



## Directors and Officers Section

### Definitions applicable to this Section

#### Benefits

means perquisites or fringe benefits or amounts due or payments made in connection with an **employee** benefit plan or pension scheme share or stock options or any other right to purchase or acquire or sell shares or stock and any other obligation or payment made to or for the benefit of an **employee** other than salary (including bonus) or wages

#### Circumstance

means an incident or occurrence or fact or matter or act or omission which is likely to give rise to a **claim** under this Section and or Subsections

#### Claim

means

- 1) service of a **claim** form or counterclaim or **related claim** or application notice or notice of appeal or witness summons or similar legal document including an application for any related injunction served upon any **insured** in respect of a **wrongful act**
- 2) any arbitration proceeding or request to nominate an arbitrator served upon any **insured** in respect of a **wrongful act**
- 3) any written or electronic communications whether or not containing a demand for compensation or damages received by any **insured** threatening commencement of proceedings in respect of a **wrongful act** and any written demand against any **insured person** for monetary damages reinstatement or other non-monetary relief
- 4) any criminal prosecution of an **insured person** resulting from a **wrongful act**
- 5) any notice of an **investigation** commenced by the filing of a notice of charge formal investigative order questionnaire or similar document
  - 5.1) into the affairs of the **company** or the affairs of an **outside entity** as provided in **Subsection 1 – Directors and Officers Liability** Extension Outside entities and where an **insured person** is required to attend or give evidence
  - 5.2) involving a **wrongful act** alleged to have been committed by an **insured person** or in respect of which an **insured person** is required to attend or give evidence by reason of his acting in the capacity of a **director** or **officer**
- 6) any extradition proceeding brought against an **insured person** or appealed by an **insured person** where the allegations from which the extradition proceedings result arise from a **wrongful act** by reason of his or her acting in the capacity of a **director** or **officer** provided that such allegation is first made against or received by any **insured person** during the **period of insurance**

#### Company

means the **insured** or their **subsidiary**

### **Defence costs**

means that part of **loss** consisting of reasonable and necessary costs or charges or fees including but not limited to lawyers' and agents' fees and expenses (other than regular or overtime wages or salaries or fees or **benefits** of the **directors officers** or **employees** of the **company**) incurred by **us** or with **our** prior written consent the **insured**

- 1) in defending investigating or settling **claims** or assisting **us** in investigating defending or settling **claims** (including the premiums paid for any insurance instruments or bonds which may be required in certain jurisdictions to institute an appeal or enter an appearance but without any obligation to apply for or furnish any such insurance instruments or bonds)
- 2) in respect of the attendance or giving of evidence by any **insured person** at an **investigation** into the affairs of the **company** or the affairs of an **outside entity** as provided in **Subsection 1 – Directors and Officers Liability** Extension Outside entities
- 3) in respect of any **investigation** involving a **wrongful act** alleged to have been committed by an **insured person** or relating to which an **insured person** is required to attend or give evidence by reason of his acting in the capacity of a **director** or **officer**

When incurred by **us** or by the **insured** with **our** written consent **defence costs** are part of and not in addition to the applicable Limit of Liability and the payment by **us** reduces such Limit of Liability

### **Director**

means any natural person who was or is or becomes

- 1) a **director** of the **company** including a de facto or shadow **director** as defined under section 251 of the Companies Act 2006 or any equivalent provision in the jurisdiction in which the **company** is incorporated including any person named in any prospectus issued by the **company** as a prospective **director** or
- 2) a shadow **director** of any **company** directly as a result of his activities as a **director** or **officer** of the **company**

but this does not include without **our** prior written consent any **insured person** who ceases to be a **director** or **officer** prior to commencement of the **period of insurance** for the following reasons

- a) disqualification from holding the office of **director**
- b) being dismissed from their position

### **Discovery period**

means the period immediately following the expiry of the **period of insurance** during which the **insured** may continue to notify **claims** or **circumstances** solely in relation to **wrongful acts** committed prior to the expiry of the **period of insurance**

Any **claim** made during the **discovery period** shall be deemed to have been made during the immediately preceding **period of insurance**

The purchase of any **discovery period** shall not increase or reinstate the applicable Limit of Liability which shall be **our** maximum liability for the **period of insurance** and **discovery period** combined

## Employee

means any natural person who was or is or becomes during the **period of insurance**

- 1) an **employee** of any **company** including trainees or casual or part-time or seasonal or temporary or voluntary and work experience
- 2) seconded to any **company** and acting in such capacity

## Employment wrongful act

means any error or misstatement or misleading statement or act or omission or neglect or breach of duty actually or allegedly committed or attempted by any one or more **insureds** in their capacities as such against any past or present or prospective **employee** or **director** or partner of **yours** in connection with any actual or alleged

- 1) wrongful or unlawful or unfair dismissal or discharge or termination of employment
- 2) breach of any written or oral employment contract or quasi-employment contract
- 3) employment-related misrepresentation
- 4) violation of employment discrimination laws including sexual or other workplace harassment and discrimination on the grounds of racial or national origin or sex or sexual orientation or religion or maternity or pregnancy or age and disability
- 5) violation or non-compliance with legislation regulating working hours
- 6) wrongful failure to employ or promote
- 7) wrongful demotion
- 8) wrongful discipline
- 9) wrongful deprivation of a career opportunity
- 10) failure to grant tenure
- 11) failure to adopt adequate workplace or employment policies and procedures
- 12) **retaliatory** treatment of whistleblowers and others
- 13) negligent evaluation
- 14) employment-related invasion of privacy
- 15) employment-related breach of data protection legislation
- 16) employment-related libel slander humiliation and defamation
- 17) failure to furnish accurate job references
- 18) employment-related wrongful infliction of mental anguish or emotional distress
- 19) breach of any obligation which has been transferred to the **company** by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 1981 or the EC Acquired Rights Directive except

for any obligation which existed at or prior to the date of transfer

### **Excess**

means the amount of each and every **claim** or **loss** as applicable which is payable by the **insured** stated in the **appendix**

The **excess** does not form part of the Limit of Liability and is payable by the **insured** before the application of the Limit of Liability

### **Executive officers**

means the chairman of the board of **directors** managing **director** chief executive officer finance **director** or chief financial officer of the **company**

### **Financial institution**

means any entity whose principal business activity is as a clearing bank or deposit/lending bank or building society or foreign exchange broker or trader or merchant bank or stockbroker or securities broker or commodity trader or broker or derivative trader or broker or hedge fund or insurance broker or insurance company or life assurance company or financial advisor or independent financial advisors or asset management company or investment trust or ISA or unit trust or other financial investment provider or credit provider or currency exchange operation or any other similar entity

### **Full annual premium**

means the annual premium payable by **you** including any additional premium which becomes payable immediately prior to the expiry of the **period of insurance** in question

### **Identity**

means publicly available data held by an official registry or any other party which relates to the formation and identity of the **company** such data being relied upon by investors or vendors in establishing **your** financial standing and credit worthiness

### **Identity fraud**

means the fraudulent modification or alteration or theft of **identity**

### **Identity fraud expenses**

means reasonable and necessary

- 1) fees or costs and expenses incurred solely to correct or reinstate public records following an **identity fraud**
- 2) legal fees costs and expenses incurred in applying for civil or criminal proceedings to be dismissed or withdrawn on the basis that the alleged liability resides with the perpetrator of the **identity fraud**

### **Insured**

means the **insured persons** and the **company** or any **subsidiary** or organisation detailed to **us** prior to the commencement of the **period of insurance** as stated in the **schedule** or **appendix** as acquired and created during the **period of insurance** under the terms of Section Extension Acquisition or creation of subsidiary

## Insured persons

means

- 1) any natural person who was or is or becomes during the **period of insurance** a **director** or **officer** of the **company**
- 2) any natural person falling within the definition of **insured** who is incompetent or incapacitated or bankrupt or dead and against whose estates or heirs or executives or other legal representatives **claims** are being pursued which would in the absence of such incompetence or incapacity or bankruptcy or death be insured by this Section
- 3) in connection with **employment wrongful acts** only any **employee** of the **company** or any natural person (whether self-employed or employed by an entity other than the **company**) who is contracted to and supervised by the **company** provided that
  - 3.1) the contract between that person and the **company** provides for the **company** to indemnify that person in respect of any **claim** and the **company** has agreed to do soand
  - 3.2) **we** agree to provide such cover and each such individual is added to the **schedule** or **appendix** by **endorsement**

## investigation

means any formal or official investigation (other than the **company's** own internal investigation) or examination or dawn raid or regulatory interview or other proceedings made or commenced during the **period of insurance** by a governmental body professional body or other institution which is empowered by statute to investigate the **insured**

## Loss

means

- 1) damages compensation or contributions or judgments or with **our** prior written consent settlements
- 2) claimant's legal costs and expenses
- 3) punitive or exemplary and aggravated damages except
  - 3.1) such damages awarded in respect of an **employment wrongful act**
  - 3.2) those stated in 7) below
- 4) all other costs and expenses ordered by a court or other legally authorised **tribunal** or incurred with **our** prior written consent
- 5) **defence costs** in respect of a **claim** made against or received by any **insured** jointly or severally
- 6) in respect of an **employment wrongful act** only the cost to the **insured** of paying wages (but not **benefits**) to an **employee** for the period from the date of the purported dismissal or termination to the date on which the court or **tribunal** of first instance delivered its judgment to the parties

**We** shall advance **defence costs** in accordance with Claims Condition Defence and co operation 2.2) and 3)

- 7) **loss** and any **defence costs** does not include
- 7.1) taxes
  - 7.2) fines
  - 7.3) penalties
  - 7.4) any other form of **loss** which is uninsurable under the law of the state or country to which the **claim** is subject
  - 7.5) the multiple portion of any multiplied damage award
  - 7.6) any amount which the **insured** is not legally liable to pay
  - 7.7) in respect of an **employment wrongful act** only
    - a) any amount not indemnified by the **company** for which the **insured** are absolved from payment by reason of any covenant agreement or court order
    - b) the value of any share or stock options or any other right to purchase or acquire or sell shares or stock
    - c) taxes or fines or penalties imposed by law or the multiple portion of any multiplied damage award
    - d) the cost of complying with any injunctive or other non-monetary relief or any agreement to provide any such relief
    - e) matters uninsurable under the law pursuant to which this Section is construed or such **claim** is adjudicated provided however that **loss** shall include aggravated or punitive or exemplary damages to the extent such damages are insurable under the laws of the United Kingdom or Channel Islands or Isle of Man

### **Merger**

means

- 1) the **insured** consolidating with or merging into or selling all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert or
- 2) any person or entity whether individually or together with any other person or entity acquiring an amount of share capital representing more than 50% of the voting power for the election of **directors** of **you** or acquiring the voting rights for such an amount of the shares

### **North America**

means the United States of America and Canada and in each case its territories and possessions and any state or political sub-division thereof

### **North American claim**

means each and every **claim** brought against the **insured** in **North America** or which is instituted or pursued before an arbitrator or **tribunal** or in courts in **North America** whether for enforcement of judgment or otherwise or in which it is contended that the laws of any country or state or political sub-division in **North**

**America** should apply and includes any **investigation** made or commenced in **North America**

#### **Officer**

means

- 1) any natural person who was or is or becomes during the **period of insurance** an **officer** of the **company** other than its external auditor or liquidator or administrator or receiver or solicitor
- 2) any **employee** of the **company** whilst acting in a managerial or supervisory capacity including any **employee** of the **company** who at the specific written request of the **company** is appointed to a managerial or supervisory position within any entity established for the sole purpose of any profit sharing or share option or sporting or social or welfare purpose and which exists predominantly for the benefit of any or all of the **insured persons** and **employees** of the **company** and their families and dependants
- 3) any **employee** of the **company** who is named as a co-defendant in respect of a **claim** made against a **director** or **officer**
- 4) in respect of an **employment wrongful act** any **employee** of the **company**

#### **Order**

means the settlement or adjudication of any **claim** whether by a court or **tribunal** or other competent body pursuant to Section Claims Conditions Settlement exclusive to **Subsection 3 – Employment Practices Liability**

#### **Outside entity**

means any **company** or non-profit organisation except any **subsidiary** unless it

- 1) is registered for any purpose domiciled or incorporated in **North America** or
- 2) has any of its **securities** listed on any exchange in **North America**

#### **Pollutants**

means any other air emission or odour or waste water or oil or oil products or infectious or medical waste or biological contaminants **asbestos** or **asbestos** products or electric or magnetic or electromagnetic fields and noise or any ionising radiations or contamination by radioactivity

**Pollutants** shall also mean any substance located anywhere in the world exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or a country or state or county or municipality or locality counterpart thereof such substances shall include without limitation solids or liquids or gaseous or thermal irritants or contaminants or smoke or vapour or soot or fumes or acids or alkalis or chemicals or waste materials

#### **Pollution**

means the actual or alleged or threatened discharge or release or escape or seepage or migration or disposal of **pollutants** into or on real or personal property or water or the atmosphere

#### **Prior & pending litigation date**

means the date stated in the **schedule** or **appendix**



### **Related claims**

means any **claims** based on or arising out of or attributable to or in any way involving the same or related facts or **circumstances** or situations or transactions or events or the same or related series of facts or **circumstances** or situations or originating cause or transactions or events shall be regarded as one **claim**

### **Retaliation/retaliatory**

means a **wrongful act** of an **insured** relating to or alleged to be in response to the treatment of any **employee** less favourably than others or the victimisation of that person because that person threatens to bring proceedings or give evidence or information or take any action or make any allegation concerning the **insured** with reference to legislation relating to sex or race or disability or discrimination or whistle blowing and subject to the provisions of this Section any employment protection law generally or where the **insured** has already done any of the foregoing and retaliatory is so defined

### **Retires/retirement**

means the act of any **insured person** voluntarily relinquishing their position from the **company** with a resulting state of retirement whereby such **insured person** does not subsequently resume or assume the position of **director** or **officer** or **employee** in any entity thereafter

### **Securities**

means any note or stock or bearer instrument or derivative or bond or debenture or evidence of indebtedness or depositary receipt or share or other equity or debt security of any **company** and shall include any certificate of interest or participation in or receipt for or warrant or other right to subscribe to or purchase or voting certificate relating to or certificate of deposit for or other interest in any of the foregoing

### **Spouse**

means a lawful spouse or civil partner or any person deriving similar status by reason of the common law

### **Statement**

means the information contained in any document provided by **you** on behalf of the **insured** to **us** relating to the insurance applied for and assumptions that **we** make about factual **circumstances** relevant to the insurance and which are accepted by **you** as true and correct

### **Sub-limit**

means **our** maximum aggregate liability for **loss** arising out of any one **claim** or **related claims** first made during the **period of insurance** or any applicable **discovery period** arising from a Subsection Extension under this Section are within the Limit of Liability stated in the **appendix** of the applicable Subsection and not in addition

### **Subsidiary**

means any entity domiciled in the United Kingdom or Channel Islands or Isle of Man in which **you**

- 1) hold directly or indirectly more than 50% of the voting rights
- 2) has the right to appoint or remove a majority of the board of **directors**
- 3) hold more than half of the issued share capital

### **Tribunal**

means a tribunal constituted in accordance with the Employment Tribunals (Constitution and Rules of Procedures) Regulations 2001 and any statutory amendment or successor thereto

### **Wrongful act**

means in respect of

- 1) an **insured person** any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty or breach of trust or libel or slander or breach of contract or breach of warranty of authority or wrongful trading as set out in section 214 of the Insolvency Act 1986 (or any equivalent situation in any jurisdiction in which the **company** is incorporated) or **employment wrongful act** or other act actually or allegedly committed or attempted by any **insured person** in their capacity as
  - 1.1) a **director or officer**
  - 1.2) a **director or officer** or trustee or governor or incumbent of a position of equivalent status of any **outside entity**
- 2) the **company** any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty or breach of trust or breach of warranty of authority or other act actually or allegedly committed or attempted by the **company**

### **You / your**

means the corporate body or organisation in the **schedule** or **appendix** that will act on behalf of all **insureds** with respect to the

- 1) giving and receiving notice of any **claim** or **circumstance**
- 2) payment of **full annual premium**
- 3) receiving of any return premiums that may become due under this Section
- 4) negotiation and agreement to and acceptance of any **endorsement**
- 5) giving or receiving of any notice provided for in this Section except the giving of notice to apply for the **discovery period**

and **insureds'** agree that **you** will so act on their behalf

<b>Directors and Officers Section - Subsection 1 Directors and Officers Liability</b>
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Insurance provided

This insurance Section covers **claims** first made against the **insured** and notified to **us** during the **period of insurance** or applicable **discovery period** and **we** shall indemnify

- 1) on behalf of the **insured persons loss** arising from **claims** first made during the **period of insurance** for which the **company** has not provided indemnity to that **insured person** for such **loss**
- 2) **company** reimbursement on behalf of the **company loss** arising from **claims** first made during the **period of insurance** if and to the extent that the **company** is legally required or permitted to indemnify

the **insured persons** for such **loss** provided that the **company** shall be liable to pay any applicable **excess**

3) **employment wrongful acts** on behalf of **insured persons** for **loss** arising from **claims** first made during the **period of insurance** for **wrongful employment acts** against the **insured persons** provided that

3.1) **we** shall not be liable for **loss** arising out of any **North American claim** for an **employment wrongful act**

3.2) **employment wrongful acts** will only become operative when **Directors and Officers Section – Subsection 3 Employment Practices Liability** is not operative

#### Limit of Liability

The Limit of Liability stated in the **appendix** will be **our** maximum aggregate liability for **loss** arising from all **claims** and all **related claims** first made during the **period of insurance** or any applicable **discovery period**

Extensions
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The terms Conditions and Exclusions of this <b>policy</b> or Section apply to these Extensions
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Where no Limit or maximum liability is stated in the Extensions the Subsection Limit of Liability applies
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#### Additional defence costs for non- executive directors

If the Limit of Liability under this Subsection and any indemnity which the **insured persons** are entitled under any other insurance is exhausted **we** shall deem the Limit of Liability for this Subsection to be increased by a further 10% or subject to a maximum additional aggregate limit of £250,000 whichever is the lesser amount but only in respect of **defence costs** incurred by an **insured person** in their capacity as a non-executive **director** of the **company**

#### Compensation for court attendance

If legal advisers acting on behalf of the **insured** with **our** consent require any **director** of the **insured** to attend any court tribunal or arbitration or adjudication or mediation or other hearing as a witness in connection with a **claim** made against the **insured** and notified under this Subsection **we** will provide compensation to the **insured** at the rate of £200 per person for each day on which attendance is required

**Our** maximum liability during the **period of insurance** under this Extension is a **sub-limit** of £10,000

#### Investigation defence costs

**We** shall pay that part of the **loss** which relates to **defence costs** only on behalf of any **insured person** incurred by any **insured person** in defending themselves due to any notice of an **investigation** commenced by the filing of a notice of charge or formal investigative order or questionnaire or similar document

- 1) into the affairs of the **company** or the affairs of an **outside entity** as provided in Outside entities and where an **insured person** is required to attend or give evidence
- 2) involving a **wrongful act** alleged to have been committed by an **insured person** or in respect of which an **insured person** is required to attend or give evidence by reason of his acting in the capacity of a **director** or **officer**

**We** shall not pay under this Extension any remuneration of any **insured person** or the cost of their time or any costs or overheads incurred by any **company** except for those provided for by the Extension Compensation for court attendance

#### Outside entities

**We** shall pay **loss** on behalf of any **insured person** and any **employee** of the **company** who at the specific request of the **company** was or is or becomes during the **period of insurance** a **director** or **officer** or trustee or governor or occupies a position of equivalent status of any **outside entity** for **claims** against them in respect of a **wrongful act** committed or attempted by such **insured persons** or **employees** in their respective capacities as **director** or **officer** or trustee or governor or positions of equivalent status of such **outside entity**

This Extension shall be in excess of any indemnification provided by the **outside entity**

#### Public relations consultancy fees

**We** shall pay reasonable costs including but not limited to lawyers' or agents' fees and expenses (except regular or overtime wages or salaries or fees or **benefits** of the **insured persons** or **employees** of the **company**) incurred with **our** prior written consent in respect of fees necessarily incurred by the **insured** to employ the services of an external public relations consultant or crisis management firm or law firm solely to provide guidance to minimise adverse publicity following a **claim**

**We** shall not unreasonably withhold **our** consent to the incurring of costs and expenses under this Extension

**Our** maximum liability during the **period of insurance** under this Extension is a **sub-limit** of £25,000

#### Retired and former directors

- 1) If any **insured person retires** as a **director** or **officer** from the **company** prior to the expiry of the **period of insurance** such **insured person** shall be entitled to a free **discovery period** for a period of 72 months after the expiry of the **period of insurance** provided always that this **discovery period** will not apply where **you** renew or replace this Subsection whether with **us** or not or where a **discovery period** has been activated in accordance with the Extension Discovery period
- 2) If any **insured person** ceases to be a **director** or **officer** during the **period of insurance** for reasons other than **retirement** excluding
  - 2.1) disqualification from holding the office of **director**
  - 2.2) being dismissed from their position
  - 2.3) due to the acquisition **merger** or winding up of **you** as Section Condition Transactions changing coverage 1) Acquisition merger or winding up of the **insured**
  - 2.4) due to the **insured** being wound up

such **insured person** shall be entitled to a free **discovery period** of 180 days after the expiry of the **period of insurance** provided always that this **discovery period** shall not apply where the **insured** renews or replaces this Subsection whether with **us** or not or where a **discovery period** has been activated in accordance with the Extension Discovery period

#### Shareholder action deriving from pollution

**We** shall pay **loss** on behalf of the **insured persons** in respect of civil proceedings brought by any shareholder or bondholder of the **company** either directly or derivatively alleging **loss** in the value of the share

capital of the **company** by reason of **pollution** of any kind which results from a **wrongful act** unless on or before the **prior & pending litigation date** any **insured person** or any **employee of company** whose responsibilities include environmental control or compliance knew or should reasonably have foreseen that a **circumstance** existed which could have given rise to a **claim** against the **company** or any **insured person**

Shareholder claim coverage

**We** shall pay on behalf of the **company** necessary costs including but not limited to lawyers' or agents' fees and expenses except regular or overtime wages or salaries or fees or **benefits** of the **insured persons** or **employees** of the **company** incurred by a shareholder in pursuing a **claim** in the name of the **company** against a **director** or **officer** and which the **company** is liable to pay pursuant to an order of court provided such **claim** was first made during the **period of insurance**

Any costs and expenses incurred by a shareholder under this Extension shall be considered as **loss** for the purposes of applying any Exclusions

**We** shall not unreasonably withhold **our** consent to the incurring of costs and expenses under this Extension

Exclusions additional to the <b>policy</b> or Section Exclusions
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- 1) **We** shall not be liable for **loss** in respect of a **claim** for a **wrongful act** by an **insured person** serving as a **director** or **officer** or trustee or governor of or holding a position of equivalent status in an **outside entity** if such **claim** is brought or maintained by or on behalf of the **outside entity** in which the **insured person** serves or by or on behalf of any **director** or **officer** or trustee or governor of or person of equivalent status in such **outside entity** except a **claim**
  - 1.1) that is a derivative action brought or maintained on behalf of such **outside entity** by one or more persons who are not a **director** or **officer** or trustee or governor of such **outside entity** and who bring and maintain the **claim** without the solicitation assistance or active participation of such **outside entity** or such **director** or **officer** or trustee or governor
  - 1.2) brought or maintained by a **director** or **officer** or trustee or governor of such **outside entity** for any actual or alleged **employment wrongful act** or for a contribution or indemnity in respect of a **claim** made against them
  - 1.3) brought or maintained by an external auditor appointed by the **outside entity**
  - 1.4) brought or maintained by a liquidator or receiver or administrative receiver or equivalent in any jurisdiction on behalf of any **outside entity** without the solicitation or assistance or active participation of any **insured person** or by or on behalf of any **director** or **officer** or trustee or governor of or person of equivalent status in such **outside entity**

<b>Directors and Officers Section - Subsection 2 Corporate Liability</b>
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Insurance provided

**We** shall pay on behalf of the **company** **loss** arising from **claims** first made during the **period of insurance**

Limit of Liability

The Limit of Liability stated in the **appendix** shall be **our** maximum aggregate liability for **loss** arising from all **claims** and all **related claims** first made during the **period of insurance** or any applicable **discovery period**

Extensions

The terms Conditions and Exclusions of this **policy** or Section apply to these Extensions

Where no Limit or maximum liability is stated in the Extensions the Subsection Limit of Liability applies

**We** shall pay on behalf of the **company**

Employee fraud defence costs

**Defence costs** arising from a **claim** by a third party alleging that a direct **financial loss** has been sustained as a result of an act (or acts) of fraud or dishonesty committed by one or more **employees** and where they have acted in collusion with one or more persons employed by the third party

**Our** maximum liability during the **period of insurance** under this Extension is a **sub-limit** of £25,000

Identity fraud

**Identity fraud expenses** provided such expenses are incurred with **our** prior written consent

**Our** maximum liability during the **period of insurance** under this Extension is a **sub-limit** of £25,000

**We** shall not unreasonably withhold **our** consent to the incurring of costs and expenses under this Extension

Exclusions additional to the **policy** or Section Exclusions

**We** shall not be liable for **loss** for any actual or alleged

- 1) contractual liability of any **company** under any express or implied contract or agreement
- 2) plagiarism or misappropriation or infringement or violation of copyright or patent or trademark or trade secret or any other intellectual property rights
- 3) violation of any law whether statutory or regulatory or common law with respect to any of the following activities
  - 3.1) anti- trust
  - 3.2) business competition
  - 3.3) unfair trade practices
  - 3.4) tortious interference

in another's business or contractual relationships

- 4) liability relating to Workers' Compensation or disability **benefits** or redundancy or unemployment **benefits** or compensation or unemployment insurance or retirement **benefits** or social security **benefits** or pension **benefits** or any similar law or obligation whatsoever
- 5) liability involving the provision of medical services or medical malpractice
- 6) liability relating to or arising out of in any way an **employment wrongful act**

- 7) liability relating to or arising out of in any way the manufacture or supply or sale or installation or maintenance of any products by any **company**
- 8) liability of any **company** relating to or arising out of in any way a charge or allegation of libel or slander

<b>Directors and Officers Section - Subsection 3 Employment Practices Liability</b>
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Insurance provided

**We** shall pay on behalf of any **company** **loss** arising from **claims** first made during the **period of insurance** for **employment wrongful acts** against the **company** where such **claim** is brought by

- 1) an **employee** or prospective **employee**
- 2) a partner or prospective partner of the **insured**
- 3) a **director** or non-executive **director** or **officer** or prospective **director** or prospective non-executive **director** or prospective **officer** of any **company**
- 4) a natural person at work whether self employed or employed by an organisation other than the **company** provided such natural person is providing services to the **insured** on premises owned and occupied by the **company**
- 5) a natural person at work whether employed by an **outside entity** or a non-executive **director** thereof where the **insured person** is acting as a **director** or **officer** or governor or equivalent position in such **outside entity**
- 6) the
  - 6.1) Equal Opportunities Commission
  - 6.2) Commission for Racial Equality
  - 6.3) Disability Rights Commission

or any other officially recognised regulatory or professional or trade body or any similar or equivalent body provided that **loss** arising from **claims** first made is restricted to **investigation**

Limit of Liability

The Limit of Liability stated in the **appendix** shall be **our** maximum aggregate liability for **loss** arising from all **claims** and all **related claims** first made during the **period of insurance** or any applicable **discovery period**

Exclusions additional to the <b>policy</b> or Section Exclusions
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- 1) **We** shall not be liable for all **loss**
  - 1.1) directly or indirectly based on or arising out of or in any way involving any **claim** incurred as a result of strikes or obligations to consult representatives and **employees** in relation to collective redundancies or lockouts or trade union disputes or labour disputes or negotiations or other similar actions including but not limited to disputes in respect of recognition
  - 1.2) for any **employment wrongful act** arising out of any **insured person** serving as a **director** or

**officer** or trustee or governor of an **outside entity**

- a) if such **claim** is brought by a **director** or **officer** or shareholder of the **outside entity**
- b) occurring prior to the **prior & pending litigation date** if the **insured** knew or could have reasonably foreseen that such **employment wrongful act** could lead to a **claim** under this Subsection

- 1.3) directly or indirectly based on or arising out of or in any way involving an actual or alleged violation of the responsibilities or obligations or duties imposed by law governing health and safety or workers' compensation or unemployment insurance or social security or disability **benefits** or similar law

provided however that Section Exclusion 1) with 1.1) above and Exclusion 2) and Subsection Exclusion 2.1) below will not apply where a **claim** relates to any actual or alleged **retaliatory** treatment of the claimant by the **company** arising from the claimant's exercise of rights pursuant to any of the regulations or activities set out in Exclusion 1) and Subsection Exclusion 1.1) and Exclusion 2) and Subsection Exclusion 2.1)

- 2) **We** shall not be liable for all **loss** other than **defence costs** directly or indirectly based on or arising out of or in any way involving
  - 2.1) costs incurred by the **insured** to make any reasonable accommodation for any disabled person in respect of working practices or otherwise
  - 2.2) payment of wages or any other form of payment due under the contract of employment or otherwise (including compensation payable in respect of contractual or statutory notice periods and contractual or statutory payments due on redundancy) or liability for awards of damages for breach of or for the payment of a debt under an **employee's** contract of employment but this Exclusion does not apply if any breach of an **employee's** contract of employment relates to a breach of any disciplinary or grievance procedures or equal opportunities situation
  - 2.3) repayment of deductions wrongfully made from salary or wages or **benefits** or from any other form of payment due under the contract of employment
  - 2.4) breach of any obligation pursuant to any minimum wage legislation except that this Exclusion will not apply and insurance will be provided under **Directors and Officers Section - Subsection 3 Employment Practices Liability** where a **claim** relates to any actual or alleged **retaliation** in connection with such breach

<b>Directors and Officers Section</b>
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These Extensions apply to Directors and Officers Section - Subsections 1, 2 and 3 when the Subsection is stated to be operative in the <b>appendix</b> unless <b>we</b> state otherwise by endorsement
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The terms Conditions and Exclusions of this <b>policy</b> or Section and Subsections apply to these Extensions
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Where no Limit or maximum liability is stated in the Extensions the Subsection Limit of Liability applies
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Acquisition or creation of subsidiary

- 1) Subject to 2) below if any **company** creates or acquires during the **period of insurance** a new **subsidiary** the new **subsidiary** will be automatically insured under this Section in relation to **wrongful acts** committed or alleged to have been committed after the date the new **subsidiary** was created or acquired by the **company** subject to the provisions of 3) below



- 2) The **company** will not have to provide **us** with any particulars of the new **subsidiary** until the next renewal date following creation or acquisition of the **subsidiary**
- 3) Automatic insurance stated in 1) above will apply where a new **subsidiary** created or acquired by any **company**
  - 3.1) does not have gross consolidated assets that increase the gross consolidated assets of the **company** by more than 50% above the **company's** most recent consolidated annual accounts
  - 3.2) is not a **financial institution**
  - 3.3) has no **securities** listed on any exchange
  - 3.4) is domiciled in the **territorial limits** or in a country in which the **company** currently holds a **subsidiary** for which cover has been expressly provided by **us** under this Section
  - 3.5) has not increased the number of **employees** by more than 50% in the **period of insurance**
- 4) If any **company** acquires or creates a **subsidiary** that falls outside the parameters stated in 3) above then this Extension will include such new **subsidiary** in relation to **wrongful acts** committed or alleged to have been committed after the date the new **subsidiary** was created or acquired by the **company** provided that **you** have notified **us** as required by the **policy** Condition Alteration

**We** shall have no liability in respect of any creation or acquisition of any **subsidiary** which falls outside the parameters stated within 3) above in respect of any matter which the **insured** does not notify to **us** in accordance with this requirement

**We** may consider the provision of retroactive cover for any new **subsidiary** in respect of wrongful acts committed or alleged to have been committed prior to the date of any such acquisition or creation upon specific request. If **we** at **our** absolute discretion agree to provide insurance it will be noted by an **endorsement**

Corporate killing or manslaughter

**We** shall pay that part of **loss** on behalf of any **insured** which relates to **defence costs** only incurred by any **insured** in respect of any criminal proceedings relating to corporate killing or manslaughter or other similar or equivalent criminal offence in any jurisdiction in which the **company** operates resulting from a **wrongful act** or **investigation**

For the purposes of this Extension **defence costs** shall not include costs relating to any publicity or remedial orders imposed by any court or similar or equivalent judicial remedial or punitive measure imposed in any jurisdiction in which the **company** operates

Discovery period

The **insured persons** or **you** shall be entitled to elect a **discovery period** on the terms set out in this Extension if

- 1) **we** decline to offer any terms for renewal of this Section
- 2) **you** make a specific written request to **us** for such **discovery period** which is accepted by **us**

The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute **our** declining to renew

The terms of the **discovery period** will be 12 months for 100% of that part of the **full annual premium**

payable in respect of this Section

The application to elect any **discovery period** must be received by **us** within 30 days of the expiry of the **period of insurance** and payment of the premium if applicable must be made within 30 days of the expiry of the **period of insurance** and this premium is non-refundable. Any time delay between the expiry of the **period of insurance** and the election of any **discovery period** will be part of and not in addition to the **discovery period** elected

If a **merger** takes place **you** shall not be entitled to purchase a **discovery period** on the terms set out in this Extension however the **insured** within 30 days of the expiry of the **period of insurance** may request a quote from **us** for a **discovery period** . **We** shall consider such request and may at **our** absolute discretion offer a **discovery period** on such terms as **we** may reasonably consider appropriate

During the 30 day application period referred to above and during any **discovery period** and without prejudice to Section Claims Condition Allocation the **insured persons** and **you** may continue to notify **claims** to **us** but only in respect of **wrongful acts** committed prior to the expiry of the **period of insurance**

Emergency costs and expenses

If **you** are unable to reasonably obtain **our** prior written consent to incur **defence costs** **we** will retrospectively approve such costs less any applicable **excess** provided such costs are notified to **us** as soon as practicable after they are incurred

**Our** maximum liability during the **period of insurance** under this Extension is £25,000

Pollution

**We** shall pay that part of the **loss** which relates to **defence costs** only on behalf of any **insured** subject to a maximum liability of £250,000 or the Limit of Liability stated in the **appendix** whichever is the lesser amount incurred by any **insured** in defending themselves against criminal or regulatory proceedings in respect of **pollution** of any kind which results from a **wrongful act**

Exclusions additional to the <b>policy</b> and Subsection Exclusions
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**We** shall not be liable for **loss** directly or indirectly based on or arising out of or in any way involving

- 1) **bodily injury** mental anguish or emotional distress or illness or death or disease of any person or **damage to property** including loss of use thereof except that this Section Exclusion shall not apply in respect of any actual or alleged mental anguish or emotional distress arising from or in connection with an **employment wrongful act**
- 2) the trusteeship or administration by any **insured** of any pension plan programme or scheme or other **employee** benefit programme or any **insured** acting in a fiduciary capacity in respect thereof including any obligation incurred under the Pensions Act 1995 Pensions Act 2004 or for any actual or alleged violation of the Employee Retirement Income Security Act of 1974 (USA) or any regulations promulgated thereunder or of any similar or equivalent law or regulation provided that this Section Exclusion shall not apply to **loss** arising from a **claim** for **retaliation**
- 3) **pollution**
- 4) any direction or request that any **insured** tests for monitor clean up remove contain treat or neutralise **pollutants** or any voluntary decision to do so including without limitation any **claim** for financial **loss** to the **company** or their shareholders bondholders or its creditors based on arising out of or in any way involving the matters described in this Section Exclusion

but 3) and 4) above shall not apply insofar as such **loss** is covered by the Section Extension Pollution

5) any fact **circumstance** or situation

5.1) which has been or should have been the subject of any written notice given under any Section of which this Section is a direct or indirect renewal or replacement

5.2) alleged in relating to or underlying any written demand for monetary damages or other relief or any civil criminal or administrative or regulatory proceeding including arbitration pending on or prior to the **prior & pending litigation date**

6) any dishonesty or fraud found by way of any judgment or other final adjudication to have been committed by any **insured**

7) any **insured** found by way of judgment or other final adjudication to have gained any profit or advantage or to have received any remuneration to which he was not legally entitled

The provisions of Section Claims Conditions Defence and co operation 2) shall apply to 6) and 7) above to the extent that the application of this Section Exclusion shall establish that **defence costs** are not covered under this Section

8) any **claim** made against any **insured** based on the rendering or failure to render any professional service or advice to a customer or client

9) directly or indirectly based on or arising out of or in any way involving the actual or intended private placement or public offering of any **securities** however if a private placement or public offering **we** may consider at **our** sole discretion removal of this Section Exclusion subject to **you**

9.1) providing **us** with such information as **we** may require to evaluate and assess any additional exposure

9.2) accepting any amendments to the terms and Conditions of this Section and agreeing pay any additional premium charged by **us**

Removal of this Section Exclusion must be by **endorsement** expressly deleting this Section Exclusion

10) any **North American claim**

11) the actual or attempted enforcement or upholding or registration against the **insured** by any arbitrator tribunal or court outside **North America** of any damages or other monetary awards or orders or judgments or negotiated settlements or claimant's costs and expenses any other costs and expenses connected with or arising out of any **North American claim**

12) any **claim** brought against the **insured** as a consequence of the operations of any branch or **subsidiary company** or **outside entity** in **North America**

Conditions additional to the <b>policy</b> and Subsection Conditions
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Acquisitions prior to the **period of insurance**

If a **subsidiary** has been acquired by the **company** prior to the **period of insurance** such **subsidiary** shall be covered under this Section in relation to **wrongful acts** committed or alleged to have been committed after the date on which such **subsidiary** was acquired by the **company** only and committed during the **period of insurance**

#### Alteration and assignment

No change in or modification of or assignment of interest under this Section shall be effective except when made by **endorsement** to this Section and issued by **us**

#### Excesses

- 1) **Our** liability under this Section for **loss** arising from any single **claim** and all related **claims** will apply only to that part of such **loss** which is in excess of the applicable **excess** stated in the **appendix**. The **insured** shall bear at their own risk the amount of any applicable **excess** in respect of each and every **claim** and **related claim**
- 2) If the **company** is permitted or required to indemnify the **insured persons** in respect of any **loss** suffered by them but fails to do so **we** shall pay such **loss** directly to the **insured persons** on behalf of the **company** provided that the **company** shall be liable to pay any applicable **excess**
- 3) Any **excess** borne by an **insured** in respect of any **claim** shall be reimbursed by **us** if final judgment or adjudication is given in favour of an **insured** by a court or tribunal of competent jurisdiction. For the purposes of this Condition final judgment or adjudication shall only be adjudged to have been given when all rights of appeal to higher courts or tribunals have been foregone or exhausted
- 4) Any **excess** does not form part of the Limit of Liability and it shall be payable by the **insured** before the application of the Limit of Liability

#### Interpretation of legal references

Any legal references within this Section shall include any equivalent legal provision in the jurisdiction of ordinary residence of **you** or location of the risk insured provided that such jurisdiction falls within the territorial scope of this Section

#### Limits of Liability and Excesses

- 1) The Limit of Liability shall not apply separately for each **insured**
- 2) **Our** liability for **loss** arising out of any one **claim** and all **related claims** sustained by any or all **insureds** will not exceed the amount for which **we** would have been liable had all such **loss** been suffered by any one **insured**
- 3) If any **claim** or **related claim** is payable under the terms of Subsection Additional Defence Costs for Non-Executive Directors such additional limit shall increase the Limit of Liability applicable to **Subsection 1 Directors and Officers Liability** as appropriate

#### Partial invalidity

Should any provision of this Section be or become invalid or unenforceable pursuant to the law to which this Section is subject such provision shall be deemed to be deleted and all other terms and Conditions of this Section shall remain in full force and effect

#### Severability

- 1) Severability
  - 1.1) Excepting 1.2 below the **proposal** will be construed as a separate application for insurance by each **insured**. No fact relating to or statement of or knowledge possessed by any **insured** will be imputed to any other **insured** for the purpose of determining the availability of insurance

- 1.2) The **insured** agree that if any statements or representations made in the **proposal** are inaccurate or incomplete **we** will be entitled to review our options stated in the Fair presentation of the risk Condition with respect to any
- a) natural person who knew the facts were not fully and accurately disclosed in the **proposal**
  - b) **insured** that is a corporation to the extent it indemnifies any natural person referenced in 1.2) a) above
  - c) **insured** that is a corporation if any **executive officer** of the **insured** knew the facts that were not fully and accurately disclosed in the **proposal**
  - d) **insured** that is a partnership or sole trader where any partner or member or principal respectively knew the facts that were not fully and accurately disclosed in the **proposal**
- 1.3) No fact pertaining to or knowledge possessed by any **insured** will be imputed to any other **insured** for the purposes of applying any **Directors and Officers Section** and or Subsection Exclusion

#### Spouses

If a **claim** against an **insured person** includes a **claim** against the **insured person's spouse** solely by reason of such **spouse's**

- 1) legal status as a **spouse** of the **insured person**
- 2) ownership interest in **property** which the **claimant** seeks as recovery for **claims** made against the **insured person**

all **loss** for which such **spouse** becomes legally obliged to pay by reason of such **claim** shall be treated for the purposes of this Section as **loss** which the **insured person** becomes legally obliged to pay on account of the **claims** made against the **insured person**

All terms and Conditions of this Section including without limitation the **excess** applicable to **loss** incurred by such **insured person** in the **claim** shall also apply to such spousal **loss**

This insurance does not apply to the extent the **claim** alleges any **wrongful act** or omission by the **insured person's spouse**

#### Territorial Limits

Unless **we** state otherwise in the **schedule** or **appendix** insurance under this Section is worldwide

#### Transactions changing coverage

- 1) Acquisition merger or winding up of the **insured**

Unless otherwise agreed in writing by **us** this Section shall terminate for all **insureds** upon

- 1.1) the acquisition of the entire company issued share capital or of all or substantially all of its assets by another entity or the **merger** or consolidation of the **company** into or with another entity such that **you** are not the surviving entity
- 1.2) the obtaining by any person or entity or affiliated group of persons or entities of the right to elect or appoint or designate at least fifty per cent (50%) of the **company directors**

- 1.3) the appointment of a liquidator or provisional liquidator or receiver or administrative receiver or supervisor or trustee or other similar insolvency appointee or fiduciary in respect of the **company**
- 1.4) winding up of the **company** but not for this purpose any **subsidiary**

Following termination **you** may continue to notify **circumstances** or **claims** first made against the **insured** during the **period of insurance** provided that cover shall only apply to **loss** or that part of any **loss** occurring prior to 1) Acquisition merger or winding up of the **insured**

- 2) Disposal or winding up of subsidiaries

Unless otherwise agreed in writing by **us** this Section shall terminate for a **subsidiary** upon

- 2.1) the appointment of a liquidator or provisional liquidator or receiver or administrative receiver or supervisor or trustee or other similar insolvency appointee or fiduciary in respect of such **subsidiary**
- 2.2) the **subsidiary** ceasing for any reason to fall within the **definition** of **subsidiary**

Following termination **you** may continue to notify **circumstances** or **claims** first made against the **insured** during the **period of insurance** provided that cover shall only apply to **loss** or that part of any **loss** occurring prior to 2) Disposal or winding up of subsidiaries

Claims Conditions additional to the <b>policy</b> and Subsection Conditions
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#### Allocation

- 1) If an **insured** incurs both **loss** covered by this Section and **loss** not covered by this Section because a **claim** is made against both **insured persons** and the **company** or because a **claim** includes both **loss** which is covered and that which is not **we** shall negotiate in good faith with the **insured** to determine a fair and reasonable allocation of the **loss** taking into account the relative legal exposures of the parties with respect to covered and not covered **loss**
- 2) If the **insured** and **we** cannot agree on an allocation in respect of **loss** the **insured** and **we** agree to submit the issue of allocation to a Queen's Counsel whose identity shall be agreed between the parties and failing agreement within 30 days of one party receiving written notice of a nomination being made by the other party shall be chosen by the Chairmain for the time being of the Bar Council whose decision shall be binding. The Queen's Counsel shall be directed to apportion all costs of the determination and shall act as an expert and not as an arbitrator
- 3) All references to Queen's Counsel in this Section include where proceedings have been commenced in jurisdictions outside England and Wales a lawyer of similar status. Reference to the Chairman for the time being of the Bar Council or his nominee include, where proceedings have been commenced in jurisdictions outside England and Wales a similar or equivalent appointee

#### Claims (notification)

- 1) It is a **condition precedent** to **our** liability to indemnify **you** under this **Directors and Officers Section** that in relation to any **claim** submitted **you** provide to **us** written notice as soon as possible if **you** receive notice of any **claim** or when **you** become aware of any **circumstance**
  - 1.1) during the **period of insurance** or any applicable **discovery period**
  - 1.2) of any **claim** within 60 days after the end of the **period of insurance** or any applicable **discovery period**

except in respect of any **director** or **officer** who may in the event that **you** fail or refuse to give notice under this Claims Condition give notice of a **claim** direct to **us**

- 2) Notification of any **claim** or **circumstance** must provide full details including but not limited to
  - 2.1) the identity of the claimant or potential claimant
  - 2.2) the nature of the **claim**
  - 2.3) the likely quantum of the **claim**
  - 2.4) the **insured's** preliminary views on the merits of such **claim** and the **insured** shall provide **us** with such further information and documentation as **we** may reasonably require
  - 2.5) where appropriate documentation includes evidence of invoices or receipts or proof of payments and the like
- 3) Any **claim** arising from any notification of **circumstance** will be determined to have been made in the **period of insurance** and any applicable **discovery period** in which the **circumstance** was first notified to **us**
- 4) Subject to the provisions of the Condition Severability **we** will not avoid any **claim** on the grounds of a breach of Claims Condition Notification 1) above but where in **our** opinion the **insured** has prejudiced the handling or settlement of any **claim** the amount payable in respect of such **claim** including costs and expenses will be reduced to such sum as in **our** opinion would have been payable in the absence of such prejudice

#### Defence and Co operation

- 1) **We** shall have the right but are not obliged to conduct in the name of the **insured** the defence and settlement of any **claim** covered by this Section and to appoint lawyers or other representatives for this purpose even if any of the allegations against the **insured** are groundless or false or fraudulent but **our** right to defend shall cease upon exhaustion of the Limit of Liability applicable to any Subsection or Section
- 2) Where any **claim** or **circumstance** is notified
  - 2.1) the **insured** shall execute all papers required and shall do everything necessary to defend such **claim** and provide **us** with all information or documentation or assistance and co-operation as **we** reasonably request
  - 2.2) **we** shall advance **defence costs** excess of any applicable **excess** provided that if and to the extent it is finally established that any such **defence costs** are not covered under this Section the **insureds** severally according to their interests hereby agree to repay **us** such non-covered **defence costs**
- 3) The **insured** shall not settle or offer to settle any **claim** or incur any **defence costs** or otherwise assume any contractual obligation or admit any liability with respect to any **claim** without **our** prior written consent. **We** shall not be liable for and any applicable **excess** shall not be depleted or exhausted by any settlement or **loss** or **defence costs** or assumed obligation or admission to which **we** have not consented  
  
**We** shall not unreasonably withhold any consent referred to in this Claims Condition
- 4) The **insured** agrees that in the event of a **claim** the **insured** shall do nothing that shall prejudice **our** position or its potential or actual rights of recovery. The **insured** shall at all times use reasonable endeavours to do and concur in doing all such things as are reasonable practicable to avoid or diminish

any **loss** and to assist with the defence or settlement of any **claim**

**We** may make any **investigation we** deem necessary

Reasonable endeavour shall include self reporting to any regulator an actual or suspected material breach of a **company's** or **insured persons** legal or regulatory duties where the **insured** is required to give notice of such actual or potential breach for the avoidance of doubt any self reporting shall not constitute an admission of liability with regard to any **claim**

Disputes as to contesting legal proceedings

- 1) Subject to the provisions of 2) below in the event of a disagreement arising between **us** and the **insured** as to whether or not to contest or settle legal proceedings or proceed with appeals the issue shall be remitted to a Queen's Counsel whose decision on the probability of successfully defending the **claim** or the acceptability of the proposed terms of settlement or the probability of succeeding on appeal shall be final

The identity of such Queen's Counsel shall be agreed by the parties or failing such agreement within 30 days of one party receiving written notice of a nomination being made by the other party by the Chairman for the time being of the Bar Council

- 2) In the event that Queen's Counsel or Junior Counsel is instructed in connection with the defence of a **claim** the parties shall submit any issue between them to the said Counsel as to whether or not to contest or settle legal proceedings or proceed with appeals
- 3) Any appointment under the provisions of this Claims Condition shall be as expert and not as arbitrator
- 4) The costs of the said expert determination shall be deemed to form part of the **defence costs**
- 5) All references to Queen's Counsel in this Section include where proceedings have been commenced in jurisdictions outside England and Wales a lawyer of similar status
- 6) Reference to the Chairman for the time being of the Bar Council in this Section include where proceedings have been commenced in jurisdictions outside England and Wales a similar or equivalent appointee

Other Insurance

This Section shall be specifically excess of any other valid and collectible insurance including but not limited to any insurance which is stated to be primary or contributory or excess or contingent or otherwise unless such other insurance is specifically excess of this Section

If at the time of **loss** there is any other insurance effected by or on behalf of any **insured** covering the same **loss** as covered by this Section **our** liability for **loss** under this Section will be limited to its rateable portion of such **loss** subject always to the Limit of Liability and appropriate Section Extensions or Subsection Extensions applicable

A **loss** which is covered partly by this Section and partly by another Subsection including policies of which this is a renewal issued by **us** to the **insured** for which any previous applicable **discovery period** has not expired shall be limited to the larger amount of insurance under the previous Section or this Section or Subsection and shall on no account be cumulative

Related claims

all **related claims** shall be deemed one **claim** and such **claim** shall be deemed to be first made on the date



the earliest of such **claims** is first made regardless of whether such date is before or during the **period of insurance** or the **discovery period** notwithstanding the provisions of Condition Claims Notification

#### Subrogation and recoveries

- 1) in the event of any payment under this Section **we** shall be subrogated to the extent of such payment to all the **insured's** rights of recovery

The **insured** shall do everything necessary to secure and preserve such rights including the execution of such documents as is necessary to enable **us** effectively to bring proceedings in the name of the **insured**

- 2) Provided however that in no event shall **we** exercise **our** rights of subrogation against **insured persons** except where such **insured persons** have been fraudulent or committed a criminal act or obtained any profit or advantage to which they are not legally entitled
- 3) All recoveries obtained by the **insured** from other parties shall be allocated after the settlement of any **claim** under this Section in the following order of priority to the benefit of
  - 3.1) the **insured** to reduce or extinguish the amount of **your loss** to the extent that it would have been paid under this Section but for the fact that such **loss** exceeds the Limit of Liability together with any **excess** applicable then
  - 3.2) **us** for all sums paid in settlement of **loss** arising under this Section then
  - 3.3) the **insured** for the amount of the **excess** under this Section
- 4) All recoveries shall be applied as herein only after deduction of the reasonable cost of obtaining such recovery. All recoveries made prior to settlement of any **claim** under this Section shall be held for **our** benefit and applied as stated herein after settlement if any is made