

AMENDED PURSUANT TO CPR 17.1

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT**

CLAIM NO. CL-2021-000161

B E T W E E N:

STONEGATE PUB COMPANY LIMITED

Claimant

- and -

(1) MS AMLIN CORPORATE MEMBER LIMITED

(2) LIBERTY MUTUAL INSURANCE EUROPE SE

(3) ZURICH INSURANCE PLC

Defendants

AMENDED PARTICULARS OF CLAIM

A. INTRODUCTION

A1. Summary

1. This is a claim for an insurance indemnity for business interruption and interference relating to COVID-19. The losses suffered by the Claimant at its 760 public house, restaurant and other hospitality venues and for which an indemnity is due are currently estimated at around £845 million. The Claimant claims under three insuring clauses in the Marsh Resilience Policy, which provides for a 36 month maximum indemnity period and business interruption sum insured of nearly

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£2.5 billion. Each insuring clause has been triggered multiple times, attracting multiple limits and sublimits under the Policy. The Insurers do not dispute that the three relevant perils in the Policy are triggered or that business interruption or interference loss has been proximately caused, but contend that their liability is limited to £17.5 million, of which £14.5 million has already been paid.

A2. Parties

2. The Claimant (“**Stonegate**”) owns and operates 760 public houses, bars, restaurants, and other hospitality businesses (“**the Business**”), mostly located in town centres, in England (687), Scotland (43) and Wales (30).
3. The Defendants are insurers who agreed to indemnify Stonegate under the Policy (as defined below), writing the Policy on the following shares: the First Defendant, 55%; the Second and Third Defendants, 22.5% each.

B. BACKGROUND AND POLICY

4. On 26 April 2019 and 14 May 2019 brokers acting on behalf of Stonegate made a presentation of risk to the Defendants (“**the Presentations**”).
5. The Presentations included a number of documents, such as:
 - (1) A document titled Stonegate Pub Company Holding SARL and Subsidiaries Resilience – MD/BI Bound Summary, which defines Stonegate’s business as: “*Operators of managed pubs, bars, hotels and restaurants, and provision of Car parking and property owners*”; and
 - (2) A Master Location Schedule, identifying on a ‘per premises’ basis the gross profit and other sums to be insured.
6. Stonegate relies on the whole of these presentation documents for their true meaning and effect.
7. By a policy dated 14 May 2019, amended on 10 March 2020, on the Marsh Resilience wording, with a period of insurance from 1 May 2019 to 30 April 2020 (inclusive) and territorial limits comprising the UK, the parties entered into a

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contract of insurance in respect of the Business (“**the Policy**”) which included a schedule to the Policy (“**the Schedule**”). The Policy is materially similar to the RSA 4 wording considered in the test claim *FCA v Arch Insurance (UK) Ltd* [2020] EWHC 2448 (Comm) (Divisional Court) and [2021] 2 WLR 123 (Supreme Court).

8. The Policy includes the following insuring clauses:

“2. *BUSINESS INTERRUPTION*

[...]

2.3 *BUSINESS INTERRUPTION – SPECIFIED CAUSES*

*In the event of interruption or interference to the **Insured’s Business** as a result of:*

[...]

viii. *Notifiable Diseases & Other Incidents:*

a. *discovered at an **Insured Location**;*

[...]

d. *occurring within the **Vicinity** of an **Insured Location**, during the **Period of Insurance**;*

[...]

xii. ***Prevention of Access – Non Damage** during the **Period of Insurance** where such interruption or interference is for more than eight (8) consecutive hours [...]*

*within the **Territorial Limits**, the **Insurer** agrees to pay the **Insured** the resulting **Business Interruption Loss**.”*

9. The Schedule provides that:

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- (1) The insured business is “*Operators of managed pubs, bars, hotels and restaurants, and provision of Car parking and property owners*”;
- (2) the declared business interruption estimated annual insured profit is £619,962,588;
- (3) the maximum indemnity period is 36 months; and
- (4) the total sum insured for business interruption after application of a 133.33% uplift is £2,479,788,356.

10. The Schedule also includes the following limits and retentions:

“ITEM 3 – DECLARED VALUES & LIMITS OF LIABILITY

[...]

Declared Values – Business Interruption

Subject always to the provisions of General Condition 8, Limit of Liability, Sub-Limits & Retention.

[...]

Limits of Liability

[...]

Insuring Clause 2.3

Business Interruption – Specified Causes:

[...]

viii. ***Notifiable Diseases & Other Incidents*** ***GBP*** ***£2,500,000***
any one Single Business Interruption Loss [...]

[...]

xii. ***Prevention of Access – Non Damage*** ***GBP*** ***£500,000***
£1,000,000 *any one Single Business Interruption Loss*

[...]

ITEM 4 – SUB LIMITS

[...]

SUB-LIMITS SCHEDULE in respect of selected items within Insuring Clause 2 – Business Interruption

The sub-limits detailed below will operate as part of the **Limit of Liability** applicable to a **Single Business Interruption Loss** unless the individual sub-limit is expressed as ‘in addition to the **Limit of Liability**’.

Any limit specified as ‘in the aggregate’ means in the aggregate for the **Period of Insurance**.

Subject always to the provisions of General Condition 8, **Limit of Liability, Sub-Limits & Retention**

Business Interruption Costs & Expenses

Sub clause i

a. Additional Increased Costs of Working

Included

GBP 15,000,000 in addition to the Limit of Liability

[...]

c. Claims Preparation Costs *i. for a Single Business Interruption Loss equal to or greater than GBP 50,000:*

GBP 175,000 in addition to the Limit of Liability

[...]

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ii. for a **Single Business Interruption Loss** less than **GBP 50,000**:

10% of the **Single Business Interruption Loss** in addition to the **Limit of Liability**

[...]

f. **Public Relations Crisis Management Costs** **GBP 250,000** in addition to the **Limit of Liability**.

[...]

ITEM 5 – RETENTION

Subject always to the provisions of General Condition 8, **Limit of Liability, Sub-Limits & Retention**.

GBP 100,000 each **Single Property Loss** and **Single Business Interruption Loss** combined

GBP 400,000 Aggregate in the annual period

[...]

Where the **Insured** has made a claim for a **Single Property Loss** and/or a **Single Business Interruption Loss** affecting one or more **Insured Locations** that arise from, are attributable to or are in connection with the same single occurrence, only one **Retention** being the largest applicable will apply to all **Single Property Losses** and **Single Business Interruption Losses** combined.

[...]

ITEM 7 - ENDORSEMENTS

[...]

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Prevention of Access (Non Damage) is restated as - Limit GBP 1,000,000 & 6 Month Indemnity Period”

11. The Policy provides the following General Condition as to limits:

“8 **LIMIT OF LIABILITY, SUB-LIMITS & RETENTION**

i. *The liability of the **Insurer** under this policy will not exceed the **Limit of Liability** plus any applicable **Sub-Limits** that are specifically detailed as in addition to the **Limit of Liability** in the **Schedule**.”*

12. The Policy includes the following Definitions:

“9. **Business Interruption Loss** means:

i. *the **Reduction in Turnover**;*

ii. ***Increased Cost of Working**; and/or*

iii. ***Research & Development Expenditure**.”*

“42. **Indemnity Period** means the period of time during which interruption or interference to the **Insured’s Business** occurs as a consequence of the **Covered Event** beginning with the occurrence of the **Covered Event** and ending not later than the end of the **Maximum Indemnity Period** thereafter.”

“45. **Insured** means the **Policyholder** and those entities specified as such in Item 1 of the Schedule for their respective rights and interests.”

“46. **Insured’s Business** means the business undertaken by the **Insured** as described in Item 1 of the Schedule.”

“49. **Insured Locations** means:

i. *all locations and sites (including **Buildings**) owned, occupied or utilised by the **Insured** or for which the*

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Insured has assumed responsibility for the purposes of the *Insured's Business* [...]"

"56. **Limit of Liability** means the amount designated as such and specified in Item 3 of the Schedule."

"69. **Notifiable Diseases & Other Incidents** means:

[...]

ii. any additional diseases notifiable under the Health Protection Regulations (2010), where a disease occurs and is subsequently classified under the Health Protection Regulations (2010) such disease will be deemed to be notifiable from its initial outbreak;

[...]

v. defective sanitation or any other enforced closure of an **Insured Location** by any governmental authority or agency or a competent local authority or agency or a competent local authority for health reasons or concerns."

"87. **Prevention of Access – Non-damage** means:

[...]

ii. the actions or advice of the police, other law enforcement agency, military authority, governmental authority or agency in the **Vicinity of the Insured Locations** [...]

which prevents or hinders the use of or access to **Insured Locations** during the **Period of Insurance**."

"103. **Retention** means the amount designated as such and specified in Item 5 of the Schedule being the amount retained by the **Insured** in respect of a claim under this policy."

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*“105. **Single Business Interruption Loss** means:*

- i. all **Business Interruption Loss and Business Interruption Costs & Expenses** (excluding **Additional Increased Cost of Working, Claims Preparation Costs, Public Relations Crisis Management Costs and Rewards Costs**) and any amounts payable under **Extensions** that arise from, are attributable to or are in connection with a single occurrence, except in respect of **Cyber Events, Earthquakes, Floods, Storms**, and riots, civil commotion and acts of malicious persons”*

*“120. **Vicinity** means an area surrounding or adjacent to an **Insured Location** in which events that occur within such area would be reasonably expected to have an impact on an **Insured** or the **Insured’s Business.**”*

13. Stonegate will rely on the whole of the contents of the Policy including the Schedule for their true meaning and effect.

C. FACTS GIVING RISE TO COVER

14. On 31 December 2019 the World Health Organisation office in China reported instances of pneumonia of an unknown cause, of what would later become known as a novel coronavirus dubbed COVID-19.
15. By 31 January 2020 the first cases of the disease were reported in the United Kingdom, from people who had travelled from abroad.
16. From February 2020 onwards various governmental authorities and agencies within the UK (including governmental authorities and agencies in England, Scotland, and Wales) issued advice and took actions in relation to COVID-19, of which the principal ones are set out in Appendix One to this Particulars of Claim.
17. From around 17 February 2020, the Insured Business was interfered with by COVID-19, with customers staying away for reasons of fear, shielding and other COVID-19-related reasons.

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18. COVID-19 was made a notifiable disease in Scotland on 22 February 2020 by an amendment to the Public Health etc. (Scotland) Act 2008.
19. By 1 March 2020 the first cases of transmission within the UK had been reported.
20. On 2 March 2020 the first death of a person who had tested positive for COVID-19 was recorded in the UK, although the first death from COVID-19 was publicly announced by the Chief Medical Officer for England on 5 March 2020.
21. COVID-19 was made a “notifiable disease” in England on 5 March 2020 by amendment to the Health Protection (Notification) Regulations 2010 (SI 2010/659); and in Wales on 6 March 2020 by amendment to the Health Protection (Notification) (Wales) Regulations 2010 (SI 2010/1546).
22. On 11 March 2020, the WHO declared COVID-19 to be a pandemic.
23. On 20 March 2020 the Prime Minister of the UK made a statement announcing that cafes, pubs, bars and restaurants were being told to close as soon as they reasonably could and not open the following day. He added that nightclubs, theatres, cinemas, gyms and leisure centres were to close on the same timescale.
24. Also on 20 March 2020 the First Minister of Scotland made a statement announcing that restaurants, cafes, gyms, and cinemas were to close, repeating a similar message on 22 March 2020.
25. On 21 March 2020 separate Regulations were enacted in England and Wales closing public houses, restaurants, and bars, as follows:
 - (1) The Health Protection (Coronavirus, Business Closure) (England) Regulations (SI 2020/327) (“**the England 21 March Regulations**”); and
 - (2) The Health Protection (Coronavirus, Business Closure) (Wales) Regulations 2020 (SI 2020/326 (W.74)) (“**the Wales 21 March Regulations**”).
26. On 23 March 2020 the UK Government published additional guidance on business closures (describing closures of, or restrictions on, particular businesses). The UK Government subsequently updated this guidance on 25, 26 and 27 March 2020.

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27. A number of Insured Locations closed prior to 16 March 2020 due to COVID-19. A number of further Insured Locations closed on or around 16 March 2020 following the UK Government's advice not to visit pubs. All of the remainder of Stonegate's Insured Locations were closed on or before 20 March 2020.
28. On 24 March 2020, the UK Government issued guidance in relation to holiday accommodation providers such as hotels, stating that by now they should have taken steps to close for commercial use, and providing further detail as to closure requirements.
29. On 26 March 2020 Regulations were enacted in England, Wales, and Scotland closing a wide range of businesses, including those such as selling food or drink for consumption on the premises and those such as hotels providing holiday accommodation, as follows:
 - (1) The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (SI 2020/350) ("**the England 26 March Regulations**");
 - (2) The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (SI 2020/353 (W.80)) ("**the Wales 26 March Regulations**"); and
 - (3) The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (SI 2020/103) ("**the Scotland 26 March Regulations**").
30. The England, Wales and Scotland 26 March Regulations required that there be a review of the need for the restrictions and requirements imposed by those Regulations every 21 days, as follows:
 - (1) In England, under Regulation 3 the first review was required by the Secretary of State for Health by 16 April 2020;
 - (2) In Wales, under Regulation 3 the first review was required by the Welsh Ministers by 15 April 2020; and
 - (3) In Scotland, under Regulation 2 the first review was required by the Scottish Minister by 16 April 2020.

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31. In accordance with these requirements reviews were carried out, and decisions made, as follows:
- (1) For England, on 28 April 2020 the Secretary of State for Health issued a statement confirming that the Government had completed the first review as required on 16 April 2020, in which it was agreed that no change would be made to the existing restrictions and that they would remain in place for at least three more weeks.
 - (2) For Wales, on 16 April 2020 the First Minister of Wales issued a statement confirming that the Welsh Ministers had undertaken a review and determined that the requirements and restrictions set out in the Regulations must remain in force.
 - (3) For Scotland, on 16 April 2020 the First Minister of Scotland gave a speech in which she stated that a decision had been taken by the Scottish Government to extend the current lockdown rules. On 28 April 2020 the Cabinet Secretary for the Constitution, Europe and External Affairs gave a statement to the Scottish Parliament confirming that the First Minister's announcement was the outcome of the first review of the Regulations.
32. Interference and interruption of the Insured Business continued until the date of these Particulars of Claim (and will continue beyond them, likely to the end of the Maximum Indemnity Period in April 2023).

D. CLAIM UNDER THE POLICY

33. Stonegate is entitled to and claims an indemnity for Business Interruption Losses as defined under the Policy as a result of three separate perils insured under clause 2.3 'Business Interruption – Specified Causes', specifically clauses 2.3.viii and 2.3.xii, and further costs as set out further in section **F** below.
34. Clause 2.3.viii provides cover for interruption or interference to the Insured's Business as a result of Notifiable Diseases & Other Incidents discovered at an Insured Location or occurring within the Vicinity of an Insured Location. There

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are two relevant perils insured under the Notifiable Diseases Clause, addressed further in sections **D1** and **D2** below.

35. Clause 2.3.xii provides cover for interruption or interference to the Insured's Business as a result of Prevention of Access – Non Damage during the Period of Insurance, addressed further in sections **D3** below.
36. The Insured's Business is defined in the Schedule as the operators of managed pubs, bars, hotels and restaurants, and the provision of car parking and property owners. Each of those 760 premises is an Insured Location.
37. As set out further below, every one of these Insured Locations has suffered interruption or interference as a result of each of the perils which are the subject of this claim, although not uniformly as to amount, time period, or triggers.

D1. 'The Disease Peril': COVID-19 discovered at an Insured Location or occurring within the Vicinity of an Insured Location

38. The defined term Notifiable Diseases & Other Incidents at Definition 69.ii of the Policy includes diseases which are subsequently classified as notifiable, which diseases are then deemed to be notifiable from their initial outbreak.
39. COVID-19 was classified as notifiable on 22 February 2020 in Scotland, 5 March 2020 in England, and 6 March 2020 in Wales. Its initial outbreak in the UK was no later than 31 January 2020, and under the Policy it is deemed a notifiable disease from that date at the latest.
40. For the purpose of the Disease Peril, the relevant insuring clause is triggered each time the business at an Insured Location is interrupted or interfered with as a result of COVID-19:
 - (1) occurring within the Vicinity of an Insured Location; or
 - (2) discovered at an Insured Location.
41. On the proper construction and application of the Policy:

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- (1) The discovery of an occurrence of COVID-19 – meaning wherever a person was present at any one of the Insured Locations and at that time or later displayed symptoms of or was diagnosed with COVID-19 indicating that he or she had COVID-19 when at the Insured Location - is a separate trigger for the Disease Peril where interruption or interference resulted from it.
 - (2) Each occurrence of COVID-19 – meaning wherever a person or persons contracted COVID-19 so that it could be diagnosed, whether or not it was verified by medical testing or a medical professional and/or formally confirmed or reported to the PHE and whether or not it was symptomatic – within the Vicinity of any one of the Insured Locations is a separate trigger for the Disease Peril where interruption or interference resulted from it.
 - (3) Each and every occurrence of COVID-19 discovered at any one of the Insured Locations or occurrence within the Vicinity of any one of the Insured Locations is a separate and effective and so proximate cause of interruption or interference with the business at each Insured Location, including without limitation, where losses were incurred as a result of public reaction to COVID-19 (e.g. where customers shielded or stayed at home or were otherwise deterred from visiting an Insured Location as a result) and/or as a result of the reaction to COVID-19 of governmental authorities or agencies.
 - (4) COVID-19 occurred within the “Vicinity” of all Insured Locations (which were all in England, Scotland and Wales) on 31 January 2020, and again with each new case of COVID-19 anywhere in those countries thereafter.
 - (5) Accordingly, each interruption or interference resulted from multiple triggers of the Disease Peril (and therefore multiple Covered Events), including a separate trigger of the Disease Peril for each premises with each occurrence or discovery of COVID-19; alternatively, a single separate trigger for each premises but not each occurrence.
42. Accordingly, the Policy responds to the Disease Peril, and provides cover for resulting Business Interruption Loss from around 17 February 2020 onwards.

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D2. The Closure Peril: Enforced Closure of an Insured Location

43. The defined term Notifiable Diseases & Other Incidents at Definition 69.v of the Policy includes any enforced closure of an Insured Location by any governmental authority or agency or a competent local authority or agency for health reasons or concerns.
44. The Governments of the UK, Scotland and Wales are governmental authorities or agencies.
45. There was “enforced closure of an Insured location by any governmental authority or agency or a competent local authority for health reasons or concerns occurring within the Vicinity of an Insured Location”, as follows:
 - (1) Each of the Insured Locations was ordered to close in full or in part (or was directed to close with a compulsory order for closure being made if it did not) or to cease business by: the announcements by the UK and Scottish Governments of 20, 23, and 24 March 2020; each set of the England and Wales 21 March Regulations and the England, Wales and Scotland 26 March Regulations; and the review and continuation of the restrictions imposed by each set of England, Wales and Scotland 26 March Regulations on 15 and 16 April 2020; as set out above at paragraphs 23 to 31.
 - (2) Each of the Insured Locations has thereby suffered enforced closure by a government authority for health reasons, namely due to COVID-19, by each of these measures on each of 20, 21, 23, 24, 26 March 2020, and 15 and 16 April 2020, in England, Scotland, and Wales (as appropriate).
 - (3) The Insured’s Business has been interrupted and/or interfered with as a proximate result of each such enforced closure within the Vicinity of each Insured Location, each Insured Location having closed. For the Closure Peril, the relevant insuring clause was triggered separately for each premises by each enforced closure set out above that related to it, and each amounts to a Covered Event.
46. Accordingly, the Policy responds to the Closure Peril, and provides cover for resulting Business Interruption Loss from 20 March 2020.

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D3. The Prevention Peril: Prevention of Access – Non Damage

47. The Policy provides cover for interruption or interference to the Insured's business as a result of Prevention of Access – Non Damage.
48. The defined term Prevention of Access – Non Damage at Definition 87 of the Policy includes the actions or advice of governmental authority or agency in the Vicinity of the Insured Locations which prevents or hinders the use of or access to the Insured Locations during the Period of Insurance.
49. As set out above, from February 2020 onwards governmental authorities and agencies in England, Scotland and Wales gave advice and took actions relating to COVID-19. Such actions and advice took place within the Vicinity of the Insured Locations and prevented or hindered the use of or access to all of the Insured Locations (for example by causing them to close, or causing customers not to visit the Insured Locations), proximately causing interruption and/or interference with the Insured's Business.
50. Each action or advice which solely or concurrently prevented or hindered the use of or access to an Insured Location was a separate trigger of the Prevention Peril. Appendix One sets out a list of the principal such actions and advice, although there were additional such actions or advice not included in Appendix One (for example, where specific local authority actions or advice affected certain Insured Locations, or actions or advice relevant only to a minority of Insured Locations operating a non-core business such as car parking.)
51. For the Prevention Peril, the relevant insuring clause is therefore triggered (and there is a Covered Event) for each of the Insured Locations each time a relevant governmental authority or agency gave advice or took actions relating to COVID-19 which prevented or hindered the use of or access to that Insured Location.
52. Accordingly, the Policy responds to the Prevention Peril, and provides cover for resulting Business Interruption Loss from around 17 February 2020.

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E. LIMITS AVAILABLE UNDER THE POLICY

E1. Applicable limits for the Disease Peril

53. The Policy provides cover of £2.5m for any one Single Business Interruption Loss under the Disease Peril.
54. For the Disease Peril cover is triggered per occurrence or discovery of COVID-19 per premises, as set out above.
55. For the purposes of the Single Business Interruption Loss aggregation, the losses resulting from an occurrence of COVID-19 within the Vicinity of an Insured Location do not arise from, are not attributable to, and are not in connection with any single occurrence; alternatively save for each occurrence of COVID-19 discovered at an Insured Location or within the Vicinity of that Insured Location (i.e. on a per occurrence per premises basis); or alternatively save for all occurrences of Covid-19 within the Vicinity of an Insured Location or discovery at an Insured Location affecting that Insured Location (i.e. on a per premises basis).
56. The applicable limits under the Policy for the Disease Peril are therefore significantly in excess of the Claimant's covered business interruption losses.

E2. Applicable limits for the Closure Peril

57. The Policy provides cover of £2.5m for any one Single Business Interruption Loss under the Closure Peril.
58. For the Closure Peril cover is triggered per closure per premises, as set out above.
59. For the purposes of the Single Business Interruption Loss aggregation, the losses resulting from each enforced closure of any one Insured Location due to the various measures in England, Scotland and Wales (as particularised above at paragraph 45) do not arise from, are not attributable to, and are not in connection with any single occurrence save for each enforced closure of that Insured Location (i.e. on a per closure per premises basis).

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60. The applicable limits under the Policy for the Closure Peril are therefore significantly in excess of the Claimant's indemnified business interruption losses.
61. Alternatively, the losses resulting from the enforced closure of all Insured Locations arise from, are attributable to, or are in connection the specific measure giving rise to the enforced closure, giving a single nationwide (although separate for each of England, Wales and Scotland) limit for each measure particularised at paragraph 45 above.

E3. Applicable limits for the Prevention Peril

62. The Policy provides cover of £1m for any one Single Business Interruption Loss under the Prevention of Access Clause.
63. For the Prevention Peril cover is triggered per advice per premises, as set out above.
64. For the purposes of the Single Business Interruption Loss aggregation, the losses suffered resulting from the advice or actions of governmental authorities or agencies preventing or hindering access to or use of each one of the Insured Locations do not arise from, are not attributable to, and are not in connection with any single occurrence save for that advice or action of that governmental authority or agency preventing or hindering access to or use of that Insured Location (i.e. on a per advice per premises basis).
65. Alternatively, the losses resulting from the prevention or hindrance of access to or use of all Insured Location arise from, are attributable to, or are in connection with the specific action or advice giving rise to the prevention or hindrance, giving a single nationwide (although separate for each of England, Wales and Scotland) limit for each action or advice.
66. The applicable limits under the Policy for the Closure Peril are therefore significantly in excess of the Claimant's covered business interruption losses.

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E4. Additional Increased Cost of Working (“AICW”)

67. The Policy provides £15m cover for AICW “in addition to the Limit of Liability”. The Limits of Liability applicable to the Disease, Closure and Prevention Perils apply for any one Single Business Interruption Loss. On the proper construction of the Policy, the Policy therefore provides a limit of £15m for AICW for each Single Business Interruption Loss.
68. Further, AICW does not only apply to uneconomic ICW (i.e. that which exceeds the amount of Reduction in Turnover avoided) but also applies to ICW where the limit applicable to the ICW has been exhausted.

E5. Claims Preparation Costs and Public Relations Crisis Management Costs

69. The Policy provides £175,000 cover for Claims Preparation Costs for a Single Business Interruption Loss equal to or greater than £50,000; and £250,000 cover for Public Relations Crisis Management Costs; both “in addition to the Limit of Liability”. On the proper construction of the Policy, the Policy therefore provides a limit of £175,000 for Claims Preparation Costs and £250,000 for Public relations Crisis Management for each Single Business Interruption Loss (in the former case, where equal to or greater than £50,000).

F. LOSSES TO BE INDEMNIFIED

70. Stonegate has suffered Business Interruption Loss as defined under the Policy, made up of Reduction in Turnover and Increased Cost of Working. Stonegate has also suffered Business Interruption Costs and Expenses as defined under the Policy, including: AICW; Claims Preparation Costs (for which the Defendants’ consent was sought and granted); and Public Relations Crisis Management, all as defined.
71. Each trigger of the Disease, Closure and Prevention Perils is a proximate cause of interruption or interference at each and every Insured Location to which it relates, subsequent to that trigger, as particularised above.

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72. Stonegate's Reduction in Turnover has been caused by a total lack of custom during the periods when its Insured Locations were closed (on average 28 weeks during the first year of the indemnity period), and reduced levels of custom during the periods when the Insured Locations have been permitted to open. Stonegate has also incurred ICW and AICW arising from, *inter alia*, more costly and less profitable Covid-secure trading practices required by government advice, instructions and Regulations, and increased costs of borrowing that were necessary to ensure the survival of the business.
73. The Policy provides a Maximum Indemnity Period of 36 months. The latest Covered Events occurred in April 2020 and the interruption and interference continues to date and will continue into the future, and accordingly losses are recoverable up to April 2023.
74. The total Business Interruption Loss suffered by Stonegate from February 2020 to 11 April 2021 is estimated at £441,520,462 and the total AICW during the same period at £39,265,731. The total covered losses are therefore estimated at £480,786,193 to 11 April 2021.
75. The projected Business Interruption Loss suffered by Stonegate during the remainder of the 36 months of the Maximum Indemnity Period (up to April 2023) is £248,312,270, and the projected AICW during the same period is £116,308,731, giving a total of £364,621,001.
76. The total Business Interruption Loss and AICW claimed by Stonegate is therefore £845,407,194.
77. In addition, Stonegate claims Public Relations Crisis Management Costs and Claims Preparation Costs estimated at not less than £425,000.
78. Stonegate gives credit for:
- (1) The payments made by the Defendants in the total sum of £14.5m (being the £2.5m limit in relation to a Single Business Interruption Loss, and £12m in relation to AICW); and
 - (2) £400,000 retention aggregated for the annual period of cover.

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79. Stonegate does not deduct from its claim the furlough payments (and other Government support) received, as these do not on the proper construction of the Policy go to reduce the claim.

G. INTEREST

80. Stonegate claims interest under section 35A of the Senior Courts Act 1981 at such rate and for such period as the Court shall determine.

AND the Claimant claims:

- (1) A declaration that the Defendants are liable to indemnify the Claimant's claimed losses past and future during the indemnity period, subject to applicable limits; and
- (2) A declaration as to the applicable limits including what amount to Single Business Interruption Losses (the aggregation limit); and
- (3) A declaration that the total applicable limits substantially exceed the estimated losses set out in paragraphs 74 and 75 above, such that the losses as estimated will be recoverable in their entirety; and
- (4) Damages under the Policy indemnity and/or for breach of contract in the sum of £845,832,194 plus VAT (if applicable), or such other sum as the Court shall determine; and/or
- (5) Interest in such sum as the Court shall determine; and
- (6) Costs.


**PAUL REED QC, Hardwicke
ADAM KRAMER QC, 3 Verulam Buildings
DAVID PLIENER, Hardwicke
LOUIS ZVESPER. Hardwicke**

3 29 June 2021

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Statement of truth

The Claimant believes that the facts stated in this Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: 

Name: Aaron Le Marquer

Solicitor: Fenchurch Law Limited

Position: Partner

Dated: 29 June 2021