

## **NOVAE CONTRACTORS COMBINED LIABILITY INSURANCE**

(Per Capita Portal Version)

(Novae C Form 2006)

**SCHEDULE**

**POLICY NO:** HC1027055213

**INSURED:** Envirogreen Recycling Ltd

**ADDRESS:** 4 Washingbay Road, Coalisland, Dungannon, BT71 4ND

**BUSINESS:** Paper, card and plastic collection, sorting, bailing and re-sale

**PERIOD OF INSURANCE:** **From:** 28/01/2011  
**To:** 27/01/2012  
Both days inclusive

**INDEMNITY LIMITS:**

**Section A Employers Liability** £10,000,000  
Any one claim or series of claims arising out of one Occurrence including all costs and expenses.

**Section B Public Liability** £5,000,000  
Any one Occurrence or series of Occurrences arising out of one cause (but in the aggregate in respect of Clause 13(c) Pollution.)

**Section C Products Liability** £5,000,000  
In the aggregate during the Period of Insurance.

**EXCESS:** £2500  
(Applicable to sections B and C) Each and every claim (in respect of Injury and Damage) including costs and expenses

**ENDORSEMENTS:** As attached

**PREMIUM:** £5830

**Section A:** £3900

**Section B & C:** £1600

**IPT** £330

The Policy, Schedule and Endorsements should be read as if they were one document and if they do not meet your needs please return them to the Insurer

### **Preamble**

This Policy is the evidence of the contract between the Insured and the Insurer and any Proposal being the basis of the contract is deemed to be incorporated herein

The Insurer will insure in the manner and to the extent provided during any Period of Insurance for which the Insured has paid the premium subject to the terms conditions and exclusions of the Policy

### **Several Liability Notice**

The subscribing Insurers' obligations under policies to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurer's are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations

## **1. OPERATIVE CLAUSE**

The Insurer will indemnify the Insured against their legal liability as defined by each insured Section of this Policy as set out in the Schedule arising out of the Business to pay compensatory damages (including claimants costs fees and expenses) in accordance with the law of any country subject always to the terms conditions and exclusions of such Section and of the Policy as a whole

PROVIDED THAT unless specifically agreed by endorsement this Policy shall not indemnify the Insured in respect of any judgment award or settlement made within countries which operate under the laws of the United States of America or Canada (or any order made anywhere in the world to enforce such judgement award or settlement either in whole or in part

## **2. DEFINITIONS**

For the purpose of this Policy:

- a) Insured means
  - i. the person persons or corporate body named in the Schedule
  - ii. subsidiary companies of the Insured notified to and accepted in writing by the Insurer
- b) Insurer means Novae Underwriting Ltd on behalf of Lloyds Syndicate 2007
- c) Business means the business of the Insured specified in the Schedule conducted at or from premises in the Insured Territories and shall include
  - i. ownership repair and maintenance of the Insured's own property

- ii. provision and management of canteen social sports medical fire fighting and welfare organisations for the benefit of any Person Employed
- d) Contract Work Executed means work carried out by or on behalf of the Insured away from the Insured's normal place of business or of that party who carried out the work on behalf of the Insured and which at the time of the Occurrence giving rise to a claim under this Policy
  - i) is no longer the property of
  - ii) is not under the control ofthe Insured or any Person Employed by the Insured
- e) Damage means accidental loss of possession of or accidental damage to tangible property
- f) Excess means the amount of the Insured's retained liability arising out of one Occurrence or series of Occurrences consequent on one original cause (The Insurer shall only be liable to the extent that any liability exceeds the Excess)
- g) Financial Loss means any pecuniary loss unaccompanied by Injury or Damage
- h) Injury means death bodily injury illness or disease of or to any person
- i) Insured Territories means Great Britain, Northern Ireland The Channel Islands or the Isle of Man
- j) Occurrence means an accident including continuous or repeated exposure to substantially the same general conditions which results in Injury or Damage neither expected nor intended by the Insured
- k) Person Employed means any
  - i. employee under a contract of service or apprenticeship with the Insured
  - ii. labour master and persons supplied by him
  - iii. labour only sub-contractors
  - iv. self employed person working for and under the control of the Insured
  - v. person hired or borrowed by the Insured
  - vi. person undertaking study or work experience or youth training scheme with the Insured
  - vii. voluntary workers or volunteerswhilst working on behalf of the Insured in connection with the Business
- l) Product means any tangible property after it has left the custody or control of the Insured which has been designed specified formulated manufactured constructed installed

erected sold hired out supplied distributed treated processed serviced altered or repaired by or on behalf of the Insured in connection with the Business and shall include any Contract Work Executed

- m) Proposal means any information provided or declaration made by the Insured in connection with this Policy whether by means of a formal proposal or otherwise.
- n) The Works means all works executed or to be executed by or on behalf of the Insured and all materials brought to the site of The Works for incorporation therein and all plant tools and equipment temporary works temporary buildings or any other property brought onto or adjacent to the site for the purpose of the execution of The Works

### **3. INDEMNITY TO OTHERS**

If the Insured so requests and it is agreed by the Insurer the indemnity granted extends to

- a) Directors Officers Employees and Partners of the Insured in their business capacity arising out of the performance of the Business
- b) the officers committee and members of the Insured's canteen social sports medical fire fighting and welfare organisations in their respective capacity as such
- c) any person or firm arising out of the performance of a contract with the Insured constituting the provision of labour only
- d) any Principal for legal liability in respect of which the Insured would have been entitled to indemnity under this Policy if the claim had been made against the Insured arising out of work carried out by the Insured under a contract or agreement
- e) the personal representatives of any person or party indemnified by reason of this Clause 3 in respect of legal liability incurred by such person

Provided always that all such persons or parties shall observe fulfil and be subject to the terms, conditions and exclusions of this Policy as though they were the Insured

### **4. INDEMNITY LIMITS**

- a) SECTION A – The Insurer's total liability to pay damages and/or claimants costs fees and expenses shall not exceed the sum stated in the Schedule in respect of any one claim against the Insured or series of claims against the Insured arising out of one Occurrence
- b) SECTIONS B AND C – The Insurer's total liability to pay damages and/or claimants costs fees and expenses shall not exceed the sum stated in the Schedule against each Section in respect of any one Occurrence or series of Occurrences arising from one originating cause but under Section C the limit applies to the total amount of damages and/or claimants costs fees and expenses payable in respect of all losses occurring during the Period of Insurance

### **5. DEFENCE COSTS**

The Insurer will also pay all costs fees and expenses incurred with their prior consent by the Insured in the defence or settlement of any claim under this Policy (hereinafter called "Defence Costs")

Defence Costs include legal expenses

- a) incurred by the Insured arising out of any prosecution of the Insured for breach or alleged breach of Part 1 of the United Kingdom Health & Safety at Work Act 1974 (and / or any legislation of similar effect) provided that the Insurer shall not be liable for any fines or penalties imposed as a consequence of such prosecution
- b) arising out of representation of any Coroner's Inquest or Fatal Accident Inquiry
- c) arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of indemnity by this Policy

Defence Costs will be payable in addition to the Indemnity Limits except in respect of Section A when the Indemnity Limit will be inclusive of Defence Costs unless this Policy is specifically endorsed to the contrary

## **SECTION A – EMPLOYERS LIABILITY**

### **6. SECTION A – INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause, but only for Injury to any Person Employed where such Injury arises out of and in the course of employment by the Insured and occurs during the Period of Insurance either

- a) in Great Britain Northern Ireland the Isle of Man or the Channel Islands
- b) elsewhere in the world in respect of temporary visits by Persons Employed normally resident in the territories specified in Sub-section (a) above

PROVIDED THAT

- i) the action for damages is brought against the Insured in a court of Law in Great Britain Northern Ireland the Isle of Man or the Channel Islands

- ii) the Insurer will not be liable in respect of

any amount payable under any workman's compensation, social security or health insurance legislation or similar legislation

any medical and/or repatriation costs

### **7. SECTION A – EXCLUSIONS & CONDITIONS**

This Section shall not apply to liability

- a) incurred in circumstances where any road traffic legislation requires compulsory insurance or security
- b) arising out of work on and/or visits to any offshore rig and/or installation and/or platform from the time of embarkation onto a conveyance at the point of final departure to such offshore rig and/or installation and/or platform until disembarkation from the conveyance from such offshore rig and/or installation and/or platform onto land

**The following conditions apply to liability**

- a) **Personal Protective Equipment Condition**  
It is a condition of this Policy that the use or wearing of Personal Protective Equipment by any Person Employed is rigorously enforced and that Personal Protective Equipment is supplied to the Person Employed and that a formal record is maintained confirming receipt of such equipment.

## 8. EMPLOYERS LIABILITY COMPULSORY INSURANCE CLAUSE

The indemnity granted by this Section is deemed to be in accordance with the provisions of any law enacted in Great Britain Northern Ireland the Isle of Man or the Channel Islands relating to compulsory insurance of liability to employees

If however, there has been non observance of any Policy conditions by the Insured and the Insurer shall have paid any sum which would not have been paid but for the provisions of such law then the Insured shall within 14 days repay such sum to the Insurer

## **SECTION B – PUBLIC LIABILITY**

### **9. SECTION B – INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury and/or Damage occurring during the Period of Insurance within

- a) Insured Territories
- b) The rest of the world in respect of liability arising out of temporary visits by Persons Employed, provided that the Person Employed is normally resident in the Insured Territories

### **10. SECTION B – EXCLUSIONS**

This Section does not cover liability for

- a) claims for which indemnity is afforded by Sections A and C whether or not such Sections are insured by this Policy
- b) claims arising out of the ownership possession or use by or on behalf of the Insured or any person or party entitled to indemnity of any motor vehicle or trailer for which compulsory insurance or security is required by legislation, other than claims
  - i. caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer in circumstances where compulsory insurance or security is not required by any road traffic legislation
  - ii. arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer except where indemnity is provided by any motor insurance contract
  - iii. arising out of any motor vehicle or trailer temporarily in the Insured's custody or control for the purpose of parking except liability for which compulsory insurance or security is required by legislation governing the use of any motor vehicle or trailer
- c) claims arising out of the ownership possession or use by or on behalf of the Insured of any aircraft hovercraft offshore installation and/or rig and/or platform or watercraft (other than watercraft not exceeding 10 metres in length whilst on inland waterways)
- d) Damage to property owned leased to hired by under hire purchase on loan to held in trust by or otherwise in the Insured's care custody or control other than
  - i. employees' and visitors' clothing and personal effects
  - ii. premises (including contents therein) temporarily occupied by the Insured for work therein or thereon but no indemnity shall be granted for Damage to that part of the property on which the Insured is or has been working and which arises out of such work
  - iii. premises tenanted by the Insured provided always that
    - 1) details of such premises shall have been disclosed to the Insurer

- 2) liability for such damage is not assumed by the Insured under agreement where liability would not have existed in the absence of the agreement
  - 3) the Insurer shall not be responsible for the first £500 of such damage caused otherwise than by fire or explosion
- e) Damage to cables pipes or other services located underground unless the Insured prior to undertaking digging boring or excavation has
- i) taken or caused to be taken all reasonable measures to identify the location of such cables pipes or other services before any work is commenced which may involve a risk of Damage thereto  
  
‘reasonable measures’ include contacting the appropriate authorities where it is possible that any cables pipes or other services are under the site
  - ii) retained a written record of the reasonable measures which were taken to locate such cables pipes or other services
  - iii) conveyed the location of such cables pipes or other services to those who are carrying out such work on behalf of the Insured

The indemnity shall in any case be restricted to the actual cost of repair or replacement of such cables pipes or other services as assessed by an independent surveyor and shall not extend to cover any additional costs for loss of use consequential loss or Damage or penalties and / or fines which are imposed on the Insured by the relevant authorities as a result of loss of use consequential loss or Damage

## **SECTION C – PRODUCTS LIABILITY**

### **11. SECTION C – INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of legal liability arising out of accidental Injury and/or Damage occurring during the Period of Insurance but only against claims arising out of or in connection with any Product

### **12. SECTION C – EXCLUSIONS**

This Section does not cover liability for claims

- a) falling within the scope of cover set out in Section A and B whether or not such Sections are insured by this Policy
- b) for costs incurred in the repair reconditioning removing re-applying rectifying or replacement of any Product or part thereof which is alleged to be defective other than Products supplied under a separate contract
- c) arising out of the recall of any Product or part thereof
- d) arising out of any Product which with the Insured's knowledge is intended for incorporation into the structure machinery or controls of any aircraft other aerial device hovercraft or offshore rig and/or installation and/or platform
- e) arising out of any Product which the Insured knows or should reasonably know is to be delivered or used in the United States of America or Canada or any territory which operates under the laws of the United States of America or Canada unless the Insured has requested that there shall be no such limitation and has accepted the terms offered by the Insurer in granting such cover, which offer and acceptance must be signified by specific endorsement to this Policy
- f) arising by virtue of a contract or agreement but which would not have arisen in the absence of such contract or agreement
- g) arising out of the failure of any Product or part thereof to fulfil the purpose for which it was intended unless due to an unintended and unexpected defect in the manufacture and/or assembly of such Product or part thereof
- h) arising from circumstances known to the Insured prior to the inception date of this Policy

### 13. EXCLUSIONS APPLICABLE TO SECTIONS B AND C

Sections B and C do not cover liability for claims

- a) arising out of the deliberate conscious or intentional disregard by the Insured's technical or administrative management of the need to take all reasonable steps to prevent Injury or Damage
- b) arising out of liquidated damages clauses penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties
- c) arising out of pollution or contamination of the atmosphere or of any water land buildings or other tangible property except to the extent that it can be proved that such pollution or contamination
  - i. was the direct result of a sudden identifiable unintended and unexpected incident occurring in its entirety at a specific time and place during the Period of this Policy
  - ii. was not the direct result of the Insured failing to take reasonable precautions to prevent such pollution or contamination

provided always that the Insurer's total liability to pay compensation and/or claimants' costs fees and expenses under this clause shall not exceed the sum stated in the Schedule in the aggregate in respect of the Period of Insurance and that all such pollution or contamination which arises out of one incident shall be considered for the purposes of this Policy to have occurred at the time such incident takes place

- d) directly or indirectly occasioned by happening through or in consequence of war invasion act of foreign enemy hostilities (whether war be or declared or not) civil war rebellion revolution insurrection or military or usurped power
- e) directly or indirectly arising out of or relating to
  - i. the recognition interpretation failure to recognise or interpret or calculation comparison differentiation sequencing or processing of data involving one or more dates or times by any computer system hardware programme or software or any microchip integrated circuit or similar device in computer or non-computer equipment whether the property of the Insured or not or
  - ii. any change alteration correction or modification involving one or more dates or times to any such computer system hardware programme or software or any microchip integrated circuit or similar device in computer or non-computer equipment whether the property of the Insured or not

This exclusion shall apply regardless of any other cause which contributes concurrently or in any sequence to such loss Damage expense liability or claim

- f) arising from or caused by design formula specification technical or professional service given for a fee by the Insured or anyone acting on behalf of the Insured
- g) arising in respect of liability for Financial Loss

- h) out of liability for Loss directly or indirectly caused by resulting from arising out of or in connection with the Insured's use of or reliance upon or sale or supply of any computer hardware or related Information Technology or communication system any computer software Internet Intranet Website or similar facility system or network and/or any electronic data or related information

PROVIDED THAT

This clause shall not exclude claims for personal injuries caused by an accident involving physical contact with computer hardware

"Loss" in this clause shall include (but shall not be limited to) Injury loss Damage cost or expense of whatsoever nature including consequential and pure Financial loss and loss of Damage to deterioration or corruption (whether permanent or temporary) or loss of use of any computer hardware or related Information Technology or communication system computer software Internet Intranet Website or similar facility system or network and/or any electronic data and related information

If the Insurer maintains that by reason of this clause any Loss is not covered by this Insurance the burden of proving the contrary shall be upon the Insured

If any part of this clause is found to be invalid or unenforceable the remainder shall remain in full force and effect

- i) For Damage to
- 1) The Works
  - 2) property for which there is a contractual requirement to effect insurance (other than public liability insurance)
  - 3) property for which there is a contractual requirement to effect insurance by reason of clause 21.2.1. of the 1980 Edition of the Joint Contracts Tribunal Conditions of Contract (or the corresponding clause in any prior version or any subsequent revision or substitution thereof) or by any clause of similar intent under any other condition of contract

**14. EXCLUSIONS APPLICABLE TO ALL SECTIONS OF THE POLICY**

This Policy does not cover liability

- a) directly or indirectly caused by or contributed to by or arising from
- i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
  - ii. the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

Provided that in respect of claims arising out of Injury which form the subject of Indemnity under Section A this Exclusion shall only apply to liability

- i. of any party to whom Indemnity is granted under Clause 3(d) (or their personal representatives)

- ii. assumed by the Insured by agreement which would not have attached in the absence of such agreement
- b) for any award of punitive aggravated or exemplary damages whether as fines penalties multiplications or compensatory awards or damages or in any other form whatsoever
- c) arising from Injury or Damage cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss

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

This Exclusion also excludes Injury or Damage cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any action taken in controlling preventing suppressing or in any way relating to any Act of Terrorism

If the Insurer alleges that by reason of this Exclusion any Injury or Damage cost or expense is not covered by this policy the burden of proving to the contrary shall be upon the Insured

In respect of Section A Employers Liability this Exclusion shall only apply in excess of £5,000,000 any one Occurrence

- d) arising from or in any way related to asbestos or asbestos fibres including but not limited to Injury or Damage directly or indirectly caused by asbestos or asbestos fibres or any commodity article or thing containing asbestos or asbestos fibres or the cost of removing nullifying or cleaning up asbestos asbestos fibres or any commodity article or thing containing asbestos or asbestos fibres

In respect of section A Employers Liability this exclusion shall only apply in excess of £5,000,000 any one Occurrence

- e) for any claim in connection with
  - i) any work of demolition except demolition solely undertaken with hand held tools and of structures not exceeding 5 metres in height by Persons Employed in the direct service of the Insured when such work forms an ancillary part of a contract for construction alteration or repair carried out by the Insured
  - ii) the construction alteration or repair of bridges towers steeples chimney shafts blast furnaces viaducts dams canals or mines
  - iii) pile driving, tunnelling mining or quarrying
  - iv) the use of explosives for any purpose
  - v) excavations below 3 metres in depth
  - vi) ship repair/ship breaking work on vessels aircraft or airports
  - vii) work on offshore installations
  - viii) work underwater

## 15. GENERAL EXTENSIONS

### 1) COMPENSATION FOR COURT ATTENDANCE

In the event of any director partner or employee of the Insured attending court as a witness at the request of the Insurer in connection with a claim in respect of which the Insured is entitled to Indemnity under this Policy the Insurer will provide compensation at the following rates for each day on which attendance is required

- a) any director or partner £250 per day
- b) any employee £150 per day

Subject to a maximum aggregate limit in the Policy period of £5,000

### 2) Housing Grants, Construction and Regeneration Act, 1996—Applicable to Sections B & C

The indemnity granted by this Policy is extended to apply to any process of adjudication or decision of any adjudicator pursuant to the Act provided always that as a condition precedent to Insurers liability under this Policy the Insured complies with Conditions (a) and (b) as follows

#### a) Policy Conditions

The Insured shall

- i. Notify the Insurer immediately upon receipt (and in no event later than two working days thereafter) of any notice of intention to refer a dispute to adjudication (“notice of adjudication”) or of the service by the Insured of any notice of adjudication in circumstances which will lead to or are likely to lead to a claim being made against the insured (whether under a process of adjudication or otherwise)
- ii. Promptly forward to the Insurer all information relating to any dispute referred to adjudication including copies of all documentation made available to the Insured or subsequently by the Insured to the adjudicator.
- iii. Allow the Insurer to appoint advisers or representatives and to have conduct (including the right but not the obligation to take over the conduct) of the adjudication as they deem appropriate and provide such assistance as the Insurer may reasonably require
- iv. Meet any request direction or timetable of the adjudicator
- v. Satisfy the Insurer that any dispute referred to adjudication is or would be the subject of indemnity under this Policy and that the decision reached by the adjudicator represents the award against the Insured of a payment of money by the Insured which constitutes compensatory damages which form the subject of such indemnity
- vi. Not agree to accept the decision of the adjudicator as finally determining the dispute without the prior written consent of the Insurer

vii. In the event of a decision reached by the adjudicator that such an award as described in v) above is payable give the Insurer every assistance in instituting legal proceedings (or arbitration is applicable in accordance with the Insured's contract) in order to challenge reopen stay the enforcement of or overturn such adjudicator's decision or otherwise to recover such award if the Insurer deems it appropriate. The Insurer shall have sole conduct of all such proceedings

b) Conditions relating to contracts

- i. Any provisions relating to adjudications pursuant to the Act in any contract entered into by the Insured shall
- ii. Provide that the adjudicator must be independent of the parties to the contract
- iii. Allow for any decision of the adjudicator to be binding or to determine any dispute finally
- iv. Not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations
- v. Not prohibit the assistance or representation by advisers or representatives (whether legally qualified or not) at any adjudication
- vi. Not place any conditions upon the timing of commencement of legal or arbitration proceedings (other than adjudications pursuant to the Act)

Any dispute or difference arising hereunder between the Insured and the Insurer shall be referred to the arbitration of a Queen's Counsel to be agreed upon by both parties or in the absence of agreement by a QC nominated by the Chairman of the Bar Council. The Insurer agrees to pay the costs of such referral except where indemnity has been denied by the Insurer and the QC upholds such decision.

**16. CONDITIONS APPLICABLE TO ALL SECTIONS**

a) Policy Voidable

This Policy shall be voidable in the event of misrepresentation misdescription or non-disclosure in any material particular

b) Observance

Observance of the terms of this Policy relating to anything to be done or complied with by the Insured is a condition precedent to any liability of the Insurer except insofar as is necessary to comply with the requirements of any legislation enacted in Great Britain Northern Ireland the Channel Islands or the Isle of Man relating to compulsory insurance of legal liability to employees

c) Reasonable Precautions

The Insured at his own expense shall

- i. take all reasonable precautions to prevent Injury or Damage to property and the sale or supply of Products which are defective in any way and cease any activity which may give rise to liability under this Policy
- ii. exercise care in the selection and supervision of Persons Employed

- iii. as soon as possible after discovery cause any defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances require
- iv. comply with all statutory requirements and other safety regulations imposed by any authority
- v. ensure that the use or wearing of Personal Protective Equipment by any Person Employed as required under the Personal Protective Equipment at Work Regulations 1992 is rigorously enforced and that Personal Protective Equipment is supplied to the Person Employed and that a formal record is maintained confirming receipt of such equipment

d) Change of Risk

The Insured shall give notice to the Insurer as soon as possible of any alteration or any change of circumstances which materially affects the risk

e) Cancellation

The Insurer may at any time by giving 30 days' notice in writing to the Insured at the Insured's last known address terminate this Policy or any section(s) hereof as from the date of giving notice provided the Insurer shall in that event return part of the premium for the unexpired time of the policy or section(s) subject to adjustment under clause 16(j)

f) Discharge of Liability

The Insurer may at any time pay the Indemnity Limit (after the deduction of any sum already paid) or any lesser amount for which a claim can be settled and shall be under no further liability except for the payment of costs and expenses incurred prior to the date of payment provided that the Indemnity Limit so allows

g) Excess

The Insurer shall not be liable for the amount of the Excess stated in the Schedule

The Insured shall not effect insurance in respect of the Excess

h) Interpretation

The Policy and the Schedule shall be read together as one contract

Any word or expression to which a specific meaning has been attached in any Section of this Policy shall bear the same meaning wherever it may appear within that Section

Any reference to

- i. the singular shall include the plural and vice versa
- ii. the masculine shall include the feminine and vice versa
- iii. a statute statutory instrument regulation or order shall include any amendment and/or re-enactment thereof

i) Warranties

Every warranty shall from the time that the warranty attaches apply and continue to be in force during the whole currency of this Policy Non-compliance with any such warranty insofar as it increases the risk shall be a bar to any claim

j) Other Insurances

If an indemnity is or would but for the existence of this Policy be covered by any other insurance the Insurer shall not provide indemnity except in respect of any excess beyond the amount which is or would but for the existence of this Policy be payable

k) Claims procedure

i. The Insured shall give written notice to the Insurer of any Injury or Damage or claim or proceeding as soon as reasonably possible and in any event no later than 14 days after the same shall have come to the knowledge of the Insured or any representative of the Insured

ii. The Insured shall not admit liability for or negotiate the settlement of any claim without the prior written consent of the Insurer who shall be entitled to conduct in the name of the Insured the defence or settlement of any claim or to prosecute for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Insurer may require

m) Fraud

If any claim is in any respect fraudulent or if any fraudulent means or devices are used by the Insured or anyone acting on behalf of the Insured or if any Injury or Damage is caused by the wilful act or with the connivance of the Insured all benefit under this Policy shall be forfeited

n) Governing Law and Jurisdiction

This Policy shall be governed in all respects by English law and the parties hereto agree to submit to the exclusive jurisdiction of the English Courts with respect to any dispute or difference arising hereunder

o) Cross Liabilities

Where there is more than one party named as the Insured in the Schedule this Policy will apply separately to each such Insured in the same manner and to the same extent as if a separate policy had been issued to each Insured and the Insurer agrees to waive all rights of subrogation against any of these parties

Provided that the total amount payable in respect of compensation does not exceed the Indemnity Limit

p) Data Protection Act 1998

It is agreed by the Insured that any information provided to the Insurers regarding the Insured will be processed by the Insurer in compliance with the provisions of the Data Protection Act 1998, for the providing of insurance and handling of claims if any which may necessitate providing such information to third parties

q) The Contract (Rights of Third Parties ) Act 1999

No rights to enforce any term of this Policy under the Contracts (Rights of Third Parties) Act 1999 are given to any person who is not a party to this Policy but this does not affect any right or remedy of any such person that arises apart from that Act

r) Premium Payment

It is warranted that all Premiums due to the Insurer under this Policy will be paid within 60 days from Inception ("the Premium Due Date")

Non-receipt by the Insurer of such Premiums by Midnight of the Premium Due Date shall render this Insurance Policy void with effect from Inception

s) Rights of Recourse

It is a condition precedent to liability under section C Products Liability that full rights of recourse will be maintained against any manufacturer or supplier with whom the Insured has entered into a legal contract for the provision of Products

t) Subrogation

If any payment is made under this Policy in respect of a claim and there is available to the Insurer any of the Insured's rights of recovery against any other party then the Insurer maintains all such rights of recovery

The Insurer shall not exercise those rights against any past present or future employee director or partner of the Insured in the Schedule or any subsidiary unless such payment is in respect of any wilful malicious or dishonest acts or omissions

The Insured must do nothing to impair any rights of recovery

At the Insurer's request the Insured will bring proceedings to transfer those rights to the Insurer and help the Insurer to enforce them

Any recovery shall be applied as follows

- a) first to the Insurer up to the amount of the Insurer's payment in respect of compensation and defence costs and expenses
- b) then to the Insured as recovery of the Insured's excess or other amount paid as compensation or costs and expenses

u) Policyholder Complaints

Any enquiry or complaint should be addressed in the first instance to your Broker

If following the above procedure your complaint has not been resolved you should write to

The Chief Executive  
Novae Underwriting Ltd  
71 Fenchurch Street  
London  
EC3M 4HH

If you are still not satisfied with the way a complaint has been dealt with you may ask the Complaints Department at Lloyd's to review your case without prejudice to your rights in law

The address is

Complaints Department  
Lloyd's  
One Lime Street  
London  
EC3M 7HA

If appropriate you may refer your complaint to the Financial Ombudsman Service.

## ENDORSEMENTS

### Fork Lift Truck Condition

(Applicable to Sections A B & C of the Policy)

It is a condition of this Policy that the use of fork lift trucks is subject to the following procedures

1. operatives must be at least 18 years of age
2. operatives must
  - a) complete a training course in the safe use of fork lift trucks through an Accredited Training Provider belonging to one of the five accrediting bodies as recognised by the Health & Safety Executive and
  - b) complete a refresher course within 5 years of the initial training programme and
  - c) the Insured must retain appropriate documentation verifying completion thereof
3. Whenever a fork lift truck is unattended the ignition keys must be removed or the vehicle otherwise immobilised to prevent unauthorised use
4. the carriage of passengers or unauthorised use or application as a tool outside of the design capabilities of the vehicle is prohibited at all times
5. operatives must engage safety restraints whenever such restraints have been fitted to the vehicle

All other terms, conditions, exclusions and limitations in this policy remain unaltered.

### Personal Protective Equipment Condition

(Applicable to Section A of the Policy)

It is a condition of this Policy that the use or wearing of Personal Protective Equipment by any Person Employed is rigorously enforced and that Personal Protective Equipment is supplied to the Person Employed and that a formal record is maintained confirming receipt of such equipment.

All other terms, conditions, exclusions and limitations in this policy remain unaltered.

### Products Liability Exclusion

Section C Products Liability is deleted from the Policy

All other terms, conditions, exclusions and limitations in this policy remain unaltered.

### Waste Conditions

(Applicable to Sections B & C)

1. This Policy does not indemnify the Insured in respect of any liability arising out of or in any way connected with the ownership, management or operation of landfill sites and/or incineration plants
2. This Policy does not indemnify the Insured in respect of any liability arising from or in any way connected to the use of skips or other containers when such skips or containers are left on a public highway.
3. This Policy does not indemnify the Insured in respect of any liability arising from or in any way connected with Hazardous Waste in accordance with The Hazardous Waste (England and Wales) Regulations 2005 The Hazardous Waste (Northern Ireland) Regulations 2005 and The Special Waste Amendment (Scotland) Regulations 2004

Notwithstanding this exclusion the Insured will indemnify the Insured in respect of liability arising out of or in connection with accidental discovery of Hazardous Waste subject to the Insured immediately on discovery using appropriate Personal Protection Equipment to remove the substance to a place of safe storage prior to removal by a licensed handler

Any unknown materials must be stored and handled in accordance with the general requirements of The Health and Safety at Work Act 1974 and any relevant or germane codes or regulations covering substances to which Persons Employed or third parties may be exposed

4. It is a condition precedent to liability that the Insured takes or arranges that all waste is taken only to licensed sites and that such waste is transported only by licensed carriers.

All other terms, conditions, exclusions and limitations in this policy remain unaltered.

### Manual Work Away Exclusion (Other than collection & Delivery)

(Applicable to Sections A B & C of the Policy)

This Policy does not indemnify the Insured in respect of liability arising from or in any way connected

with manual work undertaken away from the premises of the Insured other than the collection or delivery of goods.

06.10.2005

All other terms, conditions, exclusions and limitations in this policy remain unaltered.

**Special Endorsement 3 – Contract Certainty**

1 This Policy was written on the basis of the data presented to, and accepted by, the Insured.

2 It is a condition precedent to the liability of the Insured that the subjectivities stated at 8. hereof, ('the subjectivities') are to be resolved to the satisfaction of the Insurer within 30 days of the inception of this Policy.

3 In the event of the failure to resolve the subjectivities to the satisfaction of the Insurer within the period / by the date stated in 2. hereof, the Insurer will have the right to cancel this Policy immediately.

4 In the event that the data presented to the Insurer with the aim of resolving the subjectivities is unsatisfactory as far as the Insurer is concerned, the Insurer will have the right to apply amended terms, conditions, exclusions and premium ('the amendments') or to cancel this Policy immediately.

5 If the amendments referred to in 4. hereof, are not acceptable to the Insured, then the Insured will have the right to cancel this Policy immediately, provided that such notice is given to the Insurer in writing within 30 days of the amendments being advised.

6 In respect of 3. and 4. and 5. hereof, the premium for the period for which coverage was provided by the Insurer up to the effective date of cancellation shall be calculated at pro rata of the original premium, but in the event there are any notified, reserved or paid Claims, losses or circumstances before the effective date of cancellation, the whole premium shall be deemed fully earned.

7 The means whereby cancellation of this Policy might be effected are stated in this Policy, unless otherwise overridden by the foregoing.

8 The subjectivities are as follows, sight and approval by the Insurer of :

All other terms, conditions and limitations of this Policy remain unchanged.