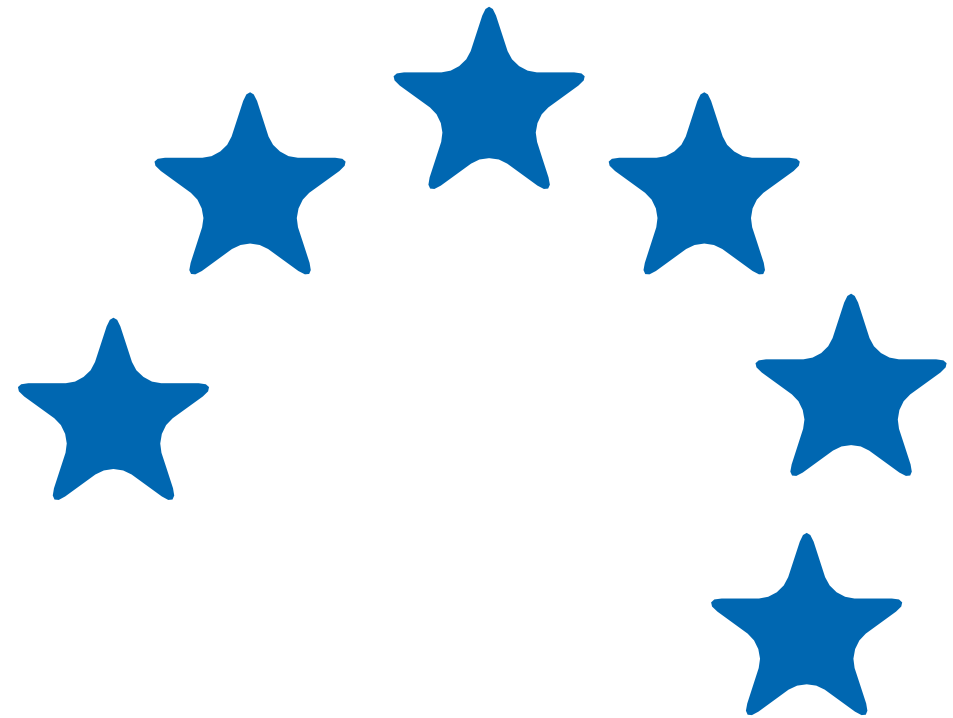


# commercial liability policy



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Company registered no. 454673.

Registered office: Suites 6 & 7, Grange Road Office Park, Grange Road, Rathfarnham, Dublin 16.  
KennCo Underwriting Ltd is regulated by the Central Bank of Ireland.

service, stability, security

# Commercial Liability Policy

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# Introduction

## **Your Policy and Schedule**

Here is your new Commercial Liability Insurance Policy containing full details of the insurance being provided. The Schedule contains particulars personal to your insurance protection under the Policy including the levels of cover operative under each Section of the Policy and should be read in conjunction with the rest of the Policy.

For your own protection you are recommended to read this Policy and Schedule carefully to ensure it meets with your particular needs.

If you are a Consumer, the Consumer Insurance Contracts Act 2019 will apply to this Policy. If you are unsure as to whether a section applies to you as a Consumer, please contact your insurance advisor.

**Important - Please note: Only those Sections showing as in force in the attached Schedule shall apply to your particular policy.**

The Third EU Non-Life Directive requires us to provide you with the following information:

## **The Law Applicable to the Contract**

Under the relevant European and Irish legal provisions, the parties to the proposed contract of insurance, we, the Insurer listed in your Schedule of Cover and you, the Proposer, are free to choose the law applicable to the contract. We propose that Irish law will apply to the contract.

## **Our Service**

We aim to provide insurance cover and service of the highest standards. However, we accept that things can go wrong and we would rather be told about any difficulties than have a dissatisfied client. If you feel that we have been unreasonable in any aspect of the handling of your insurance, please follow the procedure below:

## **In the first instance contact:**

**Complaints Manager  
KennCo Underwriting Ltd  
Suite 7, Grange Road Office Park  
Grange Road  
Rathfarnham  
Dublin 16  
E-mail:info@kennco.ie**

We will do the following:

- Tell you what action we will take and who will be responsible for handling your enquiry,
- Acknowledge written enquiries, or any received by e-mail, usually within two working days,
- Give details of your enquiry to a senior person at the relevant department, usually within two working days.

You will hear from the relevant department in response to your enquiry, either in writing or over the phone, usually within ten working days. Where a full response cannot be given for any reason, you will

be told what action will be taken, when you will hear again and whom you can contact in the meantime with any questions. When necessary, we will explain the situation in writing.

However we will endeavour to provide you with a Final Response within 25 working days from the date upon which we received your written complaint and request for a Final Response.

Should you remain dissatisfied with KennCo's final reply please note you can refer your complaint to the Insurer listed in your Schedule of Cover, a copy of which we can provide should you require it.

If you are not satisfied with the results of our investigations, you have the right to refer your complaint to an independent authority for consideration. Your complaint should be referred to the Financial Services and Pensions Ombudsman, 3rd Floor Lincoln House, Lincoln Place, Dublin 2. This option is open only for individuals or incorporated bodies with an annual turnover of €3m or less.

## **Your Commercial Liability Insurance Policy**

The Insurer listed in your Schedule of Cover (hereafter called the "Company") will having accepted the first or any renewal premium for this Policy agrees subject to the terms and conditions herein to indemnify the Insured named in the Schedule if any of the within mentioned contingencies occurs during the Period of Insurance stated in the Schedule or during any subsequent period for which the Company shall have accepted the premium required for renewal of the Policy.

Compliance with all the terms, provisions conditions and endorsements of the Policy shall be a condition precedent to the right of the Insured to recover under this Policy. If the Insured is a Consumer, every condition stated as a condition precedent that applies to this Policy (whether a Policy or Section Condition) shall apply from the time the condition attaches and continue to be in force during the whole currency of this Policy save that any conditions precedent to liability contained in this policy document or policy schedule shall be treated as suspensive conditions in accordance with Section 19 of the Consumer Insurance Contracts Act 2019 (or any legislation amending or replacing this Act).

Failure by an Insured who is a Consumer to comply with a notification period will not entitle us to refuse a claim unless such failure has prejudiced the Insurer. Prejudice may include, without limitation, restricting or impeding the Insurer's ability to investigate or defend any claim by or against the Insured, incurring or increasing any loss, damage, liability cost or payment that would not otherwise have been incurred or not occurred to the same extent and/or impeding or restricting the ability to obtain contribution from or to exercise subrogation rights against any other person (including any other insurer).

The proposal and declaration signed by the Insured and particulars in writing submitted by or on behalf of the Insured or the Company shall be the basis of the contract and be held to be incorporated herein. This statement shall not apply where the Insured is a Consumer. Any such written proposal containing particulars and statements when made by an Insured who is a Consumer shall have effect solely as a representation made by the Consumer to the Company prior to entering into the contract.

If the Insured is a Consumer during the Period of Insurance, the Insured must respond honestly and

accurately to all questions asked by the Company and must notify the Company in writing of any change in the details provided by the Insured in the proposal form.

**INSURANCE ACT 1936**

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

**FINANCE ACT 1990**

The appropriate stamp duty has been or will be paid in accordance with the Provisions of Section 113 of the Finance Act 1990.

# Definitions

1. **Insured** means the person company firm or other legal entity named as the Insured in the Schedule.
2. The **Business** or Profession stated in the Schedule and none other for the purpose of this insurance except as stated below.  
The **Business** shall also include
  - (a) the ownership repair maintenance and decoration of the Insured's own business premises but not construction re-construction structural alteration or demolition of such premises
  - (b) the repair and maintenance of vehicles or plant used in the course of the Business and owned by the Insured
  - (c) the provision and management of canteens social sports and welfare organisations which are for the benefit of Employees and of their families
  - (d) the provision in the course of the Business of first aid medical and dental services ambulance fire security services and safety organisations
  - (e) private work undertaken with the prior consent of the Insured by an Employee for a partner or director of the Insured provided that such work is not in pursuit of any trade or business.
3. **Consumer** shall have the meaning set out in the Consumer Insurance Contracts Act 2019.
4. **Territorial Limits** means the Republic of Ireland Great Britain and Northern Ireland
5. **Period of Insurance** means the period specified in the Schedule or any subsequent period for which the Company agrees to renew the Policy and to accept payment of the Premium.
6. **Deductible or Excess** means the amount the Insured shall bear in respect of each and every incident or occurrence as stated in the Schedule. It is a condition precedent to the Company's liability under the Policy that such amount or any part thereof be furnished by the Insured to the Company on demand. Failure to do so constitutes a breach of condition precedent under the Policy and entitles the Company to refuse indemnification in respect of the entire claim.
7. **Employee** means
  - (a) any person under a contract of service or apprenticeship with the Insured
  - (b) any person engaged under any training educational or work experience programme
  - (c) any labour master or labour only sub-contractor or any person employed or supplied by them
  - (d) any self employed person
  - (e) any person hired to or borrowed by the Insuredwhile working for the Insured in the course of the Business.
8. **Bodily Injury** means accidental bodily injury and includes death disease and illness.
9. **Principal** means any person company firm public local or statutory authority for whom the Insured is carrying out work under contract or agreement.
10. **Product** means any commodity article thing or any part thereof (including containers labelling and packaging provided in connection therewith) manufactured constructed erected

installed altered repaired serviced processed treated sold leased supplied or distributed by or on behalf of the Insured in the course of the Business and not in the custody or control of the Insured.

11. **Nuisance** means nuisance trespass or interference with any easement right of air light water or way.
12. **Contract Works** means the permanent and/or temporary works executed or in the course of execution by or on behalf of the Insured in the development of any building or site or the performance of any contract including materials and all other property intended for use in connection therewith.

# General Exclusions

(applicable to all Sections of your Commercial Liability Policy)

**This Policy does NOT cover:**

## **Radioactive Contamination**

This clause shall be paramount and shall override anything contained in this agreement inconsistent therewith:

1. In no case shall this agreement cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from
  - 1.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - 1.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
  - 1.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

## **War and Civil War**

2. Notwithstanding anything to the contrary contained herein this insurance does not cover loss or damage directly or indirectly occasioned by, happening through or 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 or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

## **Terrorism**

3. Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with 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, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event that any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.



## **Asbestos**

4. This agreement does not cover any loss, cost or expense directly or indirectly arising out of, resulting as a consequence of, or related to the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to Asbestos or materials or products containing asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.

### **The Company will not indemnify the Insured in respect of any liability:**

5. arising from any judgement award or settlement made within countries states or territories which operate under the laws of the United States of America or Canada or to any order made anywhere in the world to enforce such judgement award or settlement either in whole or in part.
6. assumed by the Insured under any contract or agreement unless such liability would have attached to the Insured in the absence of such contract or agreement.
7. for the Excess specified in the Schedule.
8. in respect of claims for or arising from nervous shock mental anguish or illness stress or any other psychological condition unless the condition complained of is accompanied by and arises directly from a physical injury.
9. directly or indirectly caused by or contributed to or arising from any wrongful arrest detention imprisonment or eviction of any person or wrongful accusation of shoplifting.
10. arising directly or indirectly from Sunbeds
11. which arises out of or is contributed to directly or indirectly by exposure to electro Magnetic Fields or Radiation

### **Date Recognition**

12. There is no liability under this Policy in respect of any claim of whatsoever nature which arises directly or indirectly from or consisting of the failure or inability of any
  - (a) Electrical circuit microchip integrated circuit microprocessor embedded system hardware software firmware program computer data processing equipment telecommunication equipment or system or any similar device
  - (b) Media or systems used in connection with any of the foregoing

whether the property of the Insured or not at any time to achieve any or all of the purposes and consequential effects intended by the use of any number symbol or word to denote a date including without limitation the failure or inability to recognise capture save retain or restore and/or correct to manipulate interpret transmit return calculate or process any date data information command logic or instruction as a result of

- (i) recognising using or adopting any data day of the week or period of time otherwise than as or other than the true or correct day of the week or period of time
- (ii) the operation of any command or logic which has been programmed or incorporated into anything referred to in (a) and (b) above.

### **Exception to Date Recognition Exclusion**

13. Provided always that this Exclusion shall not apply to any claim otherwise indemnifiable under this Policy subject to all its terms and provisions comprising of
- (i) Subsequent damage to or loss or destruction of property owned by in the possession of or held in trust by the Insured and/or the Insured's consequential loss arising from loss or destruction of or damage to any property if directly caused by  
Fire lightning explosion aircraft and other aerial devices dropped therefrom riot civil commotion strikers locked out workers persons taking part in labour disturbances malicious persons other than thieves earthquake storm flood escape of water from any tank apparatus or pipe impact by any road vehicle or animal or stealing only where these covers are provided by the Policy  
  
The forgoing Exemption to this Date Recognition Exclusion will not apply to any claim arising from any legal liability legal cost or expense of the Insured
  - (ii) Any claim otherwise indemnifiable under this Policy subject to all terms and provisions arising under insurance in respect of Employers Liability.

### **This Policy does not cover losses arising directly or indirectly from:**

#### **Cyber Risk**

14. (i) the loss of alteration of or damage to  
  
or  
  
(ii) a reduction in the functionality availability or operation of  
  
a computer system hardware programme software data information repository microchip integrated circuit or similar device in computer equipment that results from the malicious or negligent transfer (electronic or otherwise) of a computer programme that contains any malicious or damaging code including but not limited to computer virus worm logic bomb or trojan horse.

#### **Fungus Mould and Mildew**

15. The Company shall have no liability under this Policy to provide any indemnity or benefit in respect of injury loss damage cost or expense of whatsoever directly or indirectly:
- (i) arising out of resulting from caused by contributed to or in any way related to any fungus of any kind whatsoever including but not limited to mildew mould spore(s) or allergens or
  - (ii) any costs or expenses associated in any way with the abatement mitigation remediation containment detoxification neutralisation monitoring removal disposal or any obligation to investigate or assess the presence or effects of any fungus of any kind whatsoever including but not limited to mildew mould spore(s) or allergens or
  - (iii) any obligation of duty to defend any actions on account of Bodily Injury damage personal or advertising injury or medical payments arising out of resulting from or in any way related to any fungus of any kind whatsoever including but not limited to mildew mould spore(s) or allergens.

Irrespective of the cause of such fungus mildew mould spore(s) or allergens and whenever or wherever occurring.

For the purpose of this exclusion “Bodily Injury” shall also include mental anguish mental injury and/or emotional distress.

## **Section 1 – Employers Liability**

**(Applicable only if specified in the Schedule)**

### **Insuring Clause**

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

### **Limit of Indemnity**

The total amount payable for all damages including costs charges and expenses in connection therewith in respect of any one occurrence or all occurrences of a series consequent on one original cause shall not exceed the Limit of Indemnity stated in the Schedule.

The Limit of Indemnity will not be reduced by the amount of any Excess that may be applicable to this Section.

# Extensions Applicable To Employers Liability Section

## 1. *Indemnity to Principals*

The Company will indemnify any Principal against legal liability as defined in the Insuring Clause  
Provided that

- (a) the Insured would have been entitled to indemnity under this Section had the claim been made against the Insured
- (b) the Principal is not entitled to indemnity under any other policy
- (c) the Principal shall as though he were the Insured observe fulfil and be subject to the terms Exclusions and Conditions of this Policy
- (d) nothing in this Extension will operate to increase the Company's liability beyond the amount for which the Company would have been liable had this Extension not applied.

## 2. *Personal Representatives*

In the event of the death of the Insured the Company will indemnify the Insureds' legal personal representatives against legal liability as defined in the Insuring Clause.

Provided that

- (a) the Insured was entitled to indemnity under this Section
- (b) such legal personal representatives shall as though they were the Insured observe fulfil and be subject to the terms Exclusions and Conditions of this Policy.

## 3. *Indemnity to Other Persons*

If the Insured so requests the Company will indemnify the following persons in respect of legal liability as defined in the Insuring Clause

- (a) any Employee or partner or director of the Insured provided that the Insured would have been entitled to indemnity under this Section had the claim been made against the Insured
- (b) any officer or member of the Insured's canteen social sports or welfare organisation or first aid medical and dental services ambulance fire security services or safety organisation in his/her respective capacity as such in connection with the Business

Provided that

- (i) such persons are not entitled to indemnity under any other policy
- (ii) such persons shall as though they were the Insured observe fulfil and be subject to the terms Exclusions and Conditions of this Policy
- (iii) nothing in this Extension will operate to increase the Company's liability beyond the amount for which the Company would have been liable had this Extension not applied.

#### **4. *Safety Health and Welfare at Work Act 2005***

The Company will indemnify the Insured or at the request of the Insured an Employee or partner or director of the Insured against legal costs and expenses incurred in the defence of any criminal proceedings brought for a breach of the Safety Health and Welfare at Work Act 2005 committed or alleged to have been committed during the Period of Insurance including legal costs and expenses incurred with the consent of the Company in an appeal against conviction arising from such proceedings

Provided that the Company shall not be liable for the payment of fines or penalties.

#### **5. *Work Overseas***

The Company will indemnify the Insured in respect of legal liability for Bodily Injury caused to an Employee as defined in the Insuring Clause arising within any member country of the European Union outside of the Territorial Limits where an Employee is on a temporary visit for the purpose of carrying out non-manual work in the course of the Business.

Provided that

- (a) such Employee is normally resident within the Territorial Limits
- (b) the Company will not indemnify the Insured in respect of any amount payable under Workmen's Compensation Social Security or Health Insurance legislation.

# Exclusions Applicable to Employers Liability Section

## 1. Offshore Installations

The Company will not indemnify the Insured in respect of any claim(s) for damages for Bodily Injury caused during any Period of Insurance and sustained by any Employee

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

## 2. Road Traffic Act Liability

The Company will not indemnify the Insured in respect of any liability for which compulsory insurance or security is required under any Road Traffic Act or any legislation amending or replacing any such Act.

## Section 2 – Public Liability

(Applicable only if specified in the Schedule)

### **Insuring Clause**

The Company will indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay for damages arising out of accidental

- (a) Bodily Injury to any person
- (b) Nuisance
- (c) loss of or damage to material property

occurring within the Territorial Limits during the Period of Insurance and arising out of and in the course of the Business.

### **Limit of Indemnity**

The total amount payable for all damages including costs charges and expenses in connection therewith in respect of any one occurrence or all occurrences of a series consequent on one original cause shall not exceed the Limit of Indemnity stated in the Schedule.

The Limit of Indemnity will not be reduced by the amount of any Excess that may be applicable to this Section.



# Extensions applicable to the Public Liability Section

## 1. *Work Overseas*

The Company will indemnify the Insured against legal liability as defined in the Insuring Clause arising within any member country of the European Union outside of the Territorial Limits where an Employee or partner or director of the Insured is on a temporary visit for the purpose of carrying out non-manual work in the course of the Business provided that such Employee or partner or director is ordinarily resident within the Territorial Limits.

## 2. *Indemnity to Principals*

The Company will indemnify any Principal in respect of legal liability as defined in the Insuring Clause

Provided that

- (a) the Insured would have been entitled to indemnity under this Section had the claim been made against the Insured
- (b) the Principal is not entitled to indemnity under any other policy
- (c) the Principal shall as though he were the Insured observe fulfil and be subject to the terms Exclusions and Conditions of this Policy
- (d) nothing in this Extension will operate to increase the Company's liability beyond the amount for which the Company would have been liable had this Extension not applied.

## 3. *Personal Representatives*

In the event of the death of the Insured the Company will indemnify the Insureds' legal personal representatives in respect of legal liability as defined in the Insuring Clause.

Provided that

- (a) the Insured was entitled to indemnity under this Section
- (b) such legal personal representatives shall as though they were the Insured observe fulfil and be subject to the terms Exclusions and Conditions of this Policy.

#### **4. *Indemnity to Other Persons***

If the Insured so requests the Company will indemnify the following persons in respect of legal liability as defined in the Insuring Clause

- (a) any Employee or partner or director of the Insured provided that the Insured would have been entitled to indemnity under this Section had the claim been made against the Insured
- (b) any officer or member of the Insured's canteen social sports or welfare organisation or first aid medical and dental services ambulance fire security services or safety organisation in his/her respective capacity as such in connection with the Business.

Provided that

- (i) such persons are not entitled to indemnity under any other policy
- (ii) such persons shall as though they were Insured observe fulfil and be subject to the terms Exclusions and Conditions of this Policy
- (iii) nothing in this Extension will operate to increase the Company's liability beyond the amount for which the Company would have been liable had this Extension not applied.

#### **5. *Cross Liabilities***

If more than one party is named as the Insured the Company will treat each party as if a separate Policy had been issued to each.

Provided that nothing in this Extension will operate to increase the Company's liability beyond the amount for which the Company would have been liable had this Extension not applied.

# Exclusions applicable to the Public Liability Section

## The Company will not indemnify the Insured in respect of any liability:

1. for Bodily Injury to an Employee.
2. for fines penalties punitive or exemplary damages.
3. (a) for personal injury or bodily injury or financial loss or loss of damage to or loss of use of property directly or indirectly arising out of the discharge dispersal release or escape of pollutants  
(b) for the cost of removing nullifying or cleaning up of pollutants  
(c) for fines penalties punitive or exemplary damages arising directly or indirectly out of the discharge dispersal release or escape of pollutants

Notwithstanding the foregoing this Agreement shall cover liability otherwise excluded under paragraphs (a) and (b) above which

- (i) is caused by a sudden identifiable unintended and unexpected happening which takes place in its entirety at a specific time and place and
- (ii) is indemnified in not more than one annual period of original insurance

For the purpose of this clause pollutants means any solid liquid gaseous or thermal irritant or contaminant including but not limited to smoke vapour soot fumes acid alkalis chemicals and waste. Waste includes material to be recycled reconditioned or reclaimed.

4. for loss of or damage to material property
  - (a) belonging to the Insured
  - (b) in the custody or control of the Insured or an Employee or partner or director of the Insured other than
    - (i) the personal effects (including vehicles and their contents) of any visitor Employee or partner or director of the Insured
    - (ii) buildings (together with the contents thereof) temporarily occupied by or on behalf of the Insured for the purpose of carrying out work in the course of the Business
    - (iii) buildings (including their fixtures and fittings) leased or rented by the Insured but excluding liability assumed under the terms of any tenancy agreement.

5. caused by or arising from
    - (a) (i) any vehicle for which compulsory insurance or security is required by any Road Traffic Legislation if such vehicle is owned leased hired borrowed or used by the Insured specified in the Schedule or by the person seeking indemnity
    - (ii) any trailer for which compulsory insurance or security is required by any Road Traffic Legislation if such trailer is owned leased hired borrowed or used by the Insured specified in the Schedule or by the person seeking indemnity
    - (b) the loading or unloading of such vehicle or trailer
    - (c) (i) the bringing of a load to such vehicle or trailer for the purpose of loading thereon
    - (ii) the taking away of a load from such vehicle or trailer after unloading therefromwhere indemnity is provided by any other motor insurance contract, or where compulsory insurance or security is required by any Road Traffic Legislation
  - (d) any vessel or craft made or intended to float on or in or travel through water or air or space if such vessel or craft is owned leased hired borrowed or operated by the Insured
  - (e) the loading or unloading of such vessel or craft.
6. caused by or arising from any design plan or specification or any treatment or advice (remedial/ professional or otherwise) given administered or omitted by the Insured or an Employee or partner or director of the Insured for which a fee is or would normally be charged.
  7. for any claim in respect of loss of or damage to material property against which the Insured is required to effect insurance under any construction contract conditions or under the terms of any other contract or agreement requiring insurance of a like kind.
  8. caused by or arising from a deliberate act or omission of the Insured and which could reasonably have been expected by the Insured having regard to the nature and circumstances of such act or omission.
  9. for loss of or damage to Contract Works occurring before the date of practical completion or before a certificate of practical completion is issued.
  10. for the costs of removal repair alteration replacement or reinstatement of any
    - (a) structure erected
    - (b) product suppliedby or on behalf of the Insured
  - (c) Contract Works
- caused or necessitated by any defect therein or the unsuitability thereof for its intended purposes.

# General Conditions

## 1. Identification

This Policy comprising the Introduction Schedule Definitions Insuring Clauses Extensions Exclusions Conditions and any Endorsements shall be read as one contract and any word or expression to which a specific meaning has been attached therein shall bear such specific meaning wherever it may appear.

## 2. Due Observance

The observance and fulfilment of the terms and Conditions of this Policy in so far as they relate to anything to be done or complied with by the Insured or any other indemnified party shall be conditions precedent to any liability of the Company to make any payment under this Policy.

Where the Insured is a Consumer, every condition stated as a condition precedent that applies to this Policy (whether a Policy or Section Condition) shall apply from the time the condition attaches and continue to be in force during the whole currency of this Policy save that any conditions precedent to liability contained in this policy document or policy schedule shall be treated as suspensive conditions in accordance with Section 19 of the Consumer Insurance Contracts Act 2019 (or any legislation amending or replacing this Act).

Failure by an Insured who is a Consumer to comply with a notification period will not entitle us to refuse a claim unless such failure has prejudiced the Insurer. Prejudice may include, without limitation, restricting or impeding the Insurer's ability to investigate or defend any claim by or against the Insured, incurring or increasing any loss, damage, liability cost or payment that would not otherwise have been incurred or not occurred to the same extent and/or impeding or restricting the ability to obtain contribution from or to exercise subrogation rights against any other person (including any other insurer).

## 3. Non-Disclosure

This insurance will be voidable if there has been misrepresentation misdescription or non-disclosure of any material fact in connection with the proposal.

## 4. Alterations in Risk

### (a) Where the Insured is not a Consumer

If at any time anything shall occur or be done materially affecting or varying any aspect of the subject matter of this insurance the Insured shall give immediate notice in writing to the Company.

### (b) Where the Insured is a Consumer

If at any time anything shall occur or be done materially affecting or varying any aspect of the subject matter of this insurance, the Insured shall give notice in writing to the Company as soon as reasonably possible.

Irrespective of whether any such notification has been made (but without prejudice to the Insured's obligation to make those notifications), the Company may refuse claims made by the Insured where any alteration constitutes a change in the subject matter of this Policy and circumstances have so changed that it can properly be said by the Company that the new risk is something which, on the true construction of the policy, the Company did not agree to cover. The foregoing does not limit or exclude and is without prejudice to any other remedies that may be available to the Company, under this Policy or otherwise, in connection with an alteration.

However, the Company agrees not to refuse such claims if:

- i. the Insured has notified such alteration in writing in advance to the Company in good time to enable the Company to assess the alteration and the alteration is not of such a nature that, if it the alteration had occurred prior to the commencement of this Policy, the Company would not have entered into this Policy on any terms; and
- ii. the Insured has answered all reasonable questions that the Company may raise in connection with the alteration; and
- iii. the Insured pays an appropriate additional premium if required by the Company with effect from the date of the alteration;
- iv. the Insured accepts any additional terms that the Company imposes, with effect from the date of the alteration.

Where the alteration is such that if it had occurred prior to the commencement of this Policy, the Company would not have entered into this Policy on any terms the Company may avoid the Policy or refuse claims.

## **5. Reasonable Precautions**

The Insured must take all reasonable care to prevent Bodily Injury loss or damage and to maintain premises plant and everything used in the Business in proper repair and to act in accordance with all statutory obligations and regulations including the statutory inspection of all lifting plant passenger lifts and steam pressure vessels.

The Insured must immediately make good or remedy any defect or danger which becomes apparent or take such additional precautions as the circumstances may require.

## **6. Premium Adjustment**

If the Premium for this Policy has been calculated on the basis of an estimate supplied by the Insured of wages salaries and other earnings and/or turnover

- (a) the Insured shall maintain an accurate record of such wages salaries and other earnings and/or turnover and the Company or its representatives may at any time examine such record
- (b) the Insured shall within 30 days of the expiry of each Period of Insurance supply to the Company an auditors' certificate of such wages salaries and other earnings and/or turnover for that Period of Insurance and in this regard time is of the essence

and

- (i) if the amount of such wages salaries and other earnings and/or turnover shall differ from the estimate on which the Premium has been calculated the difference in Premium shall be paid by or allowed to the Insured as the case may be subject to retention of the Minimum Premium stated in the Schedule or as advised to the Insured
- (ii) should the Insured fail to supply such auditors' certificate in accordance with this Condition then the Company will not provide any indemnity for any Bodily Injury Nuisance or loss of or damage to material property which might otherwise be the subject of indemnity under this Policy in the Period of Insurance for which the auditors' certificate remains outstanding.

## **7. Other Insurances**

If any insurance under this Policy is also the subject (in whole or in part) of any other policy the liability of the Company shall apply in excess of and not as contributory with such other policy.

## **8. Cancellation**

The Company may cancel this Policy at any time by giving 14 business days notice by registered letter to the last known address of the Insured and in such case the Insured shall be entitled to the return of a proportionate part of the Premium (provided the Premium has been paid to the Company) in respect of the unexpired Period of Insurance.

Where the Insured is a Consumer, the Company will provide a reason for any such cancellation.

## **9. Cooling off**

Where the Insured is a Consumer, the Insured may cancel this Policy providing notice in writing to the Company within 14 working days of the date when the Insured is informed the contract has been concluded.

If the Insured chooses to cancel this Policy during the "cooling-off period", they will have to pay a proportional amount of premium for the period of time they had insurance cover.

Where the Insured entered into this Policy by means of a distance contract, the 14-day period, known as the 'cooling-off period', starts on:

- a) the day the Insured receives their policy documents following inception of the cover; or
- b) the date the Period of Insurance starts; whichever is later

## **10. Arbitration**

All differences arising out of this Policy shall be referred to the decision of an arbitrator to be appointed by the parties or failing agreement by the President for the time being of the Incorporated Law Society of Ireland. Where any difference is referred to arbitration the making of an award shall be a condition precedent to any right of action against the Company. Claims not referred to arbitration within 12 calendar months from the date of disclaimer of the liability shall be deemed to have been abandoned.

## **11. Suspension of Cover**

The Company may at any reasonable time inspect any property and in the event of any defect or danger being apparent the Company may give written notice to the Insured when all liability of the Company arising from such defect or danger shall be suspended. If the Insured is a Consumer, this clause will operate only where the defect or danger is such that it takes the risk outside that which was within the reasonable contemplation of the contracting parties when the contract of insurance was concluded.

## **12. Avoidance and Recovery**

The indemnity granted by this Policy is deemed to be in accordance with the provisions of any law relating to compulsory insurance of liability to employees in any of the Policy Territories but the Insured shall repay to the Company all sums paid by the Company which the Company would not have been liable to pay but for the provisions of such law.

## **13. Claims Conditions**

### *Notice of Claims*

In the event of an occurrence which may give rise to a claim for indemnity under this Policy it is a condition precedent to liability that the Insured shall give notice as soon as reasonably possible to Kennco Underwriting Ltd. with full particulars and as far as practicable no alteration or repair shall be carried out until the Company or Kennco Underwriting Ltd. has had an opportunity of investigating. Every letter claim writ summons and process shall be notified or forwarded to Kennco Underwriting Ltd. as soon as reasonably possible on receipt. The Insured shall inform Kennco Underwriting Ltd. as soon as reasonably possible of any impending prosecution inquest or fatal inquiry or civil proceedings and send to Kennco Underwriting Ltd. every relevant document which must remain unanswered by the Insured. Where the Insured is a Consumer, they must comply with the above requirements as soon as reasonably possible.

### *Control of Claims*

No admission repudiation offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company or Kennco Underwriting Ltd. The Company shall be entitled if it so desires to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise. The Company shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Company or Kennco Underwriting Ltd. may require. The Company or Kennco Underwriting Ltd. shall not be liable for any loss alleged to have been sustained by the Insured in consequence of any action or omission of the Company or Kennco Underwriting Ltd. in the course of any claim or proceedings.



Where the Insured is a Consumer, the rights afforded to the Company under this section apply only to the extent permitted under the Consumer Insurance Contracts Act 2019.

### ***Discharge of Liability***

The Company may at any time at its sole discretion pay to the Insured the amount of the Limit of Indemnity (less any sum or sums already paid) or any lesser sum for which the claim or claims can be settled and be under no further liability in respect of such claim or claims.

## **14. Fraudulent Claims**

### **(a) Where the Insured is not a Consumer**

If any claim upon this Policy be in any respect fraudulent or if any fraudulent means or devices be used by the Insured or anyone acting on his behalf to obtain any benefit under this Policy or if any loss or damage be occasioned by the wilful act or with the connivance of the Insured all benefit under this Policy shall be forfeited.

### **(b) Where the Insured is a Consumer**

Where the Insured makes a claim under the Policy which contains information that is false or misleading in any material respect and which the Insured either knows to be false or misleading or consciously disregards whether it is false or misleading, the Company shall be entitled to refuse to pay the claim and shall be entitled to avoid the Policy.

In the event that the Company becomes aware that the Insured has made a fraudulent claim, it may as soon as practicable after becoming aware of such fraudulent claim, give written notice to the Insured that the Policy will be avoided from the date of submission of the fraudulent claim.

The Company shall be entitled to refuse all liability to the Insured from the date of the submission of the fraudulent claim.

Notwithstanding the above, any claim made prior to the submission of the fraudulent claim which is validly made will not be affected by the subsequent fraudulent claim

## **15. Minimum & Deposit Premiums**

It is hereby noted and agreed that the premium applicable to this Section of the Policy is a Minimum & Deposit Premium, if this policy is cancelled there will be no return of premium under this Section except to the extent required by law, for example if the Insured exercise a “cooling off” right under legislation to cancel the contract or, if the Insured are a Consumer, or if the Company cancels the contract