

**Employers Liability
Wording**

October 2018

In consideration of the **Insured** paying the premium to Ironshore Europe Limited (hereinafter called "the **Insurer**"), the **Insurer** agrees to indemnify the **Insured** in the terms of this **Policy** and subject to the **Limits of Liability** against all sums which the **Insured** shall become legally liable to pay as damages in respect of **Bodily Injury** sustained by any **Employee** caused during the **Period of Insurance** within the **Territorial Limits** and arising out of and in the course of employment by the Insured in the **Business**. The **Insurer** will also pay **Costs and Expenses** in respect of any occurrence to which this **Policy** applies.

DEFINITIONS

For the purposes of this **Policy**, the terms in bold type shall have the meanings designated below.

1. **Bodily Injury** means bodily injury to any person and includes
 - i. death illness and disease
 - ii. mental injury, anguish or nervous shock sustained by any person as a result of actual or threat of bodily injury, death, illness or disease.

2. **Business** means the Business described in the Schedule and includes
 - i. in connection with such Business
 - a) the sale or supply of food and/or drink to Employees or others
 - b) the provision of fire, first aid, security and ambulance services by the Insured and maintenance of the Insured's premises
 - ii. the provision by the Insured of sports, social and welfare organisations primarily for employees
 - iii. private work undertaken by any Employee for any director, partner or employee of the Insured.

3. **Costs and Expenses** means
 - i. costs and expenses recoverable by any claimant from the Insured
 - ii. costs and expenses incurred with the written consent of the Insurer
 - iii. the solicitor's fees for representation at any coroner's inquest or fatal accident inquiry or in any court of summary jurisdiction
 - iv. compensation to the Insured at the following rates per day for each day on which any of the following persons attend court as a witness at the request of the Insurer
 - a) any director or partner of the Insured GBP500
 - b) any Employee GBP250

4. **Damage** includes loss.

5. **Employee** means any person under a contract of service or apprenticeship with the Insured. Employee also includes the following while working for the Insured in connection with the Business, in which case they will be considered to be employed by the Insured:
 - i. any person under a contract of service or apprenticeship with another employer and who is hired to or borrowed by the Insured
 - ii. any labour master and any person supplied by him

- iii. any person engaged as a labour-only sub-contractor and any person supplied by him
- iv. any self-employed person performing work of a kind ordinarily performed under a contract of service or apprenticeship with the Insured
- v. any person supplied to the Insured under a contract or agreement the terms of which deem such person to be in the employment of the Insured for the duration of such contract or agreement
- vi. any work experience student or trainee.

6. **Insured** means the party or parties described as such in the Schedule.
7. **Limit of Liability** means the maximum amount as stated in the Schedule which the Insurer shall be liable to pay as damages and Costs and Expenses in respect of any one claim against the Insured or series of claims against the Insured arising out of any one occurrence and for the purpose of such Limit of Liability the Insured shall be deemed to include all parties entitled to indemnity under this Policy regardless of whether such parties are designated as the Insured
8. **Offshore** means from the time of embarkation on to a vessel or aircraft for conveyance to any Offshore Rig, Offshore Platform or Offshore Installation including associated accommodation, until disembarkation from a conveyance on to land upon return therefrom. Offshore Rig means any offshore structure (including a mobile offshore drilling unit) containing a derrick or mast, draw-works and attendant surface equipment for the purposes of performing, drilling or workover operations. Offshore Platform or Offshore Installation means any immobile offshore structure from which development wells are drilled and/or produced.
9. **Period of Insurance** means the period stated in the Schedule or any subsequent period for which the Insured shall have paid and the Insurer shall have accepted a renewal premium.
10. **Territorial Limits** means, subject to Extension 4 of this Policy, anywhere within Great Britain, Northern Ireland, the Isle of Man or the Channel Islands.
11. **United Kingdom** means Great Britain Northern Ireland the Isle of Man and the Channel Islands.
12. **Proposal** means any signed proposal form and declaration and any information in connection with this insurance supplied by or on behalf of the Insured in addition thereto or in substitution therefor whether at the time of acceptance or prior or subsequent thereto.

Any reference in this **Policy** to any statute, order or rule are references to English statutes, orders and rules and shall be deemed to include any amendment, consolidation or re-enactment from time to time.

EXTENSIONS

1. Indemnity to Principals and Others - The Insurer will also indemnify in the terms of this policy.

- i. in the event of the death of the Insured his/her legal personal representative in respect of liability incurred by the Insured
- ii. any principal with whom the Insured has entered into an agreement to the extent required by such an agreement but only in respect of liability for which the Insured would have been entitled to indemnity under this Policy if the claim had been made against the Insured
- iii. any officer or member of the Insured's catering, sports, social and welfare organisations and fire, first-aid or ambulance services
- iv. any director, partner or employee of the Insured in respect of liability for which the Insured would have been entitled to indemnity under this policy if the claim had been made against the Insured
- v. any director, partner or employee of the Insured in respect of liability for private work undertaken by Employees with the consent of the Insured

Provided that

- i. such a person(s) shall not be entitled to indemnity under any other policy
- ii. such principal/person(s) shall as though he/they were the Insured be subject to the terms of this Policy in so far as they can apply
- iii. the Limit of Liability shall not be increased hereby.

2. Legal Defence Costs - The Insurer will Indemnify the Insured or, at the request of the Insured, any Employee, director or partner of the Insured, against legal costs and expenses incurred with the prior approval of the Insurer in the defence of any criminal proceedings brought for a breach of

- i. The Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978, or
- ii. Part II of the Consumer Protection Act 1987

committed during the Period of Insurance in the course of the Business, including legal costs and expenses incurred with the prior approval of the Insurer in an appeal against conviction arising from such proceedings

Provided that this Extension shall not apply in respect of

- i. fines or penalties imposed by any court or
- ii. proceedings consequent upon any deliberate act or omission

3. Unsatisfied Court Judgements - In the event that a judgement for damages being obtained

- i. by any Employee or the personal representatives of any Employee in respect of Bodily Injury to the Employee caused during the Period of Insurance and arising out of and in the course of employment by the Insured in the Business against any company or individual other than the Insured operating from premises within Great Britain, Northern Ireland, the Channel Islands or the Isle of Man in any court situate in the aforesaid territories, and
- ii. remaining unsatisfied in whole or in part six months after the date of such judgment

then subject otherwise to the terms exclusions limitations and conditions applicable to this Policy the Insurer will at the request of the Insured pay to the Employee or the personal representatives of the Employee the amount of any such damages and any awarded costs to the extent that they remain unsatisfied

Provided that

- i. there is no appeal outstanding
- ii. if any payment is made under the terms of this Extension the Employee or the personal representatives of the Employee shall assign the judgment to the Insurer
- iii. all reasonable steps necessary have been taken to recover monies due from the party against whom the judgment was obtained.

4. Territorial Limits Notwithstanding Definition 10 – Territorial Limits - the indemnity granted by this Policy in respect of the Insured's legal liability to pay damages in respect of Bodily Injury sustained by an Employee is extended to apply anywhere in the world in respect of any Employee:

- i. whilst temporarily outside the Territorial Limits stated in Definition 10, provided that such Employee normally resides within such Territorial Limits; or
- ii. outside the Territorial Limits, provided that such Employee is engaged under a contract of employment with the Insured entered into in the United Kingdom,

provided in each case that this Extension 4 does not apply to:

- liability for which insurance or security is compulsory by law;
- claims or legal proceedings brought or originating in the United States of America or in any other territory within the jurisdiction of the United States of America.

Special provisions and exclusions

1. **Radioactive Contamination** – This Policy does not apply to liability of whatsoever nature directly or indirectly caused by contributed to by or arising from
 - i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - ii. the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

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

Other terms and conditions

1. **Interpretation** - This Policy and the Schedule shall be read together as one document and any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule shall bear such specific meaning wherever it may appear.

2. **Choice of Law** - This Policy of insurance shall be governed by and construed in accordance with the laws of England and Wales and the Commercial Court, Queen's Bench Division of the High Court of Justice, Royal Courts of Justice, The Strand, London WC2A 2LL shall have exclusive jurisdiction in respect of any dispute arising under or in connection with this Policy, including any dispute as to the formation or validity of the Policy.

3. **Alteration** - The Insured shall as soon as reasonably practicable notify the Insurer of any material change to the responses of the Insured to the questions of the Insurer in the application for this Policy and until the Insurer shall have agreed in writing to accept liability for such altered risk the Insurer shall not provide an indemnity in respect of liability arising from such altered circumstances.

4. **Precautions** - The Insured shall, at its own expense, take all reasonable precautions to prevent occurrences which may give rise to liability under this Policy (including in the selection of Employees) and all reasonable steps:
 - 4.1 to comply with all applicable statutory requirements and to maintain their ways works machinery plant and premises in good order and repair

If the Insured fails to comply with the provisions of this clause 4 "Precautions", then the Insurer will, at its sole discretion, be entitled to decline liability under this Policy in respect of occurrences arising as a result of or materially contributed to by such failure.

5. Claims Procedure

5.1 The Insured shall, in respect of an occurrence giving rise to or which may give rise to a claim under this Policy:

- a) give written notice to the Insurer as soon as reasonably possible following discovery thereof
- b) notify the Insurer in writing as soon as reasonably possible after he/they has knowledge of any impending prosecution inquest or fatal accident inquiry in connection with such occurrence
- c) forward to the Insurer as soon as reasonably possible after receipt every claim notice letter verbal notice of claim or other originating process or any other document served on the Insured in connection with such occurrence
- d) give such information and assistance as the Insurer may reasonably require within such reasonable time limits as are specified by the Insurer in connection with such occurrence

5.2 If the Insured fails to comply with the provisions of clause 5.1 "Claims Procedure" in respect of any occurrence giving rise to or which may give rise to a claim under this Policy, then the Insurer will, at its sole discretion, be entitled to decline liability under this Policy in respect of such occurrence.

5.3 The Insured or any other party who may be entitled to indemnity under this Policy shall NOT negotiate admit liability or make any promise payment or settlement without the Insurer's written consent.

5.4 the Insurer shall be entitled

a) if and so long as it desires, to take over and to have the sole conduct and control of any claim and legal proceedings or alternative disputes resolution relating thereto in the name of the Insured and shall have full discretion in the settlement of any claim up to the maximum liability of the Insurer under this Policy

b) to prosecute in the name of the Insured but for the Insurer's benefit, up to the amount of the Insurer's liability under this Policy, any claim for compensation or indemnity.

6. Discharge of Liability - The Insurer may at its sole discretion in respect of any occurrence or occurrences covered by this Policy pay to the Insured the Limit of Liability applicable to such occurrence or occurrences (but deducting therefrom any sum or sums already paid), or any lesser sum for which the claim or claims arising from such occurrence or occurrences can be settled and the Insurer shall thereafter be under no further liability in respect of such occurrence or occurrences except for the payment of Costs and Expenses incurred prior to the date of such payment and for which the Insurer may be responsible hereunder (unless the Limit of Liability is stated to be inclusive of Costs and Expenses).

7. Non-Contribution - If at the time of the happening of any occurrence covered by this Policy there is any other existing, valid and collectible insurance whether effected by the Insured or not covering the same liability the Insurer shall not be liable to indemnify the Insured in respect of such liability except so far as concerns any

excess beyond the amount which would have been payable under such other insurance had this Policy not been effected.

- 8. Cancellation** - The Insurer may cancel this Policy for a valid reason by sending not less than 30 days' notice thereof by recorded delivery letter to the Insured at the Insured's last known address setting out our reasons for cancellation. In such event the Insurer shall make a return of the proportionate part of the Premium in respect of the unexpired Period of Insurance from the effective date of cancellation.

Valid reasons may include but are not limited to:

- the Insurer reasonably suspects the Insured of dishonest or fraudulent behavior in connection with a claim under this Policy
- the Insured's failure to provide such cooperation, assistance, information or documentation to the Insurer as required by this Policy

Notwithstanding any other provision of this Policy, where any Premium payable by direct debit installments is not received, the Insurer will request payment for that unpaid Premium in writing. If payment is not received within 15 days of that request, the Policy will be cancelled with effect from the date on which the initial unpaid direct debit was due.

- 9. Contracts (Rights of Third Parties) Act** - A person or company who is not a party to this Policy has no rights under the Contracts (Rights of Third Parties) Act 1999 in respect of this Policy. This Condition does not affect any right or remedy which exists or is available notwithstanding such Act.
- 10. Misrepresentation** - This Policy will be voidable and the Insurer will have no liability under this Policy if the Insured has deliberately or recklessly made a misrepresentation in the application for this Policy.

If the Insured has carelessly made a misrepresentation in the application for this Policy, then the Insurer's remedy for such misrepresentation will be based upon what it would have done if the Insured had taken reasonable care not to make the misrepresentation. Accordingly:

- 10.1 if the Insurer would not have entered into this Policy on any terms, the Insurer may avoid the Policy and refuse all claims and shall return the Premiums paid by the Insured;
- 10.2 if the Insurer would have entered into this Policy but on different terms (excluding terms relating to the Premium), then:
- a) in respect of any outstanding claims, this Policy shall be treated by the Insurer and the Insured as if it had been entered into on those different terms; and
 - b) in respect of the future treatment of the Policy, the Insurer may either (i) give notice to the Insured that the Policy will be treated as if it had been entered into on those different terms and the Policy shall be so treated or (ii) terminate the Policy on reasonable notice to the Insured, in which case it shall make a return of the proportionate part of the Premium in respect of the unexpired Period of Insurance from the effective date of cancellation;
- 10.3 if the Insurer would have entered into this Policy (whether the terms relating

to matters other than the premium would have been the same or different) but would have charged a higher premium, then, without prejudice to any rights the Insurer may have under 10.2:

- a) in respect of any outstanding claims, the Insurer may Reduce Proportionately (as defined below) the amount to be paid on a claim;
- b) in respect of the future treatment of the Policy, the Insurer may either (i) give notice to the Insured that the Insurer may Reduce Proportionately the amount to be paid by the Insurer in respect of all future claims and the Insurer's obligations under this Policy shall be so limited or (ii) the Insurer may terminate the Policy on reasonable notice to the Insured, in which case it shall make a return of the proportionate part of the Premium in respect of the unexpired Period of Insurance from the effective date of cancellation; and
- c) if the Insurer gives notice to the Insured under clause 10.2(b)(i) or 10.3(b)(i), then the Insured may terminate the Policy by giving reasonable notice to the Insurer, in which case the Insurer shall make a return of the proportionate part of the Premium in respect of the unexpired Period of Insurance from the effective date of cancellation.
- d) Termination of the Policy under any of clauses 10.2(b)(ii), 10.3(b)(ii) or c) will not affect the treatment of any claim arising under the Policy in the period before termination.
- e) The rights granted to the Insurer under clauses 10.2(a) and 10.3(a) and 10.2(b)(i) and 10.3(b)(i) are, in each case, cumulative and not mutually exclusive.

For the purposes of clause 10, "Reduce Proportionately" means that the Insurer need pay on the claim only X% of what it would otherwise have been under an obligation to pay under the terms of this Policy where:

$$X = \frac{\text{Premium actually charged} \times 100}{\text{The higher premium referred to under clause 10.3}}$$

11. Invalidity/Severability - In the event that any condition (or part thereof) or exclusion (or part thereof) or other term of this Policy is found to be invalid or unenforceable, the remainder shall continue to be in full force and effect.

12. Consumer Insurance (Disclosure and Representations) Act 2012 - The provisions of the Consumer Insurance (Disclosure and Representations) Act 2012 shall apply to this Policy as if this Policy were a "consumer insurance contract" and each of the Insured's were a "consumer", in each case for the purposes of that Act.

13. Retention - The Insurer shall only be liable in excess of the retention set out in the Schedule at Item 9 (the "Retention"), which Retention shall apply to each and every claim and shall be inclusive of Costs and Expenses and Legal Defence Costs.

NOTICE TO THE INSURED

Data Protection Act 1998

We may store your information on a computer and use it for administration, risk assessment, research and statistical purposes, marketing purposes and for crime prevention (see further details below). We will only disclose your personal details to third parties, if it is necessary for the performance of your contract with us.

In order to assess the terms of the insurance contract or administer claims that arise, we may need to collect data that the Data Protection Act defines as sensitive, such as medical history or criminal convictions. By proceeding with this contract you will signify your consent to such information being processed by us or our agents.

We will keep your information secure at all times. In certain circumstances, for example for systems administration purposes, we may have to transfer your information to another country, which may be a country outside the European Economic Area (EEA). By proceeding with your insurance application, we will assume you are agreeable for us to transfer your information to a country outside the EEA.

Should you wish to receive a copy of the information we hold on you, please contact the Compliance Officer, Ironshore Europe Limited, 2 Shelbourne Buildings, Shelbourne Road, Ballsbridge, Dublin 4, Ireland.

Claims and General Enquiries

Claims should be notified to the Insurer in writing in accordance with the terms of this Policy at the following address:

Claims Manager
Level 3
8 Fenchurch Place
London
EC3M 4AJ, UK

Telephone: +44 207 3374414
Email: iedac.claims@ironshore.com

The Insurer is committed to providing a first class service at all times. If at any time you have any questions or concerns regarding this Policy or the handling of a Claim, you should in the first instance contact the Insurer at the address set out above or on the following telephone number: +44 207 3374414.

The ELTO Database

Where this insurance policy provides employers' liability coverage certain information relating to the policy including, without limitation, the policy number(s), employers' names and addresses (including subsidiaries and any relevant changes of name), coverage dates and employer's reference numbers provided by Her Majesty's Revenue and Customs, will be provided to the Employers' Liability Tracing Office, (the "**ELTO**") and added to an electronic database, (the "**Database**").

This information will be made available in a specified and readily accessible form as required by the Employers' Liability Insurance: Disclosure By Insurers Instrument 2010. This information will be subject to regular periodic updating and certification and will be audited on an annual basis.

The Database will assist individual claimants (the "**Claimants**") who have suffered an employment related injury or disease arising out of and in the course of their employment in the UK for employers carrying on, or who carried on, business in the UK: (a) to identify which insurer (or insurers) was (or were) providing employers' liability cover during the relevant periods of employment; and (b) to identify the relevant employers' liability insurance policies. The Database will be managed by the ELTO. The Database and the data stored on it may be accessed and used by the Claimants, their appointed representatives, insurers with potential liability for UK commercial lines employers' liability insurance cover and any other persons or entities permitted by law.

By entering into this insurance policy the insured will be deemed to specifically consent to the use of their insurance policy data in this way and for these purposes.

Complaint Procedure

In the event that you remain dissatisfied and wish to make a complaint, you can do so at any time by referring the matter to:

Compliance Officer
Ironshore Europe DAC
2 Shelbourne Buildings
Shelbourne Road
Ballsbridge
Dublin 4
Ireland

Telephone: +353 1 232 1986

If you are not satisfied with our final response to your complaint, you may have the right to refer the matter to the Financial Ombudsman Service
The address is:

Financial Ombudsman Service
Exchange Tower
London E14 9SR
United Kingdom

Telephone: - +44 800 023 4 567 or +44 300 123 9 123
www.financial-ombudsman.org.uk

The Financial Ombudsman's Service decision is binding upon the Insurer but you are free to reject it without affecting your legal rights.

Financial Services Compensation Scheme

The Insurer is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if the Insurer cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Further information about compensation scheme arrangements is available from the FSCS.

The FSCS's contact details are:

Financial Services Compensation Scheme
10th Floor Beaufort House
15 St Botolph Street
London, EC3A 7QU

Telephone: +44 800 678 1100 or +44 20 7741 4100
www.fscs.org.uk