated in the Schedule, Specification or Certificate(s) attaching to and forming part of this Policy (hereinafter referred to as the "Schedule") against physical loss or physical damage occurring during the period of this Policy caused by an Act of Terrorism, as herein defined.

For the purpose of this Insurance, an Act of 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.

### LOSSES EXCLUDED

This Policy does not insure against:

- (1) Loss or damage arising directly or indirectly from nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination, however such nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination may have been caused.
- (2) Loss or damage occasioned directly or indirectly by war, invasion or warlike operations (whether war be declared or not), hostile acts of sovereign or local government entities, civil war, rebellion, revolution, insurrection, martial law, usurpation of power, or civil commotion assuming the proportions of or amounting to an uprising.
- (3) Loss by seizure or legal or illegal occupation unless physical loss or damage is caused directly by an Act of Terrorism.
- (4) Loss or damage caused by confiscation, nationalisation, requisition, detention, embargo, quarantine, or any result of any order of public or government authority which deprives the Insured of the use or value of its property, nor for loss or damage arising from acts of contraband or illegal transportation or illegal trade.
- (5) Loss or damage directly or indirectly arising from or in consequence of the seepage and or discharge of pollutants or contaminants, which pollutants and contaminants shall include but not be limited to any solid, liquid, gaseous or thermal irritant, contaminant or toxic or hazardous substance or any substance the presence, existence or release of which endangers or threatens to endanger the health, safety or welfare of persons or the environment.
- (6) Loss or damage arising directly or indirectly from or in consequence of chemical or biological emission, release, discharge, dispersal or escape or chemical or biological exposure of any kind.
- (7) Loss or damage arising directly or indirectly from or in consequence of asbestos emission, release, discharge, dispersal or escape or asbestos exposure of any kind.
- (8) Any fine or penalty or other assessment which is incurred by the Insured or which is imposed by any court, government agency, public or civil authority or any other person.
- (9) Loss or damage by electronic means including but not limited to computer hacking or the introduction of any form of computer virus or corrupting or unauthorised instructions or code or the use of any electromagnetic weapon.  
This exclusion shall not operate to exclude losses (which would otherwise be covered under this Policy) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.
- (10) Loss or damage caused by vandals or other persons acting maliciously or by way of protest or strikes, labour unrest, riots or civil commotion.
- (11) Loss or increased cost occasioned by any public or government or local or civil authority's enforcement of any ordinance or law regulating the reconstruction, repair or demolition of any property insured hereunder.
- (12) Loss or damage caused by measures taken to prevent, suppress or control actual or potential terrorism unless agreed by Underwriters in writing prior to such measures being taken.
- (13) Any consequential loss or damage, loss of use, delay or loss of markets, loss of income, depreciation, reduction in functionality, or increased cost of working. For the avoidance of doubt, nothing in this exclusion is intended to limit the cover made available by the Business Interruption extension.
- (14) Loss or damage caused by factors including but not limited to cessation, fluctuation or variation in, or insufficiency of, water, gas or electricity supplies and telecommunications or any type of service.
- (15) Loss or increased cost as a result of threat or hoax.
- (16) Loss or damage caused by or arising out of burglary, house - breaking, looting, theft or larceny.
- (17) Loss or damage caused by mysterious disappearance or unexplained loss.
- (18) Loss or damage directly or indirectly caused by mould, mildew, fungus, spores or other microorganism of any type, nature or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

## PROPERTY EXCLUDED

This Policy does not cover physical loss or physical damage to:

- (1) Land or land values.
- (2) Power transmission, feeder lines or pipelines not on the Insured's premises.
- (3) Aircraft or any other aerial device, or watercraft.
- (4) Any land conveyance, including vehicles, locomotives or rolling stock, unless such land conveyance is declared hereon and solely whilst located at the property insured herein at the time of its damage.
- (5) Animals, plants and living things of all types.
- (6) Property in transit not on the Insured's premises.

## BUSINESS INTERRUPTION EXTENSION

In consideration of the premium paid, and subject to the exclusions, conditions and limitations of the Policy to which this Extension is attached, and also to the following additional conditions, exclusions and limitations, this Policy is extended to cover loss resulting from necessary interruption of business, relating only to the premises affected by the Act or series of Acts of Terrorism, caused by direct physical loss or damage by an Act or series of Acts of Terrorism, as covered by the Policy to which this Extension is attached, to the Property Insured by this Policy.

- (1) In the event of such direct physical loss or damage, Underwriters shall be liable for the actual loss sustained by the Insured resulting directly from such necessary interruption of Business, but not exceeding the reduction in **rental income, gross profit, gross revenue, gross earnings, turnover** and increased cost of working, as defined hereafter, less charges and expenses which are not necessary during the period of interruption of Business, for a period not to exceed the lesser of:
  - (a) such length of time as would be required, with the exercise of due diligence and dispatch, to repair, rebuild or replace such part of the property as has been destroyed or damaged; or
  - (b) the **indemnity period**,
 commencing with the date of such direct physical loss or damage and not limited by the expiration of this Policy.

- (2) Denial of Access Extension

Loss resulting from interruption of or interference with the Business in consequence of an Act or series of Acts of Terrorism to property within a 1000 metre radius of the insured Premises, which shall prevent the use of the Premises or access thereto, or prompts a civil or military authority to deny access to Premises, whether the Premises or property insured shall be damaged or not.

Business Interruption Extension Conditions (1) Direct Damage does not apply to this Extension.

Each occurrence shall be adjusted separately and from the amount of each such adjusted loss the amount of loss sustained during the first three (3) days shall be deducted.

The Underwriters heron shall not be liable for more than £10,000 in respect of each occurrence.

The amount payable as indemnity thereunder shall be:

- (i) in respect of reduction in **turnover**, the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** shall in consequence of an Act or series of Acts of Terrorism fall short of the **standard turnover**,
- (ii) in respect of increase in cost of working, the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **turnover** which but for that expenditure would have taken place during the **indemnity period** in consequence of an Act or series of Acts of Terrorism but not exceeding the sum produced by applying the **rate of gross profit** to the amount of the reduction thereby avoided,

less any sum saved during the Indemnity Period in respect of such of the charges and expenses of the business payable out of Gross Profit as may cease or be reduced in consequence of an Act or series of Acts of Terrorism.

Provided that if the Sum Insured by this Extension be less than the sum produced by applying the Rate of Gross Profit to the Annual Turnover (or to a proportionately increased multiple thereof where the Indemnity Period exceeds twelve months) the amount payable shall be proportionately reduced.

Due consideration shall be given to the continuation of Normal charges and expenses, including payroll expenses, to the extent necessary to resume operations of the Insured with the same operational capability as existed immediately before the loss.

## BUSINESS INTERRUPTION EXTENSION CONDITIONS

### (1) DIRECT DAMAGE

No claim shall be payable under this Extension unless and until a claim has been paid, or liability admitted, in respect of direct physical loss or damage by an Act or series of Acts of Terrorism to Property Insured under the Policy to which this Extension is attached and which gave rise to loss of Rental Income, Gross Profit, Gross Revenue, Gross Earnings or Turnover.

This Condition shall not apply if no such payment shall have been made, or liability admitted, solely owing to the operation of a deductible in said Policy which excludes liability for losses below a specified amount.



## (2) RESUMPTION OF OPERATIONS

If the Insured could reduce the loss resulting from interruption of business;

- (a) by complete or partial resumption of occupation or operation of the property, and/or
- (b) by making use of any other property at the Insured's locations or elsewhere, and/or
- (c) by making use of merchandise, stocks (opening or closing), or any other property at the Insured's locations or elsewhere, and/or
- (d) by using or increasing operations elsewhere,

then such possible reduction shall be taken into account in arriving at the amount of loss hereunder.

## (3) EXPENSES TO REDUCE LOSS

This Extension also covers such expenses as are necessarily incurred for the purpose of reducing loss under this Extension (except expenses incurred to extinguish a fire), and, in respect of manufacturing risks, such expense, in excess of Normal, as would necessarily be incurred in replacing any Finished Stock used by the Insured to reduce loss under this Extension; but in no event to exceed the amount by which loss under this Extension is thereby reduced. Such expenses shall not be subject to the application of any contribution clause.

## BUSINESS INTERRUPTION EXTENSION EXCLUSIONS

This Extension does not cover:

- (1) increase in loss resulting from interference at the insured premises, by strikers or other persons, with rebuilding, repairing or replacing the property or with the resumption or continuation of operation.
- (2) increase in loss caused by the suspension, lapse, or cancellation of any lease, licence, contract, or order, unless such results directly from the insured untenability or interruption of business, and then Underwriters shall be liable for only such loss as affects the Insured's income, revenue or profits during, and limited to, the period of untenability or the Indemnity Period whichever the lessor covered under this Extension.
- (3) increase in loss caused by the enforcement of any ordinance or law regulating the use, reconstruction, repair or demolition of any Property Insured hereunder.
- (4) loss of market or any other consequential loss except as specifically insured herein.
- (5) loss as a result of physical or mental or bodily injury to any person.

## BUSINESS INTERRUPTION EXTENSION LIMITATIONS

- (1) Underwriters shall not be liable for more than the smaller of either:
  - (a) any specific Rental Income or Business Interruption Sum Insured stated in the Schedule; or
  - (b) the Sum Insured stated in the Schedule, where such includes Rental Income or Business Interruption, if such is a combined limit,
 in respect of such loss, regardless of the number of locations suffering untenability or interruption of business as a result of any one Occurrence.
- (2) With respect to loss resulting from damage to or destruction of media for, or programming records pertaining to, electronic data processing or electronically controlled equipment, including data thereon, by an Act or series of Acts of Terrorism, the length of time for which Underwriters shall be liable hereunder shall not exceed:
  - (a) 30 consecutive calendar days or the time required with exercise of due diligence and dispatch to reproduce the data thereon from duplicates or from originals of the previous generation, whichever is less; or,
  - (b) the length of time that would be required to rebuild, repair or replace such other property herein described as has been damaged or destroyed, but not exceeding twelve (12) calendar months,
 whichever is the greater length of time.

## BUSINESS INTERRUPTION EXTENSION DEFINITIONS

### (1) RENTAL INCOME

Rental Income is for the assessment of premium and for adjustment in the event of loss defined as the sum of:

- (a) the anticipated gross rental income from tenant occupancy of the described property as furnished and equipped by the Insured, and
- (b) the amount of all charges which are the legal obligations of the tenants and which would otherwise be obligations of the Insured, and
- (c) the fair rental value of any portion of such property which is occupied by the Insured, or
- (d) the costs of reasonable alternative residential accommodation and temporary storage of resident's furniture and the costs of reasonable accommodation in kennels and/or catteries for resident dogs and/or cats.

In determining Rental Income due consideration shall be given to the rental experience before the date of damage or destruction and the probable experience thereafter had no loss occurred.

### (2) GROSS REVENUE

The money paid or payable to the Insured for services rendered in the course of the business at the premises and the amount payable as indemnity hereunder shall be the amount by which the Gross Revenue during the indemnity period shall, in consequence of the loss or damage, fall short of the Standard Gross Revenue.

### (3) STANDARD GROSS REVENUE

The Gross Revenue during that period in the 12 months immediately before the date of the loss or damage which corresponds with the indemnity period to which such adjustments shall be made as may be necessary to provide for the trend of the business and for variations in or other circumstances affecting the business either before or after the loss or damage which would have affected the business had the loss or damage not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the loss or damage would have been obtained during the relative period after the loss or damage.

### (4) NORMAL

The condition that would have existed had no loss occurred.

### (5) INDEMNITY PERIOD

The period beginning with the date of an Act or series of Acts of Terrorism and ending not later than the maximum Indemnity Period detailed in the Schedule thereafter during which the results of the business shall be affected in consequence of the Act or series of Acts of Terrorism.

### (6) TURNOVER

The money paid or payable to the Insured for goods sold and delivered and for services rendered in the course of the business at the premises of the Insured.

### (7) GROSS PROFIT

The amount by which

- (a) the sum of the amount of the Turnover and the amounts of the closing stock and work in progress shall exceed
- (b) the sum of the amounts of the opening stock and work in progress and the amount of the Specified Working Expenses.

The amount of the opening and closing stocks and work in progress shall be arrived at in accordance with the Insured's normal accountancy methods, due provision being made for depreciation.

### (8) SPECIFIED WORKING EXPENSES

- (a) Purchases and discounts relative thereto.
- (b) Bad debts.

The words and expressions used in the definition of Specified Working Expenses shall have the meaning usually attached to them in the books and accounts of the Insured.

### (9) RATE OF GROSS PROFIT

The Rate of Gross Profit earned on the Turnover during the financial year immediately before the date of an Act or series of Acts of Terrorism to which such adjustments shall be made as may be necessary to provide for the trend of the business and for variations in or special circumstances affecting the business either before or after the date of the Act or series of Acts of Terrorism or which would have affected the business had the Act or series of Acts of Terrorism not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Act or series of Acts of Terrorism would have been obtained during the relative period after the Act or series of Acts of Terrorism.

### (10) ANNUAL TURNOVER

The Turnover during the twelve months immediately before the date of an Act or series of Acts of Terrorism to which such adjustments shall be made as may be necessary to provide for the trend of the business and for variations in or special circumstances affecting the business either before or after the date of the Act or series of Acts of Terrorism or which would have affected the business had the Act or series of Acts of Terrorism not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Act or series of Acts of Terrorism would have been obtained during the relative period after the Act or series of Acts of Terrorism.

**(11) STANDARD TURNOVER**

The Turnover during the period in the twelve months immediately before the date of an Act or series of Acts of Terrorism which corresponds with the Indemnity Period to which such adjustments shall be made as may be necessary to provide for the trend of the business and for variations in or special circumstances affecting the business either before or after the date of the Act or series of Acts of Terrorism or which would have affected the business had the Act or series of Acts of Terrorism not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Act or series of Acts of Terrorism would have been obtained during the relative period after the Act or series of Acts of Terrorism.

**(12) GROSS EARNINGS**

Gross Earnings are for the assessment of premium and for adjustment in the event of loss defined as, the sum of:

(a) total net sales value of production or sales of Merchandise,  
and

(b) other earnings derived from the operations of the business.

less the cost of:

(c) Raw Stock from which production is derived,

(d) supplies consisting of materials consumed directly in the conversion of such Raw Stock into Finished Stock, or in supplying the services sold by the Insured,

(e) Merchandise sold including packaging materials therefor,

(f) materials and supplies consumed directly in supplying the service(s) sold by the Insured,

(g) service(s) purchased from outsiders (not employees of the Insured) for resale which do not continue under contract,

(h) the difference between the cost of production and the net selling price of Finished Stock which has been sold but not delivered.

No other costs shall be deducted in determining Gross Earnings.

In determining Gross Earnings due consideration shall be given to the experience of the business before the date of loss or damage and the probable experience thereafter had loss not occurred.

**(13) RAW STOCK**

Material in the state in which the Insured receives it for conversion into Finished Stock.

**(14) STOCK IN PROCESS**

Raw Stock which has undergone any ageing, seasoning, mechanical or other process of manufacture at the Insured's premises but which has not become Finished Stock.

**(15) FINISHED STOCK**

Stock manufactured by the Insured which in the ordinary course of the Insured's business is ready for packing, shipment or sale.

**(16) MERCHANDISE**

Goods kept for sale by the Insured which are not the product of manufacturing operations conducted by the Insured.

**CONDITIONS****(1) JOINT INSUREDS**

The Underwriters' total liability for any loss or losses sustained by any one or more of the Insureds under this Insurance will not exceed the sum insured shown in the Schedule. The Underwriters shall have no liability in excess of the sum insured whether such amounts consist of insured losses sustained by all of the Insureds or any one or more of the Insureds.

**(2) OTHER INSURANCE**

This Policy shall be excess of any other insurance available to the Insured covering a loss covered hereunder except such other insurance which is written specifically as excess insurance over this Policy. When this Policy is written specifically in excess of other insurance covering the peril insured hereunder, this Policy shall not apply until such time as the amount of the underlying insurance, (whether collectible or not), has been exhausted by loss and damage covered by this Policy in excess of the deductible with respect to each and every covered loss.

**(3) SITUATION**

This Policy insures property located at the addresses stated in the Schedule.



**(4) SUM INSURED**

The Underwriters hereon shall not be liable for more than;

- (a) 135% of the actual reinstatement cost of the insured property shown in brackets below the amount insured on the Schedule
- (b) Rental Income, Gross Profit, Gross Revenue or Gross Earnings amount insured
- (c) 33.33% of the actual buildings reinstatement cost of the insured property shown in brackets below the amount insured on the Schedule for alternative residential accommodation

stated in the Schedule in respect of each occurrence and in the Policy aggregate if applicable.

**(5) DEDUCTIBLE**

Each occurrence shall be adjusted separately and from;

- (a) each such amount the sum stated in the Specification shall be deducted
- (b) the amount of each such adjusted loss the amount of the loss sustained during the period stated in the Specification shall be deducted.

**(6) OCCURRENCE**

The term "Occurrence" shall mean any one loss and/or series of losses arising out of and directly occasioned by one Act or series of Acts of Terrorism for the same purpose or cause. The duration and extent of any one "Occurrence" shall be limited to all losses sustained by the Insured at the property insured herein during any period of 72 consecutive hours arising out of the same purpose or cause. However no such period of 72 consecutive hours may extend beyond the expiration of this Policy unless the Insured shall first sustain direct physical damage by an Act of Terrorism prior to expiration and within said period of 72 consecutive hours nor shall any period of 72 consecutive hours commence prior to the attachment of this Policy.

**(7) DEBRIS REMOVAL**

This Policy also covers, within the sum insured, expenses incurred in the removal from the insured location of debris of property stated in the Schedule damaged by an Act of Terrorism.

The cost of removal of debris shall not be considered in determination of the valuation of the property covered.

**(8) DUE DILIGENCE**

The Insured (or any of the Insured's agents, sub or co-contractors) must use due diligence and do (and concur in doing and permit to be done) everything reasonably practicable, including but not limited to taking precautions to protect or remove the insured property, to avoid or diminish any loss herein insured and to secure compensation for any such loss including action against other parties to enforce any rights and remedies or to obtain relief or indemnity.

**(9) PROTECTION MAINTENANCE**

It is agreed that any protection provided for the safety of the property insured shall be maintained in good order throughout the currency of this Policy and shall be in use at all relevant times, and that such protection shall not be withdrawn or varied to the detriment of the interests of the Underwriters without their consent.

**(10) VALUATION**

It is understood that, in the event of damage, settlement shall be based upon the cost of repairing, replacing or reinstating (whichever is the least) property on the same site, or nearest available site (whichever incurs the least cost) with material of like kind and quality without deduction for depreciation, subject to the following provisions:

The repairs, replacement or reinstatement (all hereinafter referred to as "replacement") must be executed with due diligence and dispatch;

Until replacement has been effected the amount of liability under this Policy in respect of loss shall be limited to the actual cash value at the time of loss;

If replacement with material of like kind and quality is restricted or prohibited by any by-laws, ordinance or law, any increased cost of replacement due thereto shall not be covered by this Policy.

The Underwriters' liability for loss under this Policy shall not exceed the smallest of the following amounts:

The Policy limit applicable to the destroyed or damaged property,

The replacement cost of the property or any part thereof which was intended for the same occupancy and use, as calculated at the time of the loss,

The amount actually and necessarily expended in replacing said property or any part thereof.

The Underwriters will normally expect the Insured to carry out repair or replacement of the insured property, but if the Insured and the Underwriters agree that it is not practicable or reasonable to do this, the Underwriters will pay the Insured an amount based on the repair or replacement costs, less an allowance for fees and associated costs which are not otherwise incurred. The Underwriters will only pay the Insured up to the Sum Insured shown in the Schedule.

All amounts and accounting details to be calculated using the Insured's usual generally accepted accounting standards.

**(11) INCORRECT DECLARATION PENALTY**

If the values declared as stated in the Schedule are less than the correct insured values as determined above, then any recovery otherwise due hereunder shall be reduced in the same proportion that the values declared bear to the values that should have been declared, and the Insured shall co insure for the balance.

**(12) NOTIFICATION OF CLAIMS**

The Insured, upon knowledge of any occurrence likely to give rise to a claim hereunder, shall give written advice as soon as reasonably practicable to the Underwriters and it is a condition precedent to the liability of Underwriters that such notification is given by the Insured as provided for by this Policy.

If the Insured makes a claim under this Insurance he must give the Underwriters such relevant information and evidence as may reasonably be required and co-operate fully in the investigation or adjustment of any claim. If required by the Underwriters, the Insured must submit to examination under oath by any person designated by the Underwriters.

**(13) PROOF OF LOSS**

The Insured shall render a signed and sworn proof of loss within sixty (60) days after the occurrence of a loss (unless such period be extended by the written agreement of Underwriters) stating the time, place and cause of loss, the interest of the Insured and all others in the property, the sound value thereof and the amount of loss or damage thereto.

If the Underwriters have not received such proof of loss within two years of the expiry date of this Policy, they shall be discharged from all liability hereunder.

In any claim and/or action, suit or proceeding to enforce a claim for loss under this Policy, the burden of proving that the loss is recoverable under this Policy and that no limitation or exclusion of this Policy applies and the quantum of loss shall fall upon the Insured.

**(14) SUBROGATION**

Any release from liability entered into in writing by the Insured prior to loss hereunder shall not affect this Policy or the right of the Insured to recover hereunder. The right of subrogation against any of the Insured's subsidiary or affiliated companies or any other companies associated with the Insured through ownership or management is waived;

In the event of any payment under this Policy, the Underwriters shall be subrogated to the extent of such payment to all the Insured's right of recovery therefor. The Insured shall execute all papers required, shall cooperate with Underwriters and, upon the Underwriters' request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, attaining the attendance of witnesses and in the conduct of suits and shall do anything that may be necessary to secure such right. The Underwriters will act in concert with all other interests concerned (including the Insured) in the exercise of such rights of recovery. If any amount is recovered as a result of such proceedings, such amount shall be distributed in the following priorities:

- (i) Any interest, (including the Insured's), exclusive of any deductible or self insured retention, suffering a loss of the type covered by this Policy and in excess of the coverage under this Policy shall be reimbursed up to the amount of such loss (excluding the amount of the deductible);
- (ii) Out of the balance remaining, the Underwriters shall be reimbursed to the extent of payment under this Policy;
- (iii) The remaining balance, if any, shall inure to the benefit of the Insured, or any insurer providing insurance primary to this Policy, with respect to the amount of such primary insurance, deductible, self insured retention, and/or loss of a type not covered by this Policy.

The expense of all proceedings necessary to the recovery of any such amount shall be apportioned between the interests concerned, including that of the Insured, in the ratio of their respective recoveries as finally settled. If there should be no recovery and proceedings are instituted solely on the initiative of Underwriters, the expense thereof shall be borne by the Underwriters.

**(15) SALVAGE AND RECOVERIES**

All salvages, recoveries and payments recovered or received subsequent to a loss settlement under this Policy shall be applied as if recovered or received prior to the said settlement and all necessary adjustments shall be made by the parties hereto.

**(16) FALSE OR FRAUDULENT CLAIMS**

- (1) If the Insured makes a fraudulent claim under (1) this insurance contract, the Insurer:
  - (a) Is not liable to pay the claim; and
  - (b) May recover from the Insured any sums paid by the Insurer to the Insured in respect of the claim; and
  - (c) May by notice to the Insured treat the contract as having been terminated with effect from the time of the fraudulent act.
- (2) If the Insurer exercises its right under clause (1)(c) above:
  - (a) The Insurer shall not be liable to the Insured in respect of a relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to the Insurer's liability under the insurance contract (such as the occurrence of a loss, the making of a claim, or the notification of a potential claim); and,
  - (b) The Insurer need not return any of the premiums paid.

Fraudulent claims – group insurance

- (3) If this insurance contract provides cover for any person who is not a party to the contract ("a covered person"), and a fraudulent claim is made under the contract by or on behalf of a covered person, the Insurer may exercise the rights set out in clause (1) above as if there were an individual insurance contract between the Insurer and the covered person. However, the exercise of any of those rights shall not affect the cover provided under the contract for any other person.

Nothing in these clauses is intended to vary the position under the Insurance Act 2015.

LMA5256 16 March 2016

**(17) MISREPRESENTATION**

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

Nothing in these clauses is intended to vary the position under the Insurance Act 2015.

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**(18) ABANDONMENT**

There shall be no abandonment to the Underwriters of any property.

**(19) INSPECTION AND AUDIT**

The Underwriters or their agents shall be permitted but not obligated to inspect the Insured's property at any time.

Neither the Underwriters' right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the Insured or others, to determine or warrant that such property is safe.

The Underwriters may examine and audit the Insured's books and records at any time up to two years after the final termination of this Policy, as far as they relate to the subject matter of this Insurance.

**(20) ASSIGNMENT**

Assignment or transfer of this Policy shall not be valid except with the prior written consent of the Underwriters.

**(21) RIGHTS OF THIRD PARTIES EXCLUSION**

This Policy is effected solely between the Insured and the Underwriters.

This Policy shall not confer any benefits on any third parties, including shareholders, and no such third party may enforce any term of this Policy.

This clause shall not affect the rights of the Insured.

**(22) CANCELLATION**

This Policy shall be non-cancellable by the Underwriters or the Insured except in the event of non-payment of premium where the Underwriters may cancel the Policy at their discretion.

In the event of non-payment of premium this Policy may be cancelled by or on behalf of the Underwriters by delivery to the Insured or by mailing to the Insured or the Broker by registered, certified, or other first class mail, at the Insured's address as shown in this Policy, written notice stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice shall be sufficient proof of notice and this Policy shall terminate at the date and hour specified in such notice.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

**(23) ARBITRATION**

If the Insured and Underwriters fail to agree in whole or in part regarding any aspect of this Policy, each party shall, within ten (10) days after the demand in writing by either party, appoint a competent and disinterested arbitrator and the two (2) chosen shall before commencing the arbitration select a competent and disinterested umpire.

The arbitrators together shall determine such matters in which the Insured and Underwriters shall so fail to agree and shall make an award thereon and the award in writing of any two (2), duly verified, shall determine the same, and if they fail to agree, they will submit their differences to the umpire.

The parties to such arbitration shall pay the arbitrators respectively appointed by them and bear equally the expenses of the arbitration and the charges of the umpire.

**(24) SEVERAL LIABILITY**

The Underwriters' obligations under this Policy are several and not joint and are limited solely to their individual subscriptions. The Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

**(25) LEGAL ACTION AGAINST UNDERWRITERS**

No one may bring a legal action against Underwriters unless:

There has been full compliance by the Insured with all of the terms of this Policy; and

The action is brought within two (2) years after the expiry or cancellation of this Policy.

**(26) MATERIAL CHANGES**

The Insured shall notify the Underwriters of any change of circumstances which would materially affect this Insurance.

**(27) EXPERTS FEES**

This Insurance includes, within the sum insured, the necessary and reasonable fees of architects, surveyors, consulting engineers and other professional experts which are incurred in reinstating or repairing the insured property following damage insured under this Policy.

**(28) LAW & JURISDICTION**

This Contract of Insurance is mutually agreed to be governed and constructed in accordance with the laws of England and Wales whose courts shall have exclusive jurisdiction.

**(29) NON USA LEGAL SERVICE**

Any summons, notice or process to be served upon the Underwriters for the purpose of instituting any legal proceedings against them in connection with this insurance may be served to Ark Syndicate Management Limited, 30 Fenchurch Street, London, EC3M 5AD who have authority to accept service on their behalf.

**(30) COMPLAINTS**

Our aim is to ensure that all aspects of your insurance are dealt with promptly, efficiently and fairly. At all times we are committed to providing you with the highest standard of service.

Details of Lloyd's complaints procedures, including timescales for resolution, are set out in a leaflet "Your Complaint – How We Can Help" available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints).

If you are dissatisfied about your insurance or the handling of a claim, you should contact:

Managing Director  
European Property Underwriting Ltd  
Corn Exchange  
55 Mark Lane  
London, EC3R 7NE  
Tel: 0203 740 4110  
Website: [www.epul.co.uk](http://www.epul.co.uk)  
Email: [andrew.whittaker@epul.co.uk](mailto:andrew.whittaker@epul.co.uk)

In the event that you remain dissatisfied and wish to take the matter further you can do so at any time by referring to the complaints team at Lloyd's. The contact details are:

Lloyds Complaints  
Fidentia House  
Walter Burke Way  
Chatham Maritime  
Chatham  
Kent, ME4 4RN

Te: +44 (0) 20 7327 5693  
Fax: +44 (0) 20 7327 5225  
Email: [complaints@lloyds.com](mailto:complaints@lloyds.com)

If you remain dissatisfied after Lloyd's has considered your complaint, you may refer your complaint to the Financial Ombudsman Service (FOS). The contact details for the FOS are:

The Financial Ombudsman Service, Exchange Tower, London, E14 9SR.

Telephone: 0800 0234567 (calls to this number are free from mobiles and "fixed lines" in the UK) or 0300 1239123 (calls to this number are charged at the same rate as 01 and 02 numbers in the UK).

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

Further information is available at: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

This complaint procedure is without prejudice to your right to take legal proceedings.

**(31) FINANCIAL COMPENSATION**

Lloyd's insurers are covered by the Financial Services Compensation Scheme.

You may be entitled to compensation from the Scheme if a Lloyd's insurer is unable to meet its obligations to you under this contract.

If you were entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this contract. Further information about the Scheme is available from:

Financial Services Compensation Scheme  
10th Floor, Beaufort House  
15 St Botolph Street  
London EC3A 7QU  
Website: [www.fscs.org.uk](http://www.fscs.org.uk)

**(32) AMENDMENTS**

Should the Insured wish to amend this Certificate, notification of such proposed amendment should be given to the Agent shown in the Schedule.



## LLOYD'S PRIVACY POLICY STATEMENT

### UNDERWRITERS AT LLOYD'S, LONDON

The Certain Underwriters at Lloyd's, London want you to know how we protect the confidentiality of your non-public personal information. We want you to know how and why we use and disclose the information that we have about you. The following describes our policies and practices for securing the privacy of our current and former customers.

### INFORMATION WE COLLECT

The non-public personal information that we collect about you includes, but is not limited to:

- (a) Information contained in applications or other forms that you submit to us, such as name, address, and social security number
- (b) Information about your transactions with our affiliates or other third-parties, such as balances and payment history
- (c) Information we receive from a consumer-reporting agency, such as credit-worthiness or credit history

### INFORMATION WE DISCLOSE

We disclose the information that we have when it is necessary to provide our products and services. We may also disclose information when the law requires or permits us to do so.

### CONFIDENTIALITY AND SECURITY

Only our employees and others who need the information to service your account have access to your personal information. We have measures in place to secure our paper files and computer systems.

### RIGHT TO ACCESS OR CORRECT YOUR PERSONAL INFORMATION

You have a right to request access to or correction of your personal information that is in our possession.

### CONTACTING US

If you have any questions about this privacy notice or would like to learn more about how we protect your privacy, please contact the agent or broker who handled this insurance. We can provide a more detailed statement of our privacy practices upon request.





Coverholder at **LLOYD'S**

**E·P·U·L**