

PROPERTY EXPENSES SCHEME

MEMBERSHIP RULES

October 2014

(Revised following the coming into force of The National Health Service
(Property Expenses Scheme) (Amendment) Regulations 2014)

CONTENTS

Rules		Page
1	General Description	1
2	Definitions and interpretation.....	1
	2.1 Definitions.....	1
	2.2 Interpretation	9
3	Coverage of the Scheme.....	9
4	Membership of the Scheme	9
	4.1 Eligibility for Membership.....	9
	4.2 Application Forms.....	10
	4.3 Date of Commencement of Membership.....	10
	4.4 Period of Membership.....	10
5	Provision of Information	10
	5.1 General.....	10
	5.2 Information Contained in Application Forms.....	11
	5.3 Confidentiality of Statistical Data.....	11
	5.4 Claim Reports.....	11
6	Benefits Provided by the Scheme	11
	6.1 Discretion of the Administrator	11
	6.2 Benefits	11
	6.3 Limit to Benefits	12
	6.4 Claims Paid Basis.....	12
	6.5 Run Off Benefit for Former Members	12
	6.6 Contribution with Insurance Policies	12
	6.7 Rights of the Administrator.....	12
	6.8 Subrogation	13
	6.9 Statutory Requirements, Maintenance and Reasonable Precautions.....	13
7	Scheme Limit of Cover and Excess Levels	13
	7.1 Scheme Limit of Cover.....	14
	7.2 Excess Levels Year on Year	14
8	Contributions.....	14
	8.1 Contribution Assessment	15
	8.2 Anniversary Assessments.....	15
	8.3 Payment Terms	15
	8.4 Excess Funds	15
	8.5 Non-Payment of Contributions	15
9	CLAIMS Management.....	15
	9.1 Claim Reporting Procedures.....	15
	9.2 PES Expenses.....	16
	9.3 Payment in respect of PES Expenses.....	16

9.4	Claims Settled Below the Excess.....	17
9.5	Legal Advice	17
9.6	Claims Management Appeals Procedure	17
9.7	Mitigation	17
10	Set-Off and Insolvency.....	18
10.1	Set-Off	18
10.2	Insolvency of a Member.....	18
11	Expulsion from Membership	18
11.1	Right of Expulsion.....	18
11.2	Right of Appeal against Expulsion	18
11.3	Outstanding Claims	19
12	Termination of Membership.....	19
13	Guidance on Specific Issues	19
14	General.....	19
14.1	Notices	19
14.2	Non-Disclosure and Misrepresentation	19
14.3	Liaison and Co-operation.....	20
15	Governing Law	20
	Schedule 1 General Exceptions to Qualifying Expenses	21
	Schedule 2 Property Damage Expense	22
	Schedule 3 Business Interruption Expense	32
	Schedule 4 Money Expense	41
	Schedule 5 Goods in Transit Expense	44
	Schedule 6 Engineering Expense	47
	Schedule 7 Fidelity Guarantee Expense.....	51
	Schedule 8 Contract Works Expense	55

SCHEME CONTACTS

Please email any questions in relation to Scheme membership, contributions and excess payments to debtors@nhsla.com

Please email any questions in relation to Scheme coverage to rpst@nhsla.com

Any questions relating to the handling of Claims under the Scheme should be referred to:

The NHS Litigation Authority
2nd Floor
151 Buckingham Palace Road
London SW1W 9SZ

Telephone: 020 7811 2700

Visit our website at www.nhsla.com for more information.

MEMBERSHIP RULES

1 GENERAL DESCRIPTION

- 1.1 The Property Expenses Scheme was established by the Regulations (as defined below) made pursuant to Section 21 of the National Health Service and Community Care Act 1990 and revised by the Amendment Regulations.
- 1.2 The Scheme is administered on behalf of the Secretary of State by the Administrator.
- 1.3 Members shall be expected to have full knowledge of the Rules and by applying to become Members they are deemed to agree to be bound by them. Subject to the approval of the Secretary of State, these Rules may be amended from time to time by the Administrator.
- 1.4 These Rules and the Schedules hereto constitute the exercise by the Secretary of State of the power of determination afforded him at Regulation (as defined below) 9(2)(e).

2 DEFINITIONS AND INTERPRETATION

2.1 Definitions

In these Rules, unless the context otherwise requires, the following expressions shall have the following meanings:

Administrator	means NHSLA or whosoever is appointed from time to time by the Secretary of State to administer the Scheme;
Adverse Incident	means any event resulting in a Claim;
Amendment Regulations	means the National Health Service (Property Expenses Scheme) Amendment Regulations 2000 (S.I. 2000 No.2342), the National Health Service Liabilities Schemes Amendment Regulations 2005 (S.I. 2005 No.604), the National Health Service (Property Expenses Scheme) (Amendment) Regulations 2014 (S.I. 2014 No.932) and any other regulations made from time to time amending the Regulations;
Applicant	shall have the meaning ascribed to it

	in Regulation 6(7);
Application	shall have the meaning ascribed to it in Regulation 6(7);
Board	means the board of the Administrator from time to time;
Buildings	means:- <ul style="list-style-type: none"> (a) the shell including internal structures, wall finishes, floor finishes, ceiling finishes, (b) engineering works including sanitary appliances, services, equipment, disposal, water and heating installations, space heating, air treatment, ventilating, gas, protective and electrical installations, communications, installations, lift and conveyor installations, and fittings and any other property of a similar type including alterations, improvements, extensions and decorations the property of the Member or for which they are responsible at the Premises, and/or (c) external works i.e. roads, pavements, kerbs, footpaths, covered footways, pedestrian subways, car parks including multi-storey and underground coin-operated barriers, ticket dispensers, kiosks, street lighting, floodlighting, signs and signals, walls, fences, railings, drains, drainage chambers, sewers, pipes, service tunnels, wells, helipads, electrical and gas distribution systems above

and below ground,
communications systems,
telephone cables and data links,

and any other property of a similar
type including alterations
improvements extensions and
decorations to the property, which
belongs to the Member, or for which
the Member is responsible at the
Premises;

Business Interruption Expense

means a Claim arising from an
expense of a type detailed at
Schedule 3 hereto;

Claim

means any demand, however made,
by a Member for monetary
compensation in respect of a
Qualifying Expense;

Claims Paid

means the basis on which benefits
may be made available to Members
as stated in Rule 6.4;

Contents

means stock, medical equipment and
all other items of general plant,
machinery and equipment belonging
to the Member or held by them in trust
or on commission for which they are
responsible whilst in or on the
Premises;

Contract Works Expense

means a Claim arising from an
expense of a type detailed at
Schedule 8 hereto;

Contribution

means the amount which a Member
must pay into the Scheme to be
eligible for benefits under the Scheme;

Date of Settlement

means the date on which Settlement
of all aspects of the Claim occurs;

Defined Contingency	shall mean damage caused by fire, spontaneous fermentation or heating, lightning, explosion, aircraft and other aerial devices or articles dropped therefrom, riot, civil commotion, strikers, locked out workers, persons taking part in labour disturbances, malicious persons, earthquake, storm, flood, escape of water from any tank, apparatus or pipe, impact by any road vehicle or animal, subsidence, ground heave or landslip and theft;
Eligible Body	means a body of the kind described in Regulation 3 ;
Engineering Expense	means a Claim arising from an expense of a type detailed at Schedule 6 hereto;
Excess	means the amount which must be paid by a Member itself in respect of each and every Claim;
Fidelity Guarantee Expense	means a Claim arising from an expense of a type detailed at Schedule 7 hereto;
Fine Arts	means antiques and objects of art of every nature and description;
General Exceptions	means an exception detailed at Schedule 1 hereto;
Goods in Transit Expense	means a Claim arising from an expense of a type detailed at Schedule 5 hereto;
Income Generation	means any activity carried out by an Eligible Body as a result of any directions made by the Secretary of State under the powers afforded him by Section 7 of the Health and

	Medicines Act 1988;
Member	means an Eligible Body which is a member of the Scheme;
Members Payment	means the sums payable by a Member in respect of any PES Expense as referred to in Rules 7.2 and 9.3;
Membership	means the state of being a Member;
Membership Date	means the date on which Membership commences in accordance with Regulation 6;
Membership Year	means, in relation to an Eligible Body, any period of 12 months beginning on 1 April during any part of which that Eligible Body is a Member of the Scheme;
Money	means current coin, bank and currency notes, postal and money orders, bankers drafts, cheques, giro drafts and payment orders, travellers cheques, crossed warrants, bills of exchange, securities for money, current postage revenue and national insurance stamps, stamped national insurance cards, national savings certificates, war bonds, premium savings bonds, franking machine impressions, credit/charge card sales, vouchers, luncheon vouchers, trading stamps, charge cards, credit cards, VAT input documents, travel tickets, travel warrants, authenticated travel certificates, gift tokens, telephone paycards, TV licence stamps and consumer redemption vouchers;
Money Expense	means a Claim arising from an

expense of a type detailed at
Schedule 4 hereto;

NHSLA

means the Special Health Authority established pursuant to the National Health Service Litigation Authority (Establishment and Constitution) Order 1995 by the Secretary of State under the title National Health Service Litigation Authority including, where appropriate, the Board (and any committee or sub-committee of the Board) and the officers of the National Health Service Litigation Authority;

Persons

includes companies, statutory bodies, partnerships, firms, individuals, government departments and other administrative organisations and any other body of persons, whether incorporated or unincorporated;

PES Expense

means any Claim which, in the Administrator's opinion, is likely to be eligible for funding under the Scheme and/or has Significant Implications and/or may set a legal precedent or is a test case of a Claim;

Premises

means all premises owned, occupied or used by the Member in the United Kingdom;

Property

means Buildings and Contents, as defined herein;

Property Damage Expense

means a Claim arising from an expense of a type detailed at Schedule 2 hereto;

Qualifying Expense

means, in respect of a Member, an expense which falls within the definition thereof at Regulation 4(2),

and which is either a Property Damage Expense, a Business Interruption Expense, a Money Expense, a Goods in Transit Expense, an Engineering Expense, a Fidelity Guarantee Expense or a Contract Works Expense, save where in each case a General Exception applies;

Regulations

means the National Health Service (Property Expenses Scheme) Regulations 1999 (S.I. 1999 No.4);

Relevant Function

shall have the meaning ascribed to it in Regulation 1(2) as defined in the Amendment Regulations;

Relevant Person

means in respect of a Member, a person employed or engaged by that Member, and shall be taken to include:-

- (a) a person under a contract of service or apprenticeship with the Member,
- (b) a labour master or person supplied by a labour master,
- (c) a person employed by labour only sub-contractors,
- (d) a person hired to or borrowed by the Member including volunteer drivers in connection with community bus schemes,
- (e) a person being a prospective driver whilst driving,
- (f) a person undertaking study or work experience,
- (g) a person supplied under any youth training or similar

government scheme while working for the Member in connection with the Relevant Function,

- (h) a director or trustee,
- (i) an authorised voluntary worker, and/or
- (j) committee members or review panel members;

Risk Management

means the management of risk with a view to minimising both the occurrence of Claims and the amount of financial expense arising therefrom;

Rules

means the Rules herein set out as varied from time to time in accordance with Rule 1;

Run Off Benefit

means, subject to the Administrator's absolute discretion, an entitlement to a benefit which may be purchased by former Members in respect of Claims made during a Membership Year but which are not settled within 30 days of the termination of their Membership;

Scheme

means the Property Expenses Scheme established by Regulation 2;

Secretary of State

means the Secretary of State for Health;

Significant Implications

means, in relation to an expense, any Claim which is novel, contentious or repercussive;

Territorial Limits

means the United Kingdom, the Republic of Ireland, the Channel Islands and the Isle of Man;

Year means the period from 1 April in any calendar year through until 31 March the following calendar year.

2.2 Interpretation

2.2.1 All terms defined in the Regulations which are used in these Rules shall bear the same meaning as in the Regulations unless the context requires otherwise and in the event of any conflict or inconsistency between the Regulations and the Rules, the Regulations shall prevail.

2.2.2 In these Rules, a reference to a numbered rule is a reference to the rule which bears that number in these Rules and a reference to a numbered regulation is a reference to a regulation which bears that number in the Regulations.

2.2.3 Clause headings and the index are for ease of reference only and are not to affect the interpretation of these Rules.

2.2.4 Words denoting the singular include the plural and vice-versa.

3 COVERAGE OF THE SCHEME

3.1 Subject to the terms of the Regulations (as amended or varied from time to time), the expenses to which the Scheme applies are any expenses which are incurred by a Member arising from any loss or damage to its property and which is not an expense arising from a liability which is a qualifying liability for the purposes of the National Health Service (Clinical Negligence Scheme) Regulations 1996 (as amended) the National Health Service (Existing Liabilities Scheme) Regulations 1996 (as amended) the National Health Service (Liabilities to Third Parties Scheme) Regulations 1999 (as amended).

3.2 Any loss or damage to Property which occurred on or after 1 April 1999 and before 1 May 2014 which was not loss or damage to property of the Member or for which the Member was responsible in the course of a Relevant Function at that time but which would have done so had the change to the definition effected by the Amendment Regulations been made prior to the loss or damage occurring, is loss or damage to Property of the Member or for which the Member was responsible in the course of a Relevant Function as specified in Regulation 4(2)(a).

4 MEMBERSHIP OF THE SCHEME

4.1 Eligibility for Membership

A body is eligible to participate in the Scheme if it is a body of the kind described in Regulation 3. The Administrator shall, having regard to the information provided by the Applicant, and to such other factors regarded by

the Administrator as material, determine whether or not an Applicant should be admitted as a Member.

4.2 **Application Forms**

The Administrator shall have the power to prescribe a form or forms of Application to be delivered to the Administrator by Applicants and to require certain information on the Applicant's activity profile in accordance with Regulation 6(4). All applications shall be made in accordance with Regulation 6.

4.3 **Date of Commencement of Membership**

Membership shall commence in accordance with the provisions of Regulation 6.

4.4 **Period of Membership**

4.4.1 A Member may only terminate its participation in the Scheme in accordance with the provisions of Regulations 7(1) and 7(2).

5 **PROVISION OF INFORMATION**

5.1 **General**

5.1.1 Members will be required to provide (at their own expense) such information to the Administrator on their activities as may be determined from time to time by the Administrator which information shall include, without limitation, any information required under these Rules and under Regulations 6(4) and 10. Members acknowledge and agree that any and all information and data (howsoever held) provided by them to the Administrator may be disclosed without restriction or conditions by the Administrator or either of them to the Administrator, the Secretary of State and their respective officers, agents, employees and sub-contractors. For the avoidance of doubt, any such information provided by Members shall be and remain the property of the Administrator.

Cover Voidable

5.1.2 Cover for a Member under the Scheme shall be voidable (in whole or in part) at the Administrator's discretion in the event of misrepresentation, mis-description or non-disclosure in any material fact.

5.1.3 A material fact is any fact which might influence the Administrator in deciding whether or not to grant cover under the Scheme, what the terms should be or what Contribution to charge.

5.1.4 If any Claim made by the Member or anyone acting on behalf of the Member to obtain any Scheme benefit shall be fraudulent or intentionally exaggerated

or if any false declaration or statement shall be made in support thereof no compensation shall be payable hereunder.

5.2 Information Contained in Application Forms

Members are required to notify the Administrator immediately if there is any material change in the details and information contained in the Application form, and the Administrator reserves the right, in its absolute discretion, to amend the amount of the Contribution from Members and/or withhold any benefits which the Administrator might otherwise have provided.

5.3 Confidentiality of Statistical Data

The Administrator shall ask Members to provide certain statistical information that will enable it to develop the Contribution setting process. Whilst this information will be disseminated on a regular, anonymous basis to all Members to assist in their Risk Management processes, statistical information on individual Members will only be available to that Member and the Administrator. The Administrator shall use all reasonable endeavours not to disclose such information to third parties without the prior written consent of that Member save where such information is required to be disclosed by law or any regulatory requirement or by any regulatory authority.

5.4 Claim Reports

Members will be required to meet the reporting frequency and information requirements for the Scheme as defined and published from time to time by the Administrator.¹

6 BENEFITS PROVIDED BY THE SCHEME

6.1 Discretion of the Administrator

All benefits available to Members under the Scheme shall be given in the sole and absolute discretion of the Administrator on behalf of the Secretary of State whose decision in these matters shall be final and binding. These Rules shall not under any circumstances be construed to imply that any contract of insurance exists between the Member and the Administrator or that the benefits available under the Scheme are not discretionary. Subject to the total funds available to the Scheme and subject to the discretion of the Administrator, there shall be no limit to the financial benefits available under the Scheme in any Year.

6.2 Benefits

¹ In general, it is intended that no significant extra burden will be placed on Members and that the information collected should be no more than that which a Member conforming to good practice would have readily available.

The Administrator may, subject to Rule 6.1, provide funds to make payments permitted under Regulation 9 in respect of any PES Expense.

6.3 **Limit to Benefits**

The Administrator may refuse to provide financial benefits to any Member in accordance with the provisions of Regulation 9(2). In the event that the Administrator refuses to provide benefits in these circumstances, the Member shall have the right of appeal to the Secretary of State within 30 days of the decision of the Administrator for a review of the Administrator's decision, but in all circumstances the decision of the Secretary of State shall be final and binding.

6.4 **Claims Paid Basis**

Subject to Rule 6.1, benefits will be provided to Members under the Scheme on a Claims Paid basis. This means that in order to receive benefits in respect of a Claim, the Member must have maintained continuous Membership between the following dates (inclusive):

- (a) the date of occurrence of the Adverse Incident which subsequently gave rise to the Claim; and
- (b) the Date of Settlement,

unless the Member is eligible for the Run Off Benefit in which case the conditions specified in Rule 6.5 shall apply.

6.5 **Run Off Benefit for Former Members**

If a Member ceases for any reason to be a Member, no benefits shall be available to that former Member for Claims reported during the period of Membership which are not settled within 30 days of the date of termination of the Membership unless a Run Off Benefit is purchased by the former Member. This benefit may be made available to a former Member under such terms and conditions as the Administrator may, in its absolute discretion, determine at the date the Member ceases to be a Member.

6.6 **Contribution with Insurance Policies**

If at the time of occurrence of any loss, destruction or damage or other expenditure of the Member covered by this Scheme there is in existence any insurance of any nature providing indemnity to the Member for such loss, destruction or damage, or other expenditure, whether effected by the Member or not, then the cover of the Scheme shall be limited to a contribution not exceeding that of the insurer or insurers.

6.7 **Rights of the Administrator**

On the occurrence of any loss, destruction or damage in respect of which a Claim is or may be made under this Scheme the Administrator and every person authorised by the Administrator may without thereby incurring any liability and without diminishing the right of the Administrator to rely upon any conditions of this Scheme, enter, take or keep possession of the Building or Premises where the loss, destruction or damage has happened and may take possession of or require to be delivered to them any of the Property and may keep possession of and deal with such Property for all reasonable purposes and in any reasonable manner. This condition shall be evidence of the leave and licence of the Member to the Administrator so to do. If the Member or anyone acting on behalf of the Member does not comply with the requirements of the Administrator or hinders or obstructs the Administrator in doing any of the above-mentioned acts then all benefits under this Scheme shall be forfeited. The Member shall not in any case be entitled to abandon any Property to the Administrator whether or not possession has been taken by the Administrator.

6.8 Subrogation

Any Member under this Scheme shall at the request and expense of the Administrator do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Administrator for the purpose of enforcing any rights and remedies of or of obtaining relief or indemnity from any other parties to which the Administrator shall be or would become entitled or subrogated upon its paying for or making good any loss, destruction or damage, accident or injury under this Scheme whether such acts and things shall be or become necessary or required before or after indemnification by the Administrator. In no event should any Member waive such rights of subrogation against other parties, unless by specific agreement with the Administrator.

6.9 Statutory Requirements, Maintenance and Reasonable Precautions

The Member shall:

- 6.9.1 maintain the Premises, medical and all other machinery, plant and equipment in a satisfactory state of repair;
- 6.9.2 take all reasonable precautions for the safety of the Property;
- 6.9.3 take all reasonable precautions to prevent loss, destruction, damage, accident or injury; and
- 6.9.4 retain documentation in respect of all purchases and sales.

7 SCHEME LIMIT OF COVER AND EXCESS LEVELS

7.1 **Scheme Limit of Cover**

7.1.1 The Scheme will not be liable for any amount above the Scheme limit of cover of £1,000,000, which will be subject to change from time to time, in respect of each and every Claim and subject to the excess amounts stated at clause 7.2.1.

7.1.2 Schedule 2 (Property Damage Expense), Schedule 3 (Business Interruption Expense) and Schedule 8 (Contract Works Expense) are each subject to the application of separate Limits of Cover in the event of a single Claim involving expenses under more than one Schedule. All other Schedules are subject to the single Schedule 2 Limit of Cover or such other limits as may be specifically detailed in the Schedules.

7.2 **Excess Levels Year on Year**

7.2.1 The Excess applicable to each and every Claim is £20,000.

7.2.2 The Scheme will not be liable for the amount of the Excess (or any lesser amount for which a Claim may be settled) in respect of each and every event resulting in a Claim.

7.2.3 In respect of Schedule 3 (Business Interruption Expense) only, the Scheme will not be liable in respect of each and every Claim for Loss of Gross Profit or Increase and Additional Increase in Cost of Working incurred for the sole purpose of avoiding or diminishing the interruption of or the interference with the Member's business during a continuous period of 24 hours following the occurrence of the Damage (as defined in the relevant Schedule) which is the subject of the Claim.

7.2.4 Single events that result in Claims being made under two or more Schedules of the Scheme will be subject to the deduction of the Excess for each of these Schedules (or any lesser amount for which a Claim may be settled) from the relevant proportion of the total Claim.

7.2.5 This will also be the case in single events resulting in Damage to both Buildings and Contents. The Relevant Excesses will be deducted from the Buildings and Contents proportions of the total Claim under Schedule 2.

7.2.6 The Excess applicable to a Claim will be the higher of the Excess applicable in the Membership Year the Claim is made and the Excess applicable in the Membership Year in which the Claim is settled.

7.2.7 The Administrator may change the level of the Excess, such changes to be notified to Members not later than 31 December in any Year and to become effective from 1 April the following Year.

8 **CONTRIBUTIONS**

8.1 **Contribution Assessment**

The Administrator shall determine the Contribution to be paid by Members having regard to the matters referred to in Regulation 8(2). The Administrator may, in the light of differing and/or special needs of an individual Member or group of Members, create different categories of Member (as defined by the Administrator). The Administrator may then, in its absolute discretion, determine different rates or different periods of Contribution such determination to be final and binding on the Members.

8.2 **Anniversary Assessments**

The amount of Members' Contribution will be notified to them in accordance with Regulation 8(3).

8.3 **Payment Terms**

8.3.1 Members' Contributions under the Scheme should be paid into the nominated bank account of the Administrator, as notified to the Members from time to time, in accordance with Regulation 8(6). Subject to the provisions of Regulation 8(6), Members shall be offered Contribution payment terms on an annual basis in advance or such other basis as the Administrator may determine from time to time.

8.4 **Excess Funds**

If, in the view of the Administrator, excess funds have been collected by the Scheme in the previous Year, such funds (or a proportion of those funds) shall be used to offset the Contribution to be paid by Members in a following Year.² No monies shall be returned to Members or former Members.

8.5 **Non-Payment of Contributions**

The provisions of Regulation 7(3) will apply where any payment which a Member is liable to pay to the Scheme is in arrears.

9 **CLAIMS MANAGEMENT**

9.1 **Claim Reporting Procedures**

9.1.1 Forthwith upon notification to a Member of any Claim which appears likely to be a PES Expense the Member shall notify the Administrator and supply all appropriate documentation to enable the Administrator to determine, in its absolute discretion, whether or not the Claim is likely to be a PES Expense. If the Claim is, in the Administrator's opinion, unlikely to be a PES Expense then the Member shall be responsible for handling the Claim subject to any protocol

² i.e. Excess funds from Year 1 will be credited no earlier than Year 3. This is to allow Year 1 accounts to be audited. Members will be notified of the amount capable of being offset with the Contribution assessment for Year 3.

or guideline issued from time to time by the Administrator. If the Claim is, in the Administrator's opinion, likely to be a PES Expense then the Administrator shall, unless it determines otherwise in its absolute discretion in respect of any Claim or Claims, conduct the Claim as referred to in Rule 9.2.

9.1.2 From time to time, the Administrator shall publish protocols and guidelines for the manner of reporting Claims, each of which shall be deemed to be incorporated in and form part of these Rules. The nature of the information required by the Administrator may vary according to the expected value of the Claim and the Excess applicable.

9.2 **PES Expenses**

Members shall co-operate with the Administrator and shall provide to the Administrator all such assistance and information which it may require in respect of the conduct of any Claim. Without prejudice to the foregoing, the Administrator shall have the right, on behalf of the Member, to exercise any right which arises whether by virtue of a contract or otherwise in connection with a Qualifying Expense, including in particular, the right to select, instruct and de-instruct legal and other advisers and agree the terms of their retainer, and any right to raise claims or defences, and/or to bring proceedings. Such rights apply in respect of all PES Expenses notified at any time and from time to time to the Administrator. In addition, and at no charge, the Member shall give the Administrator full access to all documents, records, computer databases or other property, to Premises and to employees.

9.3 **Payment in respect of PES Expenses**

9.3.1 The Administrator shall keep records regarding the costs of individual PES Expenses which can be taken into account when determining the contribution payable by the Member towards any costs or payments in respect of the PES Expense and the amount of the payment in respect of such PES Expense.

9.3.2 Payment in respect of a PES Expense shall, unless the Administrator otherwise directs, be made by the Member forthwith to whomsoever the Administrator shall direct on notification by the Administrator to make the payment and the Member shall receive reimbursement in respect of such payment net of the Member's contribution towards the amount of such payment as determined by the Administrator in its absolute discretion but including, without limitation, the amount referred to as payable by the Member under Rules 7.1 and 7.2.

9.3.3 In determining the Member's Payment, the Administrator shall take into account whether the Member has complied with the Regulations and the Rules and in particular, but without limitation, Rule 9.2. Where more than one Member has incurred PES Expenses under a related Claim the Administrator

shall apportion the amount of such contribution in whatever manner it may decide. The Administrator shall also take account of sums paid as specified under Rule 9.5.

9.3.4 If the Administrator so decides in its absolute discretion in respect of any Claim or Claims, any payment in respect of a Qualifying Expense shall be made direct to third parties as aforesaid by the Administrator, the Member shall make the Member's Payment to the Administrator or as it shall direct forthwith upon notification by the Administrator.

9.4 **Claims Settled Below the Excess**

Claims incurred which are settled below the amount of the Excess are a matter for the Member, subject only to the reporting requirements published by the Administrator from time to time.

9.5 **Legal Advice**

9.5.1 As referred to in Rule 9.2, the Administrator shall appoint on its own behalf, and on behalf of any Member, legal and other advisors selected by the Administrator either generally to act in respect of PES Expenses or in relation to particular PES Expenses or categories of PES Expenses.

9.5.2 In the event that the Administrator shall appoint any legal advisor or other advisor as referred to above then the Administrator shall be entitled to pay such legal advisor or other advisor on whatever terms it considers appropriate and to allocate and apportion the amount of any sums so paid between such Members as it considers appropriate. Such sums so allocated will be taken into account in determining the Member's Payment under Rule 9.3.

9.6 **Claims Management Appeals Procedure**

In the event that a Member disagrees with the view of an employee, agent or sub-contractor of the Administrator in the management of a Claim, the Member shall have the right of appeal as follows: (a) in the first instance to the Director of Claims or Technical Claims Director of the Administrator; (b) in the event of continued disagreement to the Chief Executive of the Administrator; (c) in the event of continued disagreement the dispute shall be referred to mediation.

9.7 **Mitigation**

Members agree to do all things reasonably in their power to eliminate or mitigate any cost, expense or liability in respect of any Claim. In particular, any monies recovered from any other source in respect of a Claim shall be set off against any benefits available under the Scheme, unless agreed otherwise by the Administrator beforehand.

10 SET-OFF AND INSOLVENCY

10.1 Set-Off

The Administrator may set off any amount due from a Member or former Member against any amount due to or agreed to be paid to such Member or former Member.

10.2 Insolvency of a Member

In the event of the winding up of a Member or the taking of other analogous insolvency proceedings in relation to a Member:

- (a) no further benefits will be available to that Member; and
- (b) its Membership shall terminate forthwith.

For the avoidance of doubt should a Member be placed into administration under the Trust Special Administration Regime (TSAR) as administered by either the Department of Health or Monitor then this shall not be considered to be an event of winding up or analogous to insolvency proceedings in respect of that Member's continued Membership of the Scheme for the purposes of this Rule 11.

However the statutory dissolution of a Member following the completion of a TSAR process or an acquisition or merger transaction shall be considered to be analogous to winding up proceedings.

11 EXPULSION FROM MEMBERSHIP

11.1 Right of Expulsion

Without prejudice to Regulations 7(3) or 7(4), upon giving not less than 28 days' notice to the Member in writing, the Administrator shall have the right to expel any Member from Membership for a gross breach of the Rules or Regulations or whose conduct or continued Membership is, in the opinion of the Administrator, detrimental to the efficient administration of the Scheme or to the interests of the other Members. Such expulsion shall not affect any outstanding obligations of the Member to the Scheme.

The date of termination of Membership shall be the date on which the notice expires but during the period of such notice their Membership shall continue in accordance with these Rules.

11.2 Right of Appeal against Expulsion

A Member under notice of expulsion shall have the right to appeal to the Board within 14 days of such notice and thereafter to the Secretary of State within 14

days of the decision of the Board, against the decision to expel the Member. In all circumstances, the decision of the Secretary of State shall be final and binding.

11.3 Outstanding Claims

In the event of the expulsion of a Member under Rule 11.1, for the avoidance of any doubt, no financial liability shall rest with the Administrator for outstanding Claims which have not been paid or potential liabilities incurred by the Member, whether notified to the Administrator or not, or any unexpired Contributions to the Scheme unless the Administrator determines otherwise.

12 TERMINATION OF MEMBERSHIP

If a Member ceases to be an Eligible Body, the Administrator may terminate that Member's participation in the Scheme with immediate effect.

13 GUIDANCE ON SPECIFIC ISSUES

The Administrator shall, from time to time, publish guidance on specific issues concerning the qualification for and the extent of benefits available under the Scheme.

14 GENERAL

14.1 Notices

14.1.1 A notice to be served on the Administrator may be served by sending the notice by recorded delivery addressed to the Administrator at 151 Buckingham Palace Road, London, SW1W 9SZ, or by personal delivery to that address.

14.1.2 A notice to be served on a Member may be served by sending the notice by recorded delivery addressed to the Member at the address last notified to the Administrator or by personal delivery to that address.

14.1.3 Any such notice shall be deemed to have been served, if sent by post, on the day after it was posted or if delivered personally, on the date of delivery.

14.2 Non-Disclosure and Misrepresentation

14.2.1 The Administrator shall be entitled to withdraw all benefits in the event of non-disclosure of information or misrepresentation by a Member at any time unless the Member is able to establish to the satisfaction of the Administrator that such non-disclosure or misrepresentation was free from any fraudulent conduct or intent to deceive.

14.2.2 In such circumstances, the Contribution payable by the Member and the Excess applicable to that Member may be adjusted in the absolute discretion

of the Administrator to those which would have applied had such circumstances been disclosed.

14.3 **Liaison and Co-operation**

Members shall fully co-operate and liaise with the Administrator and take such steps as the Administrator may request in connection with, inter alia, the administration of the Scheme including, without limitation, by responding promptly to any requests for information.

15 **GOVERNING LAW**

These Rules shall be governed by and construed in accordance with English Law.

SCHEDULE 1
GENERAL EXCEPTIONS TO QUALIFYING EXPENSES

Expenditure incurred by a Member shall not be a Qualifying Expense for the purposes of the Scheme to the extent that such expenditure arises from loss or destruction of or damage to any property whatsoever or any loss or expenditure whatsoever resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

- 1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- 2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- 3 war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power; or
- 4 pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.

SCHEDULE 2
PROPERTY DAMAGE EXPENSE

Qualifying Expense:

1 Definition

A Property Damage Expense will cover accidental loss, destruction of or damage to the Property of the Member (hereinafter termed "Damage") subject to the Scheme Limit of Cover, other than Damage occasioned by an excluded cause as detailed in Paragraph 2 to this Schedule.

2 Exceptions to Schedule 2

A Property Damage Expense will not include:-

2.1 Damage caused by:

2.1.1 inherent vice, latent defect, gradual deterioration, wear and tear, frost, change in water table level, its own faulty or defective design or materials; nor

2.1.2 faulty or defective workmanship, operational error or omission on the part of the Member or any Relevant Person,

but this shall not exclude Damage resulting from an ensuing cause and not otherwise excluded,

2.2 Damage caused by:

2.2.1 corrosion, rust, wet or dry rot, shrinkage, evaporation, loss of weight, dampness, dryness, marring, scratching, vermin or insects;

2.2.2 change in temperature, colour, flavour, texture or finish;

2.2.3 joint leakage, failure of welds, cracking, fracturing, collapse or overheating of boilers, economisers, superheaters, pressure vessels or any range of steam and feed piping in connection therewith; nor

2.2.4 its own mechanical or electrical breakdown or derangement,

but this shall not exclude:

(a) such Damage which itself results from a Defined Contingency or from any other accidental loss, destruction or damage and is not otherwise excluded; nor

(b) subsequent Damage which itself results from a cause not otherwise excluded,

2.3 Damage caused by pollution or contamination, but this shall not exclude destruction of or damage to Property (not otherwise excluded) caused by:

2.3.1 pollution or contamination which itself results from a Defined Contingency; nor

- 2.3.2 a Defined Contingency which itself results from pollution or contamination,
- 2.4 Damage caused by:
 - 2.4.1 normal settlement or bedding down of new structures;
 - 2.4.2 acts of fraud or dishonesty;
 - 2.4.3 disappearance or unexplained inventory shortage, misfiling or misplacing of information or clerical error; nor
 - 2.4.4 theft not traceable to a specific event,
- 2.5 Damage in respect of portable property in the open, fences and gates by wind, rain, hail, sleet, snow, flood or dust, unless such property is designed or intended for use in the open,
- 2.6 Damage to Property:
 - 2.6.1 by fire resulting from its undergoing any process involving the application of heat; nor
 - 2.6.2 (other than by fire) resulting from its undergoing any process of production, packing, treatment, testing, commissioning, servicing or repair,
- 2.7 Damage:
 - 2.7.1 caused by freezing;
 - 2.7.2 caused by escape of water from any tank, apparatus or pipe; nor
 - 2.7.3 caused (other than by fire or explosion) by malicious persons not acting on behalf of or in connection with any political organisation,

in respect of any Building which is empty or not in use unless such Building is inspected at least once a week by the Member or by their authorised representatives,
- 2.8 Damage to glass (other than fixed glass), china, earthenware, marble or other fragile or brittle objects but this shall not exclude Damage caused by a Defined Contingency,
- 2.9 Damage to:
 - 2.9.1 vehicles licensed for road use (including accessories permanently fixed thereon) caravans, trailers, railway locomotives, rolling stock, water craft or aircraft;
 - 2.9.2 property or structures in course of construction or erection and materials or supplies in connection with all such property in course of construction or erection; nor

- 2.9.3 livestock, growing crops or trees, other than by fire, lightning, explosion or aircraft,
unless specifically mentioned as covered in this Schedule 2,
- 2.10 Damage to Property which at the time of the occurrence of the Damage is insured by or would be for the existence of this Schedule 2 be insured by any marine policy or policies except in respect of any excess beyond the amount which would have been payable under the marine policy or policies,
- 2.11 Damage to any Property more specifically insured on behalf of the Member,
- 2.12 Consequential loss or damage of any kind or description, except loss of rent, when such loss is included in the cover under this Schedule 2,
- 2.13 Damage occasioned by nationalisation, confiscation, requisition, seizure or destruction by the Government or any Public Authority, nor
- 2.14 Damage by fire to any portion of the electrical plant or apparatus caused by self-ignition, leakage of electricity, short circuiting or over-running, but this exception shall only apply to that part of the electrical plant or apparatus in which self-ignition, leakage of electricity, short circuiting or over-running occurs.

3 **Extensions to Schedule 2**

- 3.1 A Property Damage Expense will include:-
- 3.1.1 subsidence or ground heave of the site on which the Property stands or landslip but excluding:
- (a) Damage caused by:
 - (i) coastal erosion;
 - (ii) collapse, cracking, shrinkage or settlement of Buildings or any part thereof;
 - (iii) defective design or inadequate construction of foundations;
 - (iv) demolition, structural alteration or repair; and
 - (v) settlement or movement of made-up ground, and
 - (b) Damage to roads, forecourts, car parks, driveways, footpaths, walls, gates, hedges or fences unless such Damage occurs also to a Building, and
- 3.1.2 Damage to Computer Equipment, including loss, destruction or damage from any accidental or malicious cause not otherwise excluded whilst at any Premises in the Territorial Limits and to data carrying materials anywhere in the world.

- 3.1.3 The Scheme shall not be liable under sub-paragraph 3.1.2 for:
- (a) Loss of use of the computer equipment or other consequential loss or liability of any nature whatsoever; nor
 - (b) Damage recoverable under any guarantee or maintenance, rental, hire or lease agreement.
- 3.2 Reinstatement
- 3.2.1 It is hereby agreed that in the event of Buildings and/or Contents being destroyed or damaged the basis upon which the amount payable is to be calculated shall be the Reinstatement of the property destroyed or damaged, subject to the following special provisions (at sub-paragraph 3.2.3) and subject also to the exceptions and limitations of the Scheme except insofar as the same may be varied hereby.
- 3.2.2 For the purposes of the Scheme "*Reinstatement*" shall mean the carrying out of the after mentioned work, namely:
- (a) where property is damaged, the repair of the damage and the restoration of the damaged portion of the property to a condition substantially the same as but not better or more extensive than its condition when new; and
 - (b) where property is destroyed, the rebuilding of the property, if a Building, or in the case of other property, its replacement by similar property, but in either case in a condition equal to but not better or more extensive than its condition when new.
- 3.2.3 Special Provisions
- (a) The work of Reinstatement (which may be carried out upon another site and in any manner suitable to the requirements of the Member subject to the liability of the Scheme not being thereby increased) must be commenced and carried out with reasonable despatch; otherwise no payment beyond the amount which would have been payable under the Scheme if this sub-paragraph had not been incorporated therein shall be made.
 - (b) When any property is damaged or destroyed in part only the liability of the Scheme shall not exceed the sum representing the cost which the Scheme could have been called upon to pay for Reinstatement if such property had been wholly destroyed.
 - (c) No payment beyond the amount which would have been payable under this Schedule 2 if this sub-paragraph had not been incorporated therein shall be made until the cost of Reinstatement has been incurred.

- (d) The provisions of this Reinstatement sub-paragraph 3.2.3 do not apply to a Relevant Person's, visitors' or customers' personal effects, pedal cycles, tools and instruments.

3.3 All Other Contents

For the purposes of this Schedule 2, Contents is to include 'All Other Contents' being:

- 3.3.1 deeds, documents, manuscripts, business books, medical records and mechanical drawings, but only for the value of the materials as stationery together with the cost of clerical labour expended in writing up, not for the value to the Member of the information contained therein;
- 3.3.2 computer systems records, but only for the value of the materials together with the cost of clerical labour and computer time expended in reproducing such records (excluding any expenses in connection with the production of information to be recorded therein), not for the value to the Member of the information contained therein, for an amount not exceeding £50,000;
- 3.3.3 patterns, models, moulds, plans and designs but only for the value of the materials together with the cost of labour expended in Reinstatement; and
- 3.3.4 Relevant Persons', visitors', customers' and patients' personal effects, pedal cycles, tools, instruments and the like, cover hereunder being restricted to a maximum sum of £1,000 in respect of any one person.

3.4 Architects', Surveyors', and Consultants' Fees

The Scheme includes architects', surveyors', consulting engineers', legal and other fees necessarily and reasonably incurred in the Reinstatement of the property consequent upon its destruction or damage but not for preparing any Claim.

3.5 Debris Removal

3.5.1 The Scheme includes costs and expenses necessarily incurred by the Member with the consent of the Administrator in:

- (a) removing debris;
- (b) dismantling and/or demolishing;
- (c) shoring up or propping;
- (d) the cleaning of drains, sewers and other underground services;
- (e) site clearing or cleaning up following accidental leakage;
- (f) removing debris of contents of any Premises forming part of the Property, such contents not being the property of the Member; and

(g) decontamination and/or commissioning of the Property.

3.5.2 The Scheme will not pay for any costs or expenses:

- (a) incurred in removing debris elsewhere than from the site of such property destroyed or damaged and the area immediately adjacent to such site; nor
- (b) arising from pollution or contamination of property not protected by this Scheme.

3.6 Temporary Removal and Transit

3.6.1 The Scheme includes Contents whilst temporarily removed to any premises not in the Member's occupation and whilst in transit by road, rail or inland waterway within the Territorial Limits for the following purposes:

- (a) repair, service or cleaning;
- (b) temporary storage;
- (c) use in connection with the Relevant Function by a representative of the Member or any other party authorised by the Member including patients;
- (d) relocation between Premises, where the property remain at the risk of the Member; and
- (e) exhibition or demonstration.

3.7 In no event will the liability of the Scheme exceed £100,000 for any one loss from which the relevant Excess will be deducted.

3.8 Clause 3.6 does not cover:

3.8.1 explosive goods of a dangerous nature and Money;

3.8.2 loss of property resulting from dishonesty, fraudulent actions, trick or device or other false pretence of any Relevant Person; nor

3.8.3 loss of property conveyed in vehicles or trailers owned or operated by the Member arising from theft or attempted theft,

- (a) from or on an unattended vehicle or trailer unless all doors, windows and other means of access have been secured and locked and an alarm (if any) activated and where reasonably practical the property is concealed from sight, or
- (b) from or on an unattended vehicle or trailer left unattended at all times out of working hours unless all doors, windows and other means of access have been secured and such vehicle or trailer is:
 - (i) garaged in a securely closed and locked building;

- (ii) parked in a yard which is fully enclosed and securely closed and locked;
- (iii) property covered by Schedule 5 (Goods in Transit Expense); and/or
- (iv) property in or on soft-topped open sided vehicles or trailers owned or operated by the Member if caused by:
 - (A) storm, tempest, water, hail, frost or snow;
 - (B) theft or attempted theft unless also involving theft of the vehicle or trailer; and/or
 - (C) malicious persons when the vehicle or trailer is left unattended between the hours of sunset and sunrise.

3.9 Portable Equipment Outside the Territorial Limits

3.9.1 The Scheme includes portable equipment being the property of the Member or for which it is responsible whilst at any location outside the Territorial Limits and whilst in transit when being used in connection with the Relevant Function.

3.9.2 In no event will the liability of the Scheme exceed £50,000 for any one loss and £5,000 for any one item, from which the relevant Excess will be deducted.

3.10 Designation of Property

For the purpose of determining, where necessary, the item under which any Property is included, the Administrator agrees to accept the designation under which such Property has been entered in the Member's books.

3.11 Miscellaneous Properties Extensions

The Scheme includes telephone, gas, water and electrical instruments, meters, piping, cabling and the like, and all accessories thereof, including similar property in adjoining yards or roadways or underground and pertaining to the Buildings or Contents included by this Schedule 2, all property of the Member or for which the Member is responsible.

3.12 General Interest Clause

In addition to the Member other parties may be interested in the protection offered by this Scheme. The party/parties and nature and extent of such interest is to be declared in the event of loss.

3.13 Local Authorities

The cover extends to include such additional cost of Reinstatement of the destroyed or damaged property as may be incurred solely by reason of the necessity to comply with building or other regulations under or framed in

pursuance of any act of Parliament or with bye-laws of any municipal or local authority provided that:

- 3.13.1 the amount recoverable under this sub-paragraph shall not include:
- (a) the cost incurred in complying with any of the aforesaid regulations or bye-laws
 - (i) in respect of destruction or damage occurring prior to the granting of this clause,
 - (ii) in respect of destruction or damage not covered by the Scheme,
 - (iii) under which notice has been served upon the Member prior to the occurrence of the destruction or damage, nor
 - (iv) in respect of undamaged property or undamaged portions of property other than foundations,
 - (b) the additional cost that would have been required to make good the property damaged or destroyed to a condition equal to its condition when new had the necessity to comply with any of the aforesaid regulations or bye-laws not arisen,
 - (c) the amount of any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the property or by the owner thereof by reasons of compliance with any of the aforesaid regulations or bye-laws, and

3.13.2 the work of Reinstatement must be commenced and carried out with reasonable despatch and in any case must be completed within twelve months after the destruction or damage or within such further time as the Administrator may (during the said twelve months) in writing allow and may be carried out wholly or partially upon another site (if the aforesaid regulations or bye-laws so necessitate) subject to the liability of the Scheme under this clause not being thereby increased.

3.14 Loss of Metered Water

The Scheme includes loss of metered water for which the Member is charged by the Water Authority following loss of or damage to the Building and/or Contents of the Premises or used for the extinguishment of fire affecting the Premises resulting from a cause not otherwise excluded occurring during the Membership Year and on or after the Membership Date subject to a limit of £25,000 for any one event but excluding the cost of water lost due to a leakage from or the bursting of an underground pipe.

3.15 72 Hour Clause

For the purpose of the application of the Excess it is agreed that:

- 3.15.1 Loss or damage arising from one cause which affects one or more Premises;
or
- 3.15.2 Loss or damage to property arising during any one period of 72 consecutive hours and caused by storm, tempest, flooding or escape of water from tanks, apparatus or pipes

shall be deemed to be one loss.
- 3.16 Fine Arts

The Scheme extends to include Damage in respect of Fine Arts up to £5,000 for any one item and in total £20,000 for any one loss.
- 3.17 Patients' Valuables
- 3.17.1 The Scheme includes Damage to articles of jewellery, platinum and precious metals, gold and silver deposited in a proprietary safe.
- 3.17.2 The maximum amount payable shall not exceed £1,000 for any one patient.
- 3.18 Outdoor Property
- 3.18.1 The Scheme includes Damage to the following at the Premises:
 - (a) outdoor trees, shrubs and plants and landscaping; and/or
 - (b) signs other than those attached to Buildings.
- 3.18.2 The Scheme will pay up to £2,500 for any one event. The most the Scheme will pay for any one tree, shrub or plant (including the cost of removing or carrying it away) is £250.
- 3.19 Fire Extinguishing Costs

The Scheme includes fire extinguishing expenses, including the cost of replacing sprinkler heads and other fire extinguishing appliances rendered necessary as a result of fire.
- 3.20 Changing Locks

The Scheme includes the cost of changing locks following the theft of keys from the Premises.
- 3.21 Damage by Theft to Buildings

The Scheme includes damage by theft to Buildings for which the Member is liable.
- 3.22 Accidental Discharge of Gas Systems

3.22.1 The Scheme includes the cost of refilling the cylinder(s) of any gas flooding systems installed solely for the protection of computer equipment, media, computer records, programs and data arising out of the accidental discharge of such system.

3.22.2 The maximum amount payable by the Scheme under this clause shall not exceed £5,000 for any one loss.

3.23 Breakage of Fixed Glass

The Scheme includes the costs incurred as a result of the breakage of fixed glass, including

3.23.1 the cost of boarding up necessarily incurred,

3.23.2 the cost of removal and reinstatement of obstructions to the replacement of glass, and

3.23.3 damage to window and door frames,

provided that

(a) such damage or expense follows upon breakage of fixed glass for which there is a valid Claim under this sub-paragraph 3.23,

but excluding breakage of glass

(i) otherwise insured by any other policy effected by or on behalf of the Member (where permissible),

(ii) in light fittings, signs, vehicles, vending machines or stock in trade,

(iii) in empty or disused premises,

(iv) caused by workmen effecting alterations or repairs on the Premises,

(v) in transit or while being fitted.

3.24 Temporary Removal (Deeds and Documents)

This Schedule 2, insofar as it applies to deeds and other documents (including stamps thereon), manuscripts, plans and writings of every description, and books (written and printed) extends to include such property whilst temporarily removed to any premises not in the Member's occupation and whilst in transit within the Territorial Limits provided that at any one situation the limit under this sub-paragraph 3.24 shall not exceed £25,000.

SCHEDULE 3
BUSINESS INTERRUPTION EXPENSE

Qualifying Expense:

1 Definition

A Business Interruption Expense will cover accidental loss or destruction or damage to the Property of the Member (hereinafter in this Schedule 3 termed "Damage") as covered in Schedule 2 (Property Damage Expense) which shall result in the following:

- 1.1 Loss of Gross Profit (Income Generation only);
- 1.2 Increase in Cost of Working (all activities in connection with the Relevant Function); and/or
- 1.3 Additional Increase in Cost of Working (all activities in connection with the Relevant Function).

2 Settlement Provisions

2.1 Scheme cover under this Schedule 3 is limited to loss of Gross Profit (Item 1) due to (a) REDUCTION IN TURNOVER and (b) INCREASE and ADDITIONAL INCREASE IN COST OF WORKING (Items 2 and 3) and the amount payable hereunder shall be:

Item 1 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 the Damage fall short of the Standard Turnover;

Item 2 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 the Damage but not exceeding the sum produced by applying the Rate of Gross Profit to the amount of the reduction thereby avoided; and

Item 3 IN RESPECT OF ADDITIONAL INCREASE IN COST OF WORKING to the additional expenditure (beyond the amount payable under Item 2) 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 the Damage,

less any sum saved during the Indemnity Period in respect of the charges and expenses of the Member payable out of Gross Profit as may cease or be reduced in consequence of the Damage.

3 Specific Definitions

GROSS PROFIT. The amount by which the sum of the amount of the Turnover and the amounts of the closing stock and work in progress shall exceed the sum of the amounts of the opening stock and work in progress and the amount of the specified working expenses .

Note 1 The amounts of the opening and closing stocks and work in progress shall be arrived at in accordance with the Member's normal accountancy methods, due provision being made for depreciation.

Note 2 The words and expressions used in this definition shall have the meaning usually attached to them in the books of account of the Member.

Note 3 To the extent that the Member is accountable to the tax authorities for Value Added Tax, all terms in this Schedule 3 shall be exclusive of such tax.

TURNOVER. The money paid or payable to the Member for goods sold and delivered and for services rendered in the course of the Relevant Function at the Premises.

RATE OF GROSS PROFIT
The Rate of Gross Profit earned on the Turnover during the financial year immediately before the date of the Damage.

ANNUAL TURNOVER
The Turnover during the twelve months immediately before the date of the Damage.

STANDARD TURNOVER
The Turnover during that period in the twelve months immediately before the date of the 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 Member's business and for variations in or other circumstances affecting the Member's business either before or after the Damage or which would have affected the Member's business had the Damage not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which (but for the Damage) would have been obtained during the relevant period)

INDEMNITY PERIOD. The period beginning with the occurrence of the Damage and ending not later than 24 months thereafter during which the results of the Member were affected in consequence of the Damage.

4 Clauses - Applicable to Income Generation

4.1 Alternative Premises

If during the Indemnity Period goods shall be sold, services rendered or accommodation provided elsewhere than at the Premises for the benefit of the business either by the Member or by others on his behalf the money paid or payable in respect of such sales or services shall be brought into account in arriving at the Gross Profit during the Indemnity Period.

4.2 Professional Accountants

4.2.1 Any particulars or details contained in the Member's book of account or other business books or documents which may be required by the Administrator for the purpose of investigating or verifying any Claim hereunder may be produced by professional accountants if, at the time, they are regularly acting as such for the Member and their report shall be prima facie evidence of the particulars and details to which such report relates.

4.2.2 The Scheme will pay to the Member the reasonable charges payable by the Member to their professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by the Administrator and reporting that such particulars or details are in accordance with the Member's book of account or other business books or documents provided that the sum of the amount payable under this clause shall not exceed £10,000.

5 Exceptions to Schedule 3

A Business Interruption Expense will not include:

5.1 Damage caused by:

5.1.1 inherent vice, latent defect, gradual deterioration, wear and tear, frost, change in water table level, its own faulty or defective design or materials; or

5.1.2 faulty or defective workmanship, operational error or omission on the part of the Member or any Relevant Person,

but this shall not exclude Damage arising from an ensuing cause and not otherwise excluded,

5.2 Damage caused by:

5.2.1 corrosion, rust, wet or dry rot shrinkage, evaporation, loss of weight, dampness, drying, marring, scratching, vermin or insects;

- 5.2.2 change in temperature, colour, flavour, texture or finish;
- 5.2.3 joint leakage, failure of welds, cracking, fracturing, collapse or overheating of boilers, economisers, superheaters, pressure vessels or any range of steam and feed piping in connection therewith;
- 5.2.4 its own mechanical or electrical breakdown or derangement;
- 5.2.5 the deliberate act of a supply undertaking in withholding the supply of water, gas, electricity, fuel or telecommunications services.
But this shall not exclude loss resulting from:
 - (a) such Damage which itself results from a Defined Contingency or from any other accidental loss, destruction or damage and is not otherwise excluded; or
 - (b) subsequent Damage which itself results from a cause not otherwise excluded,
- 5.3 Pollution or contamination but this shall not exclude loss resulting from destruction or damage to property used by the Member at the Premises for the purpose of the Relevant Function not otherwise excluded, caused by:
 - 5.3.1 pollution or contamination at the Premises which itself results from a Defined Contingency; or
 - 5.3.2 a Defined Contingency which itself results from pollution or contamination,
- 5.4 Damage caused by:
 - 5.4.1 normal settlement or bedding down of new structures;
 - 5.4.2 acts of fraud or dishonesty;
 - 5.4.3 disappearance, unexplained or inventory shortage, misfiling or misplacing or information or clerical error; or
 - 5.4.4 theft not traceable to a specific event,
- 5.5 Damage in respect of a Building or structure caused by its own collapse or cracking unless resulting from a Defined Contingency and not otherwise excluded,
- 5.6 Damage in respect of portable property in the open, fences and gates by wind, rain, hail, sleet, snow, flood or dust, unless such property is designed or intended for use in the open,
- 5.7 Damage to Property:
 - 5.7.1 by fire resulting from its undergoing any process involving the application of heat; or

- 5.7.2 (other than by fire) resulting from its undergoing any process of production, packing, treatment, testing, commissioning or servicing,
- 5.8 Damage:
- 5.8.1 caused by freezing;
- 5.8.2 caused by escape of water from any tank, apparatus or pipe; or
- 5.8.3 caused (other than by fire or explosion) by malicious persons not acting on behalf of or in connection with any political organisation,
- in respect of any Building which is empty or not in use, unless such Building is inspected at least once a week by the Member or their authorised representative,
- 5.9 Damage in respect of:
- 5.9.1 glass (other than fixed glass), china, earthenware, marble or other fragile or brittle objects;
- 5.9.2 railway locomotives, rolling stock, water craft or aircraft;
- 5.9.3 property or structures in course of construction or erection and materials or supplies in connection with all such property in course of construction or erection; or
- 5.9.4 livestock, growing crops or trees, other than by fire, lightning, explosion or aircraft,
- but this shall not exclude Damage caused by a Defined Contingency and not otherwise excluded.

6 **Extensions to Schedule 3**

A Business Interruption Expense will include:

- 6.1 Damage caused by subsidence or ground heave of the site on which the Property stands or landslip but excluding:
- 6.1.1 Damage caused by:
- (a) collapse, cracking, shrinkage or settlement of Buildings or any part thereof,
 - (b) coastal erosion,
 - (c) defective design, inadequate construction of foundations,
 - (d) demolition, structural alteration or repair,
 - (e) settlement or movement of made-up ground; and

6.1.2 Damage to roads, forecourts, car parks, driveways, footpaths, walls, gates, hedges or fences unless Damage occurs also to a Building.

6.2 Explosion of Vessels under Steam Pressure at the Premises.

For the purpose of this sub-paragraph 6.2:

6.2.1 "Explosion" shall mean the sudden and violent rending of the permanent structure of the plant by force of internal steam pressure causing bodily displacement of any part of the structure together with forcible ejection of the contents.

6.2.2 The undernoted defects do not themselves constitute explosion even though repair or replacement may be necessary but explosion arising from any such defect is not excluded.

6.2.3 The defects referred to above are:

- (a) wearing away or wasting of the material of the plant by leakage, corrosion, action of fuel or otherwise;
- (b) slowly developing, deformation or distortion of any part of the plant;
- (c) cracks, fractures, blisters, laminations, flaws or grooving even when accompanied by leakage; and
- (d) failure of joints.

6.3 Telecommunications

6.3.1 The Scheme includes loss arising from interruption of or interference with the Relevant Function carried on at the Premises by the Member.

6.3.2 The Scheme also includes the accidental failure of the public supply of telecommunications services (other than satellite services) at the incoming line, terminals or receivers at the Premises.

6.3.3 This sub-paragraph 6.3 excludes any failure:

- (a) which does not involve a cessation of supply for at least 24 consecutive hours; or
- (b) due to an Excluded Cause.

For the purposes of this sub-paragraph 6.3, "Excluded Causes" includes

- (a) Loss resulting from failure caused by:
 - (i) the deliberate act of any supply undertaking or by the exercise by any such undertaking of its power to withhold or restrict supply or services;
 - (ii) strikes or any labour or trade dispute;

- (iii) drought; and
- (iv) other atmospheric or weather conditions, but this shall not exclude failure due to damage to equipment caused by such conditions,

6.4 Action by the Police Authority

Following a danger or disturbance in the vicinity of the Premises whereby access thereto shall be prevented, any such occurrence being deemed to be Damage, provided that there shall be no liability under this sub-paragraph 6.4 for loss resulting from interruption of the Member's Business during the first full working day of the Indemnity Period.

6.5 Accidental Failure of the supply of Electricity at the terminal ends of the Public Supply undertaking's service feeders at the Premises not occasioned by:

6.5.1 the deliberate act of any supply authority nor by the exercise by any such authority of its power to withhold or restrict supply; or

6.5.2 any industrial action,

provided that no liability shall attach under this sub-paragraph 6.5 unless the duration of such accidental failure exceeds thirty minutes,

6.6 Accidental Failure of the supply of Gas at the Gas Board's meters at the Premises not occasioned by:

6.6.1 the deliberate act of any supply authority nor by the exercise by any such authority of its power to withhold or restrict supply; or

6.6.2 any industrial action,

provided that no liability shall attach under this sub-paragraph 6.6 unless the duration of such accidental failure exceeds thirty minutes.

6.7 Accidental Failure of the supply of Water at the Water Authority's main stop cock at the Premises not occasioned by:

6.7.1 the deliberate act of any supply authority nor by the exercise by any such authority of its power to withhold or restrict supply;

6.7.2 any industrial action; or

6.7.3 drought,

provided that no liability shall attach under sub-paragraph 6.7 unless the duration of such accidental failure exceeds thirty minutes.

6.8 Incompatibility of Data and/or Programs.

Where Damage to computer equipment results in undamaged data and/or programs being incompatible with the replacement equipment the Scheme will pay for either:

- 6.8.1 cost of replacement of data carrying materials including data and/or programs contained thereon; or
- 6.8.2 modifications to the replacement equipment,
whichever is the lesser provided that the Scheme cover shall not exceed £50,000 for any one loss.
- 6.9 Property Elsewhere
Property of Member whilst stored anywhere in the Territorial Limits elsewhere than at the Premises.
- 6.10 Transit
Property of the Member whilst in transit by road, rail or inland waterway in the Territorial Limits, but it is understood that damage arising from impact to or collision with the conveying road or rail vehicle or waterborne craft is specifically excluded from this extension.
- 6.11 Prevention of Access
Destruction of or damage to property in the vicinity of the Premises which shall prevent or hinder the use of the Premises or access thereto whether the Premises or property of the Member shall be damaged or not.
- 6.12 Bombscare and Unlawful Occupation
Loss resulting from interruption of or interference with the Relevant Function in consequence of access to or use of the Premises being hindered or prevented due to the Premises or property in the vicinity of the Premises or any right of way being:
 - 6.12.1 occupied by terrorists or persons thought to be terrorists;
 - 6.12.2 unlawfully occupied by third parties except in the course of a dispute between any employer and employee or group of workers;
 - 6.12.3 thought to contain or actually contain a harmful device provided that the police are immediately informed;
 - 6.12.4 closed down or sealed off in accordance with instructions issued by the police or by any other statutory body except where the cause of such closure or sealing off is:
 - (a) the condition of, or the Relevant Function carried on within, the property or any Premises owned or occupied by the Member;

- (b) the Member's non-compliance with a prior order of the police or any statutory body;
- (c) action taken as a result of drought or diseases or other hazards to health,
provided that

6.12.5 the Scheme shall not be liable for:

- (a) loss arising from any cause within the control of the Member;
- (b) loss as a result of physical loss, destruction or damage to property;
- (c) loss which is a direct result of repairs or maintenance being carried out to property as a result of inherent defect or wear and tear; or
- (d) any incident involving prevention or hindrance of access or use for less than three hours duration,

6.12.6 for the purposes of this extension only the Indemnity Period shall not exceed 48 hours; and

6.12.7 after the application of all other terms, conditions and provisions the liability under this extension in respect of any one occurrence shall not exceed £10,000.

6.13 Unspecified Customers/Suppliers

The consequences of Damage at the premises of any of the Member's customers, suppliers, manufacturers, processors, distributors or warehousemen, but excluding the premises of any supply undertaking from which the Member obtains electricity, gas or water or telecommunications services.

SCHEDULE 4
MONEY EXPENSE

Qualifying Expense:

1 Definition

A Money Expense will include:

1.1 Loss of Money which is the property of the Member or for which the Member is responsible in the course of the Relevant Function including Money which is:

1.1.1 in transit;

1.1.2 in the custody of collectors for twenty-four hours from the time of receipt or until the next working day whichever is the later;

1.1.3 on sites of contracts whilst any Relevant Person is working thereat;

1.1.4 on the Premises;

1.1.5 at the private dwelling houses of any authorised Relevant Persons; or

1.1.6 deposited in a bank night safe until removed by a bank official but only up to a Limit Any One Loss as detailed in the Specification at paragraph 5 below.

1.2 Loss of or damage to:

1.2.1 the safe(s) and strongroom(s) including replacement of locks;

1.2.2 any case, bag, moneybelt or waistcoat used for the carriage of Money following theft or attempted theft therefrom; and

1.2.3 any stamp franking machine.

1.3 Damage to clothing and personal effects belonging to any Relevant Person following robbery or any attempt thereat up to a limit of £1,000 per person.

2 Scheme Limit of Cover

This Schedule 4 is subject to a single Limit of Cover which is the Schedule 2 (Property Damage Expense) limit as detailed in Rule 7.1, or such inner limits as may be detailed in this Schedule 4.

3 Condition Precedent

3.1 It is a condition precedent to the Scheme cover that:

3.1.1 a complete record shall be kept of the Money;

3.1.2 such record shall be deposited in a secure place other than in the safes containing Money;

3.1.3 outside Business Hours the safes be kept locked and the keys of the safes shall not be left on the Premises (where "Business Hours" shall mean the

Member's usual office hours and the working hours (including overtime) during which the Member or Relevant Person entrusted with Money are on the Premises; and

3.1.4 in respect of loss or damage by burglary, housebreaking or any attempt thereat that there shall be visible evidence of violent and forcible entry into or exit from the Building.

3.2 Security Company Contingency Cover

In respect of Money in the custody of Security Companies, the Scheme shall only be liable in the event of the Member being unable to recover the loss from the Security Company. Further:

3.2.1 a written agreement between the Member and the Security Company be made; and

3.2.2 the Member complies with the terms of the above agreement including any limitations regarding amounts.

4 **Exceptions to Schedule 4**

A Money Expense will not include:

4.1 shortages due to clerical or accounting errors;

4.2 Loss due to fraud or dishonesty of any Relevant Person not discovered within 30 working days of its occurrence;

4.3 Loss of Money from vending or gaming machines or unattended vehicles; or

4.4 Loss or damage arising elsewhere than in the Territorial Limits.

5 **Specification**

Item	Description	Limit Any one Loss
1.	Stamped national insurance cards, crossed cheques, crossed giro cheques, crossed bankers' drafts, crossed warrants, national savings certificates, premium savings bonds, franking machine impressions, credit company sales vouchers and VAT invoices.	£250,000
2.	Money other than that described in Item 1 above not contained in a locked safe in the:	
	a) Premises outside Business Hours;	£2,500
	b) private dwelling house of an authorised	£1,000

Relevant Person.

- | | | |
|----|---|--------|
| 3. | Money other than that described in Item 1 above in locked safes outside Business Hours. | £5,000 |
| 4. | Money on the Premises during Business Hours or in a bank night safe. | £2,500 |
| 5. | Any other loss of Money. | £2,500 |

SCHEDULE 5
GOODS IN TRANSIT EXPENSE

Qualifying Expense:

1 Definition

A Goods in Transit Expense will include:

- 1.1 Accidental loss, destruction of or Damage to:
 - 1.1.1 property in transit up to a limit of £100,000 for any one loss;
 - 1.1.2 the Member's own sheets, ropes, chains, toggles or packing materials on Vehicles, to a limit of £1,000 for any one loss;
 - 1.1.3 Personal Effects of any Relevant Person not otherwise specifically insured whilst in any Vehicle - limit any one driver and any one loss of £1,000;

(hereinafter collectively referred to as the "Property Covered") whilst in transit on land or water by the conveyance from the time of lifting by any Relevant Person or any sub-contractor of the Member until placed in position by the Relevant Person or sub-contractor at the destination, including loading and unloading, within the Territorial Limits.
- 1.2 Costs and expenses necessarily incurred in:
 - 1.2.1 transferring to any vehicle and/or carrying to original destination or to place of collection the Property Covered, necessitated by collision, overturning or impact with any object;
 - 1.2.2 removal of debris and site clearance consequent upon loss of or damage to the Property Covered,

up to a limit for any one loss of £10,000.

2 Scheme Limit of Cover

This Schedule 5 is subject to a single Limit of Cover which is the Schedule 2 (Property Damage Expense) limit as detailed in Rule 7.1 or such inner limits as may be detailed in this Schedule 5.

3 Exceptions to Schedule 5

A Goods in Transit Expense will not include:

- 3.1 Loss or damage caused by:
 - 3.1.1 depreciation or deterioration or variation in temperature unless caused by accident to the means of conveyance;
 - 3.1.2 mechanical and/or electrical derangement of the Property Covered unless caused by external means;

- 3.1.3 ordinary leakage, ordinary loss in weight or volume, contamination or ordinary wear and tear of the Property Covered, inherent mice or vermin;
- 3.1.4 insufficiency or unsuitability of packing or preparation of the Property Covered; or
- 3.1.5 wilful misconduct of the Member.
- 3.2 Loss or damage to bullion, cash bank notes, treasury notes, stamps, bonds, securities, furs, jewellery, precious stones, gold and silver articles, clocks, watches, non-ferrous metals, computers, compact disc, flash drive, hard drive disc or any other means of storing electronic data, video tapes or cassettes, tape or video records, radio and television sets, record players, tobacco, cigars, cigarettes, wines, spirits or explosives.
- 3.3 Loss or damage resulting from theft or attempted theft from any unattended Vehicle unless:
 - 3.3.1 all doors, windows and other points of access have been securely locked and fastened and the keys removed, and unattached trailers have had anti-hitching devices put into operation; and
 - 3.3.2 such vehicle is either garaged in a building which is securely closed and locked or parked in a compound secured by locked gates.
- 3.4 Loss or damage of whatsoever nature caused by or arising from inadequate documentation or consequent upon delay in transit and/or indirect or consequential loss of any description.
- 3.5 Any consequence of riot, civil commotion, strikes, lockouts, labour disturbances or confiscation, requisition, destruction or damage by order of any Government or Public or Local Authority.

4 **Schedule 5 Definitions**

For the purpose of this Schedule 5:

- 4.1 "Vehicle" means any vehicle and/or trailer owned or operated by the Member;
- 4.2 "Personal Effects" means personal possessions of the Relevant Person excluding cash, bank notes, credit cards, watches and jewellery; and
- 4.3 "Tools" means tools, tool kits or test equipment owned by or the responsibility of the Member.

5 **General Condition**

It is a condition precedent to Scheme cover under this Schedule 5 that the Member shall only employ steady, reliable and competent drivers and shall take all reasonable precautions:

- 5.1.1 in securing loads;
- 5.1.2 to maintain in efficient condition all Vehicles;
- 5.1.3 to protect the Property Covered from all loss or damage; and
- 5.1.4 to ensure that any Vehicle is suitable for the purpose for which it is to be used.

SCHEDULE 6 ENGINEERING EXPENSE

Qualifying Expense:

1 Definition

An Engineering Expense is the cost of making good sudden and unforeseen loss or damage, including but not limited to, Breakdown and Explosion (hereinafter referred to as Damage) to the Machinery at the Premises which necessitates immediate repair or replacement of the Machinery before it can resume normal working (where "Machinery" means plant and machinery that is subject to a separate inspection contract that will provide examinations to comply with statutory regulations).

2 Limit of Cover

This Schedule 6 is subject to a single Limit of Cover which is the Schedule 2 (Property Damage Expense) limit as detailed in Rule 7.1 or such inner limits as may be detailed in this Schedule 6.

3 Extensions to Schedule 6

An Engineering Expense will include:

3.1 Damage to own Surrounding Property

3.1.1 Damage to other property belonging to the Member or for which they are responsible or which is in their control or held in trust or on commission by the Member or for which the Member deem themselves responsible;

- (a) directly resulting from any Damage to the Machinery; or
- (b) caused by the Machinery though the Machinery itself may not be damaged.

3.1.2 Reinstatement - Local Authorities

Such additional cost of Reinstatement as may be incurred solely by reason of the necessity to comply with building or other regulations under or framed in pursuance of any act of Parliament or with bye-laws of any municipal or other authority provided that the amount recoverable under this extension shall not include:

- (a) the cost incurred in complying with any of the aforesaid regulations or bye-laws:
 - (i) in respect of destruction or damage occurring prior to the Membership Date;

- (ii) under which notice has been served upon the Member prior to the happening of the destruction or damage;
 - (iii) in respect of undamaged property or undamaged portions of property other than foundations, or
- (b) the amount of any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the property or by the owner thereof by reason of compliance with any of the aforesaid regulations or bye-laws.

3.1.3 Reinstatement

- (a) In the event of the Machinery under this policy being destroyed or damaged, the basis upon which the amount payable under this Schedule 6 is to be calculated shall be the Reinstatement of the property destroyed or damaged subject to the following special provisions and subject also to the terms and conditions of this Schedule 6 except insofar as the same may be varied hereby.
- (b) "Reinstatement" shall mean the carrying out of the after-mentioned work namely:
- (i) where property is destroyed the rebuilding of the property if a building or in the case of other property its replacement by condition equal to but not better or more extensive than its condition when new;
 - (ii) where any item of the Machinery is lost or destroyed or is damaged to the extent that it cannot be economically repaired, replacement by new Machinery of equal performance and/or capacity, or if such cannot be reasonably achieved, replacement by Machinery having the nearest higher performance and/or capacity to the Machinery lost destroyed or damaged; and/or
 - (iii) where the Machinery is damaged, the repair of the damage and the restoration of the damaged portion of the Machinery to a working condition substantially the same as but not better or more extensive than its condition when new.

3.1.4 Special Provisions:

- (a) The work of Reinstatement (which may be carried out upon another site and in any manner suitable to the requirements of the Member) will be commenced and carried out with reasonable despatch otherwise no payment beyond the amount which would have been payable under

this Schedule 6 if this sub-paragraph 3.1.3 had not been incorporated therein shall be made.

- (b) Where any property under this extension is damaged or destroyed in part only, the liability of the Member shall not exceed the sum representing the cost which the Member could have been called upon to pay for Reinstatement if such property had been wholly destroyed.
- (c) No payment beyond the amount which would have been payable under this Schedule 6 if this sub-paragraph 3.1.3 had not been incorporated therein shall be made until the cost of Reinstatement has been incurred.

3.2 Leakage Discharge or Contamination

Loss of or damage to Contents, as a result of, amongst other things, accidental leakage discharge or escape or overflow from the Machinery or contamination of the Contents, including cleaning costs resulting therefrom, up to a limit any one event of £50,000.

3.3 Measures taken in Avoidance of Impending Loss or Damage

Costs incurred by the Member in taking reasonable but exceptional measures to avoid or mitigate impending loss or damage covered by this Schedule 6 provided that the impending loss or damage does not stem from any reasonably foreseeable cause and that loss or damage would be the outcome to be expected in the absence of such measures.

3.4 Debris Removal

Costs necessarily and reasonably incurred with the consent of the Administrator in the removal of Machinery consequent upon damage.

3.5 Temporary Repairs and/or Expediting Costs

Costs necessarily and reasonably incurred in the making of temporary repairs upon and/or the expediting of the repair, Reinstatement or replacement of the Machinery consequent upon damage.

3.6 Consulting Engineers'/Repair Investigation Costs

Costs (including Consulting Engineers' fees) incurred with the consent of the Administrator in conducting investigations and/or tests into possible repair replacement or reinstatement (whether or not successful) of lost or damaged Machinery.

4 **Exceptions to Schedule 6**

An Engineering Expense will not include:

- 4.1 the cost of remedying or making good the wasting, wearing away or wearing out of any part of a machine caused by or naturally resulting from ordinary use or working rust or gradual deterioration;
- 4.2 Damage due to the execution of repairs;
- 4.3 compensation in respect of loss of use, delay or detention or for consequential loss, damage or liability of any nature whatsoever, except as specifically provided for herein;
- 4.4 Damage or liability arising out of pressure of chemical action or ignition of the contents of the Machinery;
- 4.5 Damage arising out of the Machinery being subjected to tests involving abnormal stresses or arising out of the Machinery being intentionally overloaded; or
- 4.6 Damage or liability arising out of deliberate act omission or neglect of the Member.

**SCHEDULE 7
FIDELITY GUARANTEE EXPENSE**

Qualifying Expense:

1 Definition

A Fidelity Guarantee Expense is a Claim where Member is indemnified against:

1.1 Relevant Person Dishonesty

1.1.1 Direct pecuniary loss or loss of property belonging to the Member, or for which the Member is legally responsible, arising solely and directly from a deliberate act or acts of fraud or dishonesty committed by any Relevant Person with the clear intention of, and which results in improper financial gain for such Relevant Person or for any other person or organisation, and which occurs and is discovered during the continuance of the Membership and during uninterrupted service with the Member.

1.1.2 Salary, fees, commissions and other employee benefits including salary increases and promotions shall not constitute improper financial gain. and

1.2 Third Party Computer and Funds Transfer Fraud

Theft of Money, security or other property by computer fraud, or the theft of any of the Member's funds from the Member's transfer account at a financial institution through fraudulent transfer instructions communicated to such financial institution.

2 Scheme Limit of Cover

2.1 This shall not exceed in respect of:

2.1.1 any one Claim; £250,000

2.1.2 all Claims in any one Membership Year, £250,000

and shall not be accumulated or increased by reason of this Schedule 7 continuing in force for any subsequent period beyond the first Membership Year.

2.2 Immediately following the discovery of an act of fraud or dishonesty committed by any Relevant Person the Scheme shall not be liable for any losses arising from further acts of fraud or dishonesty by such Relevant Person.

3 Schedule 7 Definitions

For the purpose of this Schedule 7:

- 3.1 "Any One Claim" means all acts of fraud or dishonesty committed by any one Relevant Person or by Relevant Persons acting in collusion during the continuance of Membership.
- 3.2 "Acting in Collusion" means all circumstances where two or more Relevant Persons are involved or implicated together or assist each other materially in committing acts of fraud or dishonesty.
- 3.3 "Computer Fraud" means the wrongful conversion of assets under the direct or indirect control of the Member's computer system by means of the direct fraudulent accessing of such computer system by persons other than Relevant Persons and:
 - 3.3.1 the insertion of fraudulent data or instructions into such computer system; or
 - 3.3.2 fraudulent alteration of data, programs or routines in such computer system.
- 3.4 "Financial Institution" means:
 - 3.4.1 a banking or savings institution; or
 - 3.4.2 a stockbroker, fund manager or similar investment institution at which the Member maintains a Transfer Account.
- 3.5 "Fraudulent Transfer Instructions" means:
 - 3.5.1 Electronic Instructions being fraudulent electronic, telegraphic, cable, teletype, Tested telex, Tested facsimile or telephone instructions to a financial institution to debit a Transfer Account and to transfer, pay or deliver funds from such account, which instructions purport to have been transmitted by the Member or by a person duly authorised by the Member to issue such instructions but which have been fraudulently transmitted by another; and
 - 3.5.2 Written Instructions being fraudulent written instructions to a financial institution to debit a Transfer Account and to transfer, pay, or deliver funds for such account through an electronic funds transfer system at specified times or under specified conditions, which written instructions purport to have been duly issued by the Member but which have been fraudulently issued, forged or altered by another.
- 3.6 "Securities" means all negotiable and non-negotiable instruments or contracts representing either money or property and includes revenue and other stamps in current use, tokens and tickets.
- 4 Extension to Schedule 7**
 - 4.1 Auditors' Fees

This Schedule 7 extends to include the cost of any special professional audit necessarily incurred with the written consent of the Administrator solely to formulate the amount of loss.

5 Exceptions to Schedule 7

A Fidelity Guarantee Expense does not include:

- 5.1 loss of interest on loss of profits or any kind of consequential loss; or
- 5.2 any loss arising elsewhere than in the Territorial Limits.

6 General Conditions

6.1 Non-Compliance

Cover under this Schedule 7 is conditional upon there being demonstrable compliance with the relevant standing financial instructions of the Member and all relevant guidance produced by the Department of Health and any Central Government Agencies.

6.2 Observance of Conditions

The due observance and fulfilment of the terms provisions and conditions (General and Claims) of this Schedule 7 by the Member in so far as they relate to anything to be done or complied with by the Member shall be conditions precedent to any liability of the Scheme to make any payment under this Schedule 7.

7 Claims Conditions

7.1 Notice of Fraud or Dishonesty and Proof of Claim

- 7.1.1 Notice in writing must be given to the Administrator by the Member within fourteen days after discovery of the act of fraud or dishonesty by any Relevant Person, or any reasonable cause for suspicion thereof or any circumstances whatsoever which may give rise to a Claim under this Schedule 7.

- 7.1.2 Within three months thereafter the Member must supply to the Administrator at its own expense (except as otherwise provided by this Schedule 7) full details in writing of the Claim and all such proof of the correctness of such Claim as the Scheme may require.

7.2 Reimbursement

The Member shall give all information and assistance to enable the Administrator to sue for and obtain reimbursement of any monies which the Scheme has paid or become liable to pay under this Schedule 7.

7.3 Deduction from Loss

All monies which, but for the fraud or dishonesty of the Relevant Person, would become payable to him by the Member and any monies recovered from the Relevant Person by the Member shall be deducted from the loss.

7.4 Recoveries

In the event of any loss covered by this Schedule 7 exceeding the Scheme Limit of Cover any recoveries excluding the actual costs of effecting the recovery shall accrue:

7.4.1 firstly to the benefit of the Member to reduce or eliminate the amount of Member's loss: and

7.4.2 thereafter to the benefit of the Scheme to the extent of the Claim paid or payable.

SCHEDULE 8
CONTRACT WORKS EXPENSE

Qualifying Expense:

1 Definition

A Contract Works Expense will indemnify the Member only, in respect of loss or damage caused to the Property (as defined below):

- 1.1 whilst on or adjacent to the site of any Project defined in this Schedule 8;
- 1.2 whilst held for the purposes of the Project at any premises whether belonging to or occupied by the Member or otherwise; or
- 1.3 whilst in transit and/or whilst stored in connection therewith anywhere in the Territorial Limits.

2 Schedule 8 Definitions

For the purpose of this Schedule 8:

- 2.1 "Contract" means the Agreements (however made) in connection with the Project between the Member and the contractors, consultants and agents and between the contractors, consultants and agents and their sub-contractors and/or sub-consultants and/or sub-agents.
- 2.2 "Period of Contract" means as shown in the Contract plus a further 12 months maintenance period thereafter or such further period as specified in the Contract (any extension to the Construction Period required by the Member shall be automatically allowed by the Scheme subject to continued Membership).
- 2.3 "Project" means any permanent or temporary erection construction or installation of Buildings or plant carried out by or on behalf of the Member and all associated and ancillary works.
- 2.4 "Property" means all permanent works and materials for incorporation therein (including all designs, drawings, specifications and plans to be provided and work to be done by the contractors under the contract) relating to the design, supply, erection, testing, setting to work and commissioning of the Project together with fitting out works and the Temporary Works. Process plant or equipment or any other property for incorporation into the permanent works which is supplied by or on behalf of the Member whether installed by any contractor or sub-contractor or otherwise.
- 2.5 "Temporary Works" means those things erected or constructed for the purpose of making possible the erection or installation of the permanent works and which it is intended shall not pass to the ownership of the Member neither being construction plant nor access equipment.

2.6 "Site" means the actual place up to which property and materials are to be delivered or where work is to be done in performance of the Contract together with so much of the area surrounding the said place or places as shall be used therefore with the consent of the superintending officer or other authorised representative of the Member.

3 Extensions to Schedule 8

A Contract Works Expense will include:

3.1 Professional Fees

The cover in respect of the Property extends to include in addition an amount for architects', surveyors', consulting engineers' or other professional fees of similar nature necessarily incurred in the Reinstatement of such Property consequent upon its loss or damage but not for preparing any Claim.

3.2 Re-writing or Re-drawing of Plans or Other Documents

This Schedule 8 is extended to indemnify the Member against the necessarily incurred costs to re-writing or re-creating plans, drawings, calculations or any other contract documents or data lost or damaged wherever such loss or damage shall occur but not for the value of the information contained therein.

3.3 Temporary Buildings and Contents

This Schedule 8 shall include loss of or damage to temporary buildings and contents therein which are the property of or hired in by the Member but exclude contractors' or sub-contractors' temporary buildings and contents unless otherwise agreed by the Scheme.

3.4 Excess - 72 Hour Clause

For the purpose of the application of the Excess it is agreed that any loss or damage to the Property described in this Schedule 8 arising during any one period of seventy-two consecutive hours and caused by storm, tempest, flooding and water shall be deemed to be a single event and therefore to constitute one loss.

3.5 Debris Removal

Costs and expenses necessarily incurred by the Member in:

3.5.1 removal of disposal of debris foreign to the Project;

3.5.2 dismantling and/or demolishing of any part of the Property , including temporary storage of dismantled or demolished property;

3.5.3 shoring up, propping and/or protecting the Property whether damaged or not; and

3.5.4 the cost of repairing or clearing drains, sewers, service mains and the like and/or dewatering,

in any circumstances giving rise to a Claim under this Schedule 8.

3.6 Maintenance or Defects Liability Period

3.6.1 The indemnity by this Schedule 8 shall continue in full force until the issue of the last Certificate of Completion in respect of any contract or sub-contract or supply order forming part of the Project.

3.6.2 In addition, the indemnity by this Schedule 8 shall continue for a further period after issue of the said Certificate but solely in respect of loss of or damage to the Property as a result of:

- (a) a cause occurring prior to the issue of the said Certificate;
- (b) any operations carried out by the contractor or sub-contractor of the Member for the purpose of complying with the conditions (written or implied) under the conditions governing the execution of their contracts or sub-contracts; and
- (c) any testing or commissioning operations carried out by or on behalf of the Member.

3.6.3 Where any Property is replaced or renewed during any maintenance, guarantee or defects liability period, this Schedule 8 shall apply to the property substituted for the maintenance, guarantee or defects liability period which would have originally attached.

3.7 Liability for Damage to Hired-in-Plant & Continuing Hire Charges

All sums which the Member shall become legally liable to pay under the terms of a hiring agreement or otherwise in respect of:

3.7.1 loss of or damage to plant hired by the Member anywhere in the Territorial Limits; and/or

3.7.2 continuing hire charges incurred in consequence of loss or damage to plant indemnifiable under (a) above,

provided always that the terms upon which the Member hires the plant are no more onerous than the standard form of contract of the Contractors' Plant Association or Hire Association of Europe.

4 Exceptions to Schedule 8

A Contract Works Expense will not include:

4.1 Loss of or damage to any part of the permanent works:

- 4.1.1 after such part has been completed and delivered up to the owner tenant or occupier; or
- 4.1.2 after such part has been taken into use by the owner tenant or occupier; or
- 4.1.3 for which a certificate of completion has been issued,
other than where loss or damage (not otherwise excluded by this Schedule 8) is the responsibility of the contractor under the terms of any maintenance period or defects liability period clause incorporated in any standard printed form of contract conditions.
- 4.2 Loss or damage to:
 - 4.2.1 property forming or which has formed part of any structure prior to the commencement of the Project;
 - 4.2.2 deed bonds bills of exchange promissory notes cash bank notes cheques securities for money or stamps;
 - 4.2.3 except as provided by sub-paragraph 3.7, any construction plant whatsoever;
 - 4.2.4 construction plant due to its own breakdown or its own explosion but this exception shall not apply to loss of or damage to other Property;
 - 4.2.5 any vessel or craft made or intended to float on or in or travel on or through water or air.
- 4.3 The costs necessary to:
 - 4.3.1 replace, repair or rectify any of the Property which is in a defective condition due to a defect in design, plan, specification, materials or workmanship, but this exception shall not apply to the remainder of the Property which is free of such defective condition but is damaged as a consequence of such defect; or
 - 4.3.2 rectify or make good any wear and tear, wasting, wearing away or wearing out, gradual deterioration, rust, oxidation, corrosion or erosion but this exception shall not apply to loss or damage which is resultant upon such wear and tear, wasting, wearing away or wearing out, gradual deterioration, rust, oxidation, corrosion or erosion.
- 4.4 Confiscation, nationalisation or requisition or destruction by or under the order of any government or public or local authority.
- 4.5 Loss of property by disappearance or shortage which is only revealed when an inventory is made or is not traceable to an event.
- 4.6 Penalties under contract for delay or non-completion or consequential loss or damage of any kind or description.

INCIDENT REPORT FORM

PROPERTY EXPENSES SCHEME – INCIDENT REPORT FORM

Office Use Only
Claim no:
Date:

Please complete and return to:



Litigation Authority

2nd Floor, 151 Buckingham Palace Road, London, SW1W 9SZ

Telephone: 0207 811 2700

A. Trust Details

Name of Trust _____

Address _____

_____ Post code _____ Tel no: _____

Membership No. _____ Contact Name _____

Tel No. _____ *(if different from above)*

B. Incident Details

Date _____ Exact Location _____

Brief Circumstances of Incident _____

Remedial action taken _____

C. Witness Details (A) Name _____ Grade _____ Dept _____
Address (if not staff) _____

(B) Name _____ Grade _____ Dept _____
Address (if not staff) _____

D. Details of Loss

Description of Property damaged / stolen	Owner of Property (i.e. employee / patient or visitor)	Estimate repair / replacement costs

E. Declaration

I declare that the above information is true and accurate.

Signed _____

Name _____

Position _____ Date _____