



Policy

Governance & Management Liability Insurance

Form: GOVERNANCE MANAGEMENT LIABILITY-SL-0823-POLICY-UK&L



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1 Introduction

This policy consists of the Policy Definitions, Exclusions and Conditions, the **Schedule**, the coverage Sections stated as operative in the **Schedule** and **Endorsements**, if any, all of which are a single document and are to be read as one contract. In deciding to accept this policy and in setting the terms and premium **We** have relied on the information which the **Insured** has provided to **Us**.

We will, in consideration of the payment of the premium, insure **You**, subject to the terms and conditions of this policy, against the events set out in the operative Sections and occurring in connection with the **Business** during the **Period of Insurance** or any subsequent period for which **We** agree to accept payment of premium.

Please read this policy carefully and make sure that it meets the **Insured's** needs. If any corrections are necessary the **Insured** should contact their broker through whom this policy was arranged.

Please keep this policy in a safe place – the **Insured** may need to refer to it if they have to make a **Claim**.

1.1 Accessibility

Upon request **We** can provide Braille, audio or large print versions of the **Policy** and the associated documentation. If the **Insured** requires an alternative format they should contact the broker through whom this **Policy** was arranged.

1.2 Fair Processing Notice

This Privacy Notice describes how AXA XL Insurance Company UK Limited or AXA XL Underwriting Agencies Limited in respect of Syndicate 2003 (“**we**”, or “**us**”) collect and use the personal information of insureds, claimants and other parties (“**you**”) when we are providing our insurance and reinsurance services.

The information provided to us, together with medical and any other information obtained from you or from other parties about you in connection with this policy, will be used by us for the purposes of determining your application, the operation of insurance (which includes the process of underwriting, administration, claims management, analytics relevant to insurance, rehabilitation and customer concerns handling) and fraud prevention and detection. We may be required by law to collect certain personal information about you, or as a consequence of any contractual relationship we have with you. Failure to provide this information may prevent or delay the fulfilment of these obligations.

Information will be shared by us for these purposes with group companies and third-party insurers, reinsurers, insurance intermediaries and service providers. Such parties may become data controllers in respect of your personal information. Because we operate as part of a global business, we may transfer your personal information outside the United Kingdom and/or the European Economic Area for these purposes.

You have certain rights regarding your personal information, subject to local law. These include the rights to request access, rectification, erasure, restriction, objection and receipt of your personal information in a usable electronic format and to transmit it to a third party (right to portability).

If you have questions or concerns regarding the way in which your personal information has been used, please contact: dataprivacy@axaxl.com.

We are committed to working with you to obtain a fair resolution of any complaint or concern about privacy. If, however, you believe that we have not been able to assist with your complaint or concern, you have the right to make a complaint to the relevant Data Protection Authority.

For more information about how we process your personal information, please see our full privacy notice at: <https://axaxl.com/privacy-and-cookies>.

Brokers, Intermediaries, Partners, Employers and Other Third Parties

If you provide us with information about someone else, we will process their personal information in line with the above. Please ensure you provide them with this notice and encourage them to read it as it describes how we collect, use, share and secure personal information when we provide our services as an insurance and reinsurance business.

1.3 Third Party Rights

A person who is not a party to this contract of insurance has no right under the Contracts (Rights of Third Parties)



Act 1999 to enforce any term of this contract of insurance but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

1.4 **Law and Jurisdiction**

The parties are free to choose the law applicable to this contract of insurance. Unless specifically agreed to the contrary this contract of insurance shall be governed by English law and subject to the exclusive jurisdiction of the courts of England and Wales.

The language of this contract of insurance and all communications relating to it will be in English.

1.5 **Interpretation**

In this **Policy**:

- (a) reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception of this **Policy**;
- (b) if any term, condition, exclusion or **Endorsement** or part of any term, condition, exclusion or **Endorsement** is found to be invalid or unenforceable the remainder shall be in full force and effect;
- (c) the headings are for general reference only and shall not be considered when determining the meaning of this **Policy**.

1.6 **Information the Insured has given Us**

In deciding to accept this **Policy** and in setting the terms including premium **We** have relied on the information which the **Insured** has provided to **Us**. The **Insured** must take care when answering any questions **We** ask by ensuring that any information provided is accurate and complete.

If **We** establish that the **Insured** deliberately or recklessly provided **Us** with untrue or misleading information **We** will have the right to:

- (a) treat this **Policy** as if it never existed;
- (b) decline all claims; and
- (c) retain the premium.

If **We** establish that the **Insured** carelessly provided **Us** with untrue or misleading information **We** will have the right to:

- (i) treat this **Policy** as if it never existed, refuse to pay any claim and return the premium the **Insured** has paid, if **We** would not have provided the **Insured** with cover;
- (ii) treat this **Policy** as if it had been entered into on different terms from those agreed, if **We** would have provided the **Insured** with cover on different terms;
- (iii) reduce the amount **We** pay on any claim in the proportion that the premium the **Insured** has paid bears to the premium **We** would have charged the **Insured**, if **We** would have charged the **Insured** more.

We will notify the **Insured** in writing if (i), (ii) and/or (iii) apply.

If there is no outstanding claim and (ii) and/or (iii) apply, **We** will have the right to:

- (1) give the **Insured** notice that **We** are terminating this **Policy**; or
- (2) give the **Insured** notice that **We** will treat this **Policy** and any future claim in accordance with (ii) and/or (iii), in which case the **Insured** may then give **Us** notice that the **Insured** is terminating this **Policy**;

in accordance with the Cancellation and Cooling-Off Period Provisions.

1.7 **Cancellation and Cooling-Off Period Provisions**

(a) **The Insured's Right to Cancel during the Cooling-Off Period**

The **Insured** can cancel this **Policy** by notifying **Us** in writing, by email or by telephone within fourteen (14) days of either:



- (i) the date the **Insured** receives this **Policy**; or
- (ii) the start of the **Insured's Period of Insurance**;

whichever is the later.

A full refund of any premium paid will be made unless the **Insured** has made a **Claim** in which case the full annual premium is due.

(b) **The Insured's Right to Cancel after the Cooling-Off Period**

The **Insured** can cancel this **Policy** after the cooling-off period by notifying **Us** in writing, by email or by telephone. Cancellation will be effective from the date of such notice to cancel. Any return of premium due to the **Insured** will be calculated at a proportional daily rate depending on how long the **Policy** has been in force unless the **Insured** has made a **Claim** in which case the full annual premium is due.

(c) **Our Right to Cancel**

We can cancel this **Policy**, if there is a valid reason to do so, including for example:

- (i) any failure by the **Insured** to pay the premium; or
- (ii) a change in risk which means **We** can no longer provide the **Insured** with insurance cover; or
- (iii) non-cooperation or failure to supply any information or documentation **We** request, such as details of a **Claim**;

by giving the **Insured** fourteen (14) days' notice in writing. Any return of premium due to the **Insured** will be calculated at a proportional daily rate depending on how long the **Policy** has been in force unless the **Insured** has made a **Claim** in which case the full annual premium is due.

1.8 **Changes We Need to Know About**

The **Insured** must tell **Us** as soon as practicably possible of any change in the information they have provided to **Us** which happens before or during any **Period of Insurance**.

When **We** are notified of a change **We** will tell the **Insured** if this affects the **Policy**. For example, **We** may cancel the **Insured's Policy** in accordance with the Cancellation and Cooling-Off Provisions, amend the terms of the **Insured's Policy** or require the **Insured** to pay more for their insurance. If the **Insured** does not inform **Us** about a change it may affect any claim the **Insured** makes or could result in this insurance being invalid.

1.9 **Fraud**

If the **Insured**, or anyone acting on **their** behalf, makes a fraudulent claim, for example a loss which is fraudulently caused and/or exaggerated and/or supported by a fraudulent statement or other device, **We**:

- (a) will not be liable to pay the claim; and
- (b) may recover from the **Insured** any sums paid by **Us** to the **Insured** in respect of the claim; and
- (c) may by notice to the **Insured** treat this **Policy** as having been terminated with effect from the time of the fraudulent act.

If **We** exercise **Our** right under (c) above:

- (i) **We** shall not be liable to the **Insured** in respect of a relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to **Our** liability under this **Policy** (such as the occurrence of a loss, the making of a claim, or the notification of a potential claim); and
- (ii) **We** need not return any of the premium paid.

1.10 **Complaints Procedure**

We are dedicated to providing a high quality service and **We** want to ensure that **We** maintain this at all times.

If **You** have any questions or concerns about the **Policy** or the handling of a claim please contact **Your** broker through whom this **Policy** was arranged.

If the **Insured** wishes to make a complaint they can do so at any time by referring the matter to:

Complaints Department



XL Catlin Services SE, UK Branch
20 Gracechurch Street
London EC3V 0BG
United Kingdom

Email: axaxlukcomplaints@axaxl.com
Telephone Number: +44 (0)20 7743 8487

XL Catlin Services SE acts on **Our** behalf in the administration of complaints.

Depending on who **Your Insurer** is, the next steps are as follows.

If Your Insurer is AXA XL Underwriting Agencies Limited in respect of Syndicate 2003

If **You** remain dissatisfied after the Complaints Department has considered **Your** complaint, it may be possible in certain circumstances to refer the complaint to Lloyd's. Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint – How We Can Help" available at www.lloyds.com/complaints and are also available from AXA XL Underwriting Agencies Limited at the above address or from Lloyd's at:

Lloyd's Complaints
One Lime Street
London
EC3M 7HA
United Kingdom

Telephone Number: +44 (0)20 7327 5693

Email: complaints@lloyds.com

If the **Insured** remains dissatisfied after the Complaints Department have considered the complaint, or they have not received a final decision within (8) weeks, they can refer the complaint to the Financial Ombudsman Service at:

Exchange Tower
London E14 9SR
United Kingdom

Email: complaint.info@financial-ombudsman.org.uk

Telephone Number: **From within the United Kingdom**

0800 0234 567 calls to this number are free on mobiles and landlines

0300 1239 123 calls to this number costs no more than calls to 01 and 02 numbers

From outside the United Kingdom

+44 (0)20 7964 0500

Fax Number: +44 (0)20 7964 1001

Text Number: 07860 027 586 Call Back Service

The Financial Ombudsman Service can look into most complaints from consumers and small businesses. For more information contact them on the above number or address, or view their website: www.financial-ombudsman.org.uk

If Your Insurer is AXA XL Insurance Company UK Limited

If the **Insured** remains dissatisfied after the Complaints Department has considered the complaint, or a decision has not been received within eight (8) weeks, the **Insured** can refer the complaint to the Financial Ombudsman Service using the details above.

1.11 Insurance Guarantee Scheme

We are covered by the Financial Services Compensation Scheme. The **Insured** may be entitled to compensation from the Scheme if **We** are unable to meet **Our** obligations under this **Policy**. If the **Insured** are entitled to compensation under the Scheme, the level and extent of the compensation will depend on the nature of this **Policy**. Further information about the Scheme is available from the Financial Services Compensation Scheme (PO Box 300, Mitcheldean, GL17 1DY) and on their website: www.fscs.org.uk.

1.12 Regulatory Information



(a) **AXA XL Insurance Company UK Limited**

We are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Firm Reference Number 423308).

Registered Office 20 Gracechurch Street, London, EC3V 0BG, United Kingdom.
Registered in England Number 5328622.

The **Insured** can check this out on the FCA's website at www.fca.org.uk which includes a register of all the firms they regulate or by calling the FCA on 0800 111 6768.

(b) **Syndicate 2003**

AXA XL Underwriting Agencies Limited is the managing agent of Syndicate 2003

AXA XL Underwriting Agencies Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Firm Reference No. 204848).

Registered Office 20 Gracechurch Street, London, EC3V 0BG, United Kingdom.

Registered in England Number 1815126

The **Insured** can check this out on the FCA's website at www.fca.org.uk which includes a register of all the firms they regulate or by calling the FCA on 0800 111 6768.

(c) **XL Catlin Services SE**

XL Catlin Services SE acts as an agent of AXA XL Insurance Company UK Limited in connection with this **Policy**. XL Catlin Services SE is a registered insurance intermediary authorised and regulated by the Central Bank of Ireland.

Registered Office Wolfe Tone House, Wolfe Tone Street, Dublin 1, D01 HP90, Ireland.
Registered in Ireland Number 659610.

The **Insured** can check this information on the Central Bank of Ireland's website at www.centralbank.ie which includes a register of all the firms they regulate.

1.13 Premium Payment

- (a) Unless **We** have agreed that the premium can be paid via direct debit instalments, the premium must be paid in full to **Us** within thirty (30) days of the beginning of the **Period of Insurance**.
- (b) If **We** have not received the premium by the due date then **We** will have the right to cancel this **Policy** by giving fourteen(14) days' written notice to the **Insured**.
- (c) In the event of cancellation, the premium is due to **Us** on a pro rata basis for the proportion of the **Period of Insurance** that **We** are on risk. However, the full annual policy premium will be payable to **Us** in the event a claim has been made under the **Policy** prior to the date of cancellation.
- (d) If **We** agree to collect the premium via direct debit instalments and **We** do not receive any instalment within fourteen (14) days after the due date, then **We** shall have the right to cancel this **Policy** with immediate effect. In such circumstances the **Period of Insurance** will equate to the period for which the premium instalments have been received by **Us**.
- (e) **We** will confirm the cancellation and amended **Period of Insurance** in writing via the **Insured's** address shown in the **Schedule**.

1.14 Sanctions

We shall not provide any benefit under this **Policy** to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.



2 How to Make a Claim

- 2.1 In the event of a claim or of becoming aware of circumstances that may result in a claim, please read 9.4 Claims Procedure under the Claims Conditions and Procedures section of this **Policy**.
- 2.2 To notify circumstances that may result in a **Claim** or to make a claim under this **Policy** please contact **Us** using the 'Claims notification' information stated in the **Schedule**.

We will be able to deal with those circumstances and any claim more effectively and speedily if the **Insured** provides the 'policy number' shown on the **Schedule** on first contact.



3 Policy Definitions

The following words will have the same meaning attached each time they appear in this **Policy** in “**bold type face**”, whether with a capital first letter or not. Where the context so admits or requires, words expressed in the singular will include the plural and vice versa. All headings within the **Policy** are included for convenience only and will not form part of this **Policy**.

3.1 **Abuse** means:

- (a) the actual, alleged, attempted, threatened or proposed sexual or physical abuse or molestation, harassment or any other form of physical, or psychological abuse of any person; or any other act of a sexual nature or any act undertaken with a sexual motive;
- (b) negligent or intentional employee hiring, investigation, acceptance of volunteer workers, supervision, reporting to the proper authorities or failure to so report, or retention of a person by the **Insured Person** whose conduct would be excluded by (a) above or may have contributed to the injuries stated in (a) above.

Abuse also means the failure to prevent the activities described in (a) or (b) above.

3.2 **Asset and Liberty Proceeding**

means proceedings brought against the **Insured Person** by any body (including the Financial Conduct Authority or the Charities Commission or equivalent in any other jurisdiction within in the **Territorial Limits**) other than the **Company** or **Organisation**, so authorised for the purpose of examining the affairs of the **Company** or **Organisation** or the conduct of the **Insured Person** in their capacity as **Director** or **Trustee**, seeking:

- (a) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of an **Insured Person**;
- (b) a charge over real property or personal assets of an **Insured Person**;
- (c) a temporary or permanent prohibition on an **Insured Person** from holding the office of or performing the function of a **Director** or **Trustee**;
- (d) a restriction of such **Director's** or **Trustee's** liberty to a specified domestic residence or an official detention;
- (e) deportation of a **Director** or **Trustee** following revocation of otherwise proper, current and valid immigration status for any reason other than such **Director** or **Trustee's** conviction of a crime.

3.3 **Asset and Liberty Proceedings Defence Costs and Expenses**

means **Defence Costs and Expenses** incurred by the **Insured Person**, with **Our** prior written and continuing consent (such consent not to be unreasonably withheld), in dealing with an **Asset and Liberty Proceeding**, provided that such proceeding is commenced during the **Period of Insurance**.

3.4 **Claim**

(a) means:

- (i) a demand made for compensation or damages from an **Insured Person** (or the company or organisation, where applicable) alleging **Abuse** or a wrongful act; or
- (ii) an allegation of a right against an **Insured Person** (or the company or organisation, where applicable) that can be enforced through a civil proceeding, alleging a wrongful act;

which is communicated to the **Insured Person**, **Company** or **Organisation**.

- (b) All **Claims** related or connected in any way by reference to any common contributory factor or characteristic shall be treated as a single **Claim**, provided that the circumstances resulting in all such **Claims** are first notified to **Us** during the **Period of Insurance** or the **Discovery Period** if applicable.
- (c) For the purpose of clarification, the word “claim” in regular typeface (i.e. not bold typeface) expresses the seeking of reimbursement from **Us** under this **Policy** in respect of a **Claim**. All claims made under this **Policy** in respect of **Claims** related or connected in any way by reference to any common contributory factor or characteristic shall be treated as a single claim, provided that the circumstances resulting in all such claims are first notified to **Us** during the **Period of Insurance** or the **Discovery Period** if applicable.



3.5 **Claimant**

means the third party bringing the **Claim** against an **Insured Person** (or the **Company** or **Organisation**, where applicable).

3.6 **Communicable Disease**

means any illness, sickness, disease, infection, condition, or disorder caused, in whole or in part, by any direct or indirect contact with or exposure to any virus, parasite, or bacteria or any disease-causing agent of any nature regardless of the method of transmission, contact or exposure.

3.7 **Company**

means the entity(ies) named as the **Insured** in the **Schedule** and its/their **Subsidiaries**.

3.8 **Computer System**

means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the **Insured Person** or any other party.

3.9 **Criminal Prosecution**

means any prosecution commenced by the police or any other body empowered to bring a criminal prosecution, including under Health and Safety legislation or regulation, against an **Insured Person** in their capacity as a **Director** and/or **Trustee**.

3.10 **Criminal Prosecution Defence Costs and Expenses**

means **Defence Costs and Expenses** incurred by the **Trustee**, with **Our** prior written and continuing consent (such consent not to be unreasonably withheld), in defending any criminal investigations, prosecutions or proceedings commenced during the **Period of Insurance** and brought against them by:

- (a) the police or any other body empowered to carry out a criminal investigation or bring a criminal prosecution within the **Territorial Limits**;
- (b) any government body for any **Wrongful Act** including gross breach of duty of care that causes the death of another person and proceedings under the Bribery Act 2010, or the equivalent in any other jurisdiction within the **Territorial Limits**.

3.11 **Cyber Act**

means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax of them involving access to, processing of, use of or operation of any **Computer System**.

3.12 **Cyber Incident**

means:

- (a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer System**; or
- (b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **Computer System**.

3.13 **Data Breach**

means:

- (a) the theft, loss, access to, acquisition of, or unauthorized or unlawful use or disclosure of any person's or organisation's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit or payment card information, health information, biometric data or any other type of non-public information involving access to, processing of, use of or operation of any **Computer System**; or
- (b) the violation of any statute, regulation, common-law, or any other law regulating or protecting access to collection, use or disclosure of, or failure to protect any non-public confidential or personal information in



the form of **Electronic Data**.

3.14 **Deductible**

means, where applicable, the first part of each and every claim which shall be the responsibility of the **Company** or **Organisation** to pay before **We** shall have any liability to indemnify under this **Policy**.

3.15 **Defence Costs and Expenses**

means reasonable costs (legal fees, costs and expenses), incurred with **Our** prior written and continuing consent (such consent not to be unreasonably withheld), by or on behalf of the **Insured Person** or the **Company** or **Organisation**, directly in connection with the investigation or defence of or any award of court or in an appeal against any judgment as a result of a **Notifiable Claim** being made against the **Insured Person** or the **Company** or **Organisation**.

Defence costs and expenses include premium paid for insurance instruments or for bonds which may be required, but not the premium for this insurance or any part of that premium.

Defence costs and expenses does not include any of the **Insured Person's** or the **Company's** or **Organisation's** own legal fees, costs and expenses (including salaries) or any value attributable to the time spent by the **Insured Person, Company** or **Organisation** or any **Employee** in dealing with a **Claim**.

3.16 **Director**

means any natural person, except an external auditor or an insolvency office holder, who at the date of inception has been or is, or who during the **Period of Insurance** becomes:

- (a) a director or officer of the **Company**, including non-executive directors and persons who hold equivalent positions in any other jurisdiction within the **Territorial Limits**;
- (b) an **Outside Director**;
- (c) an **Employee** acting in any managerial or supervisory capacity or who is named as co-defendant with any **Director**.

3.17 **Discovery Period**

means the period of twelve (12) months immediately following the expiry of the **Period of Insurance** during which written notice may be given to the **Insurer** of a **Notifiable Claim** first made during the **Period of Insurance**.

3.18 **Documents or Data**

means all and any records, whether kept on paper (excluding stamps, currency, bank notes and instruments, traveller's cheques, cheques, postal orders, money orders, **Securities** and the like), magnetic or electronic form, which are the property of the **Company** or **Organisation** or are in the **Company's** or **Organisation's** care, custody or control.

3.19 **Electronic Data**

means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

3.20 **Employee / Employment**

- (a) **for the purposes of the Company means any** person, other than a **Director** of the **Company**, who is under a contract of service or apprenticeship with, supplied to, hired, or borrowed by the **Company**, or under any work experience or similar scheme, whilst employed or engaged by and under the control of the **Company**.
- (b) for the purposes of the **Organisation** means any:
 - (i) person under a contract of service or apprenticeship with the **Organisation**;
 - (ii) person employed by labour only sub-contractors;
 - (iii) self-employed person;
 - (iv) person hired to or borrowed by the **Organisation**; or
 - (v) person undertaking study or work experience, voluntary work or a youth training scheme;



whilst working for and under the control of the **Organisation** provided they are not acting as a **Trustee**.

3.21 **Employment Practices Wrongful Act**

means any actual or alleged:

- (a) discrimination with respect to the terms or conditions of **Employment** on the basis of an individual's race, colour, religion, age, sex, national origin, disability, pregnancy, sexual orientation or preference or other status protected under applicable law;
- (b) harassment, including unwelcome sexual or non-sexual advances, requests for sexual favours and any unwelcome verbal, visual or physical contact of a sexual nature which:
 - (i) is explicitly or implicitly made a term or condition of **employment**; or
 - (ii) creates a hostile or offensive working environment; or
 - (iii) when rejected or opposed by a person becomes a basis for decisions regarding that person's **employment**;
- (c) defamation (including libel and slander) which relates to a person's job skills, job performance, qualifications for **employment**, professional reputation, disciplinary history or termination of **employment**;
- (d) unfair or constructive dismissal of an **Employee**;
- (e) wrongful termination of **Employment** or refusal to hire or promote an **Employee**;
- (f) adverse change in the terms and conditions of a person's **Employment** in retaliation for that person's exercise of his or her rights under law or in support of the rights of another **Employee**.

3.22 **Endorsement**

means a change in the terms and conditions of this **Policy** agreed by **Us** that can extend or restrict cover.

3.23 **Extradition Notice**

means:

- (a) any request for the extradition of any **Insured Person**, any warrant for the arrest of any **Insured Person** or other proceedings under the provisions of the United Kingdom's Extradition Act 2003;
- (b) any associated appeal, including an appeal to the European Court of Human Rights and the pursuit of judicial review proceedings against the decision of the Home Secretary or another appropriately authorised representative of the Government of the **United Kingdom** to issue an extradition certificate under the United Kingdom's Extradition Act 2003;
- (c) the equivalent of the above in any other jurisdiction within the **Territorial Limits**

arising from a **Wrongful Act**.

3.24 **Extradition Proceedings Defence Costs and Expenses**

means **Defence Costs and Expenses** incurred by the **Insured**, with **Our** prior written and continuing consent (such consent not to be unreasonably withheld), in dealing with an **Extradition Notice**, provided the **Extradition Notice** is first served on the **Insured** during the **Period of Insurance**.

3.25 **Identity Theft Claim**

means a **Claim** made against an **Insured Person** by a third party to enforce an agreement entered into with another person or entity fraudulently representing themselves as a:

- (a) **Director**, in connection with the **Company's** business;
- (b) **Trustee** or director, in connection with the **Organisation's** business

within the **Territorial Limits** and notified to **Us** during the **Period of Insurance**.

3.26 **Insured**

means the entity stated in the **Schedule**.



3.27 **Insured Person**

means either:

- (a) a **Director** of the **Company**; or
- (b) a **Trustee** of the **Organisation**.

3.28 **Insurer**

means AXA XL Insurance Company UK Limited or Certain Underwriters at Lloyd's in respect of Syndicate 2003 as stated in the **Schedule**.

3.29 **Investigation**

means a formal investigation, enquiry or request for information of or attendance within the **Territorial Limits**:

- (a) by a **Trustee**, initiated by a third party with a legal right other than the **Organisation** and authorised so to compel the **Insured Person** for the purpose of evaluating the conduct of the **Insured Person**; or
- (b) by a **Director** at an interview, which is made by any body (including the Financial Conduct Authority) other than the **Company** (unless in respect of any internal investigation instigated as a result of **Shareholders Derivative Action**), so authorised for the purpose of examining the affairs of the **Company** or the conduct of the **Director** in their capacity as such, including but not limited to proceedings under the corporate manslaughter and corporate homicide act 2007 or the financial services and markets act 2000.

For the avoidance of doubt, an **Investigation** does not include a risk management visit or equivalent by the regulator of the **Company**.

3.30 **Investigation Costs and Expenses**

means **Defence Costs and Expenses** incurred in the context of an **Investigation**, provided that such **Investigation** is first commenced during the **Period of Insurance**.

3.31 **Lawful Spouse**

means the **Director's** lawful spouse, which will include civil partnerships that are recognised by law in the **United Kingdom** or in their country of domicile.

3.32 **Loss**

means an award of compensatory damages made by a competent court or tribunal including third party costs or any settlement incurred with **Our** prior written consent, but does not include:

- (a) **Director** or **Trustee** or **Employee** remuneration, benefits, stock or share options or severance payments; or
- (b) in respect of any **Employment Practices Wrongful Act**:
 - (i) any salary or wages earned while in the **Employment** of the **Organisation**.
 - (ii) any **Employment** related benefits to which the **Claimant** would have been entitled had the **Trustee** or the **Organisation** provided the **Claimant** with a continuance, reinstatement or commencement of **employment**.
 - (iii) contractual damages based upon the terms of a contract of **employment**.
 - (iv) any liability or costs incurred to modify any building or property in order to make such a building or property more accessible or accommodating to any disabled persons.

3.33 **Non-Indemnifiable Loss**

means any **Loss** sustained by a **Director** for which the **Company** would have provided an advancement or indemnity to the **Director**, but cannot do so due to:

- (a) legislative prohibition; or
- (b) insolvency as determined in accordance with section 123 of the Insolvency Act or the equivalent in any other jurisdiction within in the **Territorial Limits**.



3.34 **Notifiable Claim**

means:

- (a) a **Claim**, or circumstances of which the **Insured Person** or the **Company** or **Organisation** becomes aware which could result in a **Claim**; and/or
- (b) the **Insured Person** or the **Company** or **Organisation** receiving notice of or becoming aware of:
 - (i) **Asset and Liberty Proceeding**; or
 - (ii) a **Criminal Prosecution**; or
 - (iii) an **Employment Practices Wrongful Act**; or
 - (iv) an **Extradition Notice**; or
 - (v) an **Identity Theft Claim**; or
 - (vi) an **Investigation**; or
 - (vii) **Pollution**; or
 - (viii) a **Shareholder Derivative Action**.

3.35 **Organisation**

means the entity(ies) named as the **Insured** in the **Schedule**, including any **Subsidiary**, but excluding any firm or company acting in their capacity as liquidator, external auditor, receiver or administrative receiver.

3.36 **Outside Director**

means any **Director** formally appointed on the specific request of the **Company** to the board or equivalent position (including in the case of not-for-profit organisations, governors and committee members) in an **Outside Entity**.

3.37 **Outside Entity**

means any entity in which the **Company** holds a shareholding, including any not-for-profit entity, provided that such entity is not:

- (a) a publicly listed company or possesses any assets located within the **USA or Canada** but this proviso shall not apply in the event the **Insurer** agrees in writing otherwise; or
- (b) a bank, clearing house, credit institution, undertaking for collective investment in securities, investment firm, investment advisor/manager, investment fund or mutual fund, private equity or venture capital company, stock brokerage firm, insurance company or similar entity

unless such entity has been stated in the **Schedule**.

3.38 **Outside Trustee**

means a **Trustee** acting in the capacity of a trustee, committee member, governor or director formally appointed on the written authority and request of the **Organisation** to the board or equivalent position in any:

- (a) **Organisation** in which the organisation holds a shareholding;
- (b) any not-for-profit entity, any entity which has been stated in the **Schedule** or any other entity which has been notified to and agreed in writing by **Us**

other than:

- (c) the **Organisation** itself; or
- (d) any entity that:
 - (i) has its securities listed or traded on any exchange; or
 - (ii) possesses any tangible or intangible asset located within the **USA or Canada**.

3.39 **Pension/Employee Benefit Scheme**

means a money purchase (defined contribution) pension or employee benefit scheme which is registered in the



United Kingdom and governed by the laws of England and Wales.

3.40 **Period of Insurance**

means the period stated in the **Schedule** during which time this **Policy** is in force.

3.41 **PFAS**

means any and all per-fluoroalkyl, poly-fluoroalkyl, per-fluorinated or poly-fluorinated substance.

3.42 **Policy**

means this document, including the **Schedule** (or certificate of insurance issued in substitution for the **Schedule**) and any **Endorsements** attaching to this document or the **Schedule** which together form the contract of insurance.

3.43 **Pollutants**

means any solid, liquid, gaseous or thermal irritant or contaminant, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed).

3.44 **Pollution**

means seepage, discharge, dispersal, release or escape of **Pollutants** or contamination of any kind.

3.45 **Pollution and Contamination Defence Costs and Expenses**

means **Defence Costs and Expenses** incurred, with **Our** prior written and continuing consent (such consent not to be unreasonably withheld), in defending any proceedings brought, within in the **Territorial Limits**, against:

- (a) a **Trustee**; or
- (b) a **Director**

in their capacity as such, provided that the proceedings relate to any **Notifiable Claim** first made against the **Director** or **Trustee** during the **Period of Insurance** in relation to **Pollution** which:

- (i) is caused directly or indirectly by a **Wrongful Act**; and
- (ii) is sudden, identifiable, unintended, unexpected and which takes place in its entirety at a specific time and place during the **Period of Insurance**.

For the avoidance of doubt, pollution and contamination defence costs and expenses do not include the costs involved in testing for, monitoring, cleaning up, removing, containing, treating or detoxifying any **Pollutants**.

3.46 **Proposal**

means the written proposal or proposals, whether or not using a special form or including a presentation document, supplied for the purpose of obtaining this insurance as evidenced by this **Policy**, including any statements of fact, declarations, warranties or information on which **We** have relied.

3.47 **Public Relations Costs**

means reasonable fees, costs and expenses of public relations consultants incurred by an **Insured** with **Our** prior written and continuing consent, to be given at **Our** absolute discretion where **We** are satisfied that such fees, costs and expenses will mitigate or reduce the adverse effect on such **Insured's** reputation by a **Claim** first made against the **Insured** during the **Period of Insurance** alleging a **Wrongful Act**.

3.48 **Schedule**

means the schedule attaching to the **Policy**.

3.49 **School, Charity or Charitable Organisation**

means:

- (a) a place or institution for teaching and learning; or
- (b) a body registered with the Charities Commission; or
- (c) a voluntary organisation which does not distribute its surplus funds to owners or shareholders, but instead



uses them for the benefit of its members or charitable purposes

in the **United Kingdom**.

3.50 **Securities**

means any security representing the debt of or equity interests in the **Company**.

3.51 **Shareholders Derivative Action**

means any shareholder derivative actions under the Companies Act 2006.

3.52 **Shareholders Derivative Costs**

means the reasonable fees, costs and expenses incurred by any shareholder of the **Company** in pursuing a **Claim** first made during the **Period of Insurance** against any **Director** for a **Wrongful Act** by way of a **Shareholder Derivative Action** on behalf of the **Company**, but only to the extent that the **Company** is legally liable to pay such fees, costs and expenses pursuant to an order of the court.

3.53 **Subsidiary/Subsidiaries**

means a company or entity in which the **Company** or **Organisation**:

- (a) owned or owns directly or indirectly, or through one or more of its other subsidiaries, more than fifty (50%) percent of the voting rights or more than fifty (50%) percent of the share capital issued in such entity; or
- (b) had or has the right to appoint or remove the majority of such entity's trustees or board of directors; or
- (c) controlled or controls alone pursuant to a written agreement with other trustees or shareholders or members the majority of the voting rights in such entity, provided that the **Organisation** is also a shareholder in it

but only in respect of **Wrongful Acts** committed in relation to the subsidiary while a subsidiary of the **Company** or **Organisation**.

3.54 **Territorial Limits**

means the territorial limits stated in the **Schedule**.

3.55 **Terrorism**

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

3.56 **Total Gross Assets**

means the total gross assets of the **Company** or **Organisation** and its **Subsidiaries** as shown, where they exist, in its audited consolidated group accounts most recently preceding the **Period of Insurance**.

3.57 **Trustee**

means:

- (a) any natural person who is, was, or becomes a trustee, committee member, governor or director or officer of the **Organisation** during the **Period of Insurance** or holds any equivalent position in any other jurisdiction within the **Territorial Limits**;
- (b) any natural person who is, was, or becomes an **Employee** of the **Organisation** during the **Period of Insurance**:
 - (i) acting at the specific prior written request of the **Organisation** in the capacity of **Outside Trustee**; or
 - (ii) acting in a managerial or supervisory capacity; or
 - (iii) named as co-defendant with any trustee or director or officer; or
- (c) any trustee's, committee member's, governor's or director or officer's lawful spouse or civil partner as defined in the Civil Partnership Act 2004 where in receipt of a **Claim** because of the **Wrongful Act** of the



trustee; or

(d) The estate, heirs, legal representatives or assigns of any person within 3.57(a) or 3.57(b) above.

All references to trustee apply equally to non-executive and executive trustees.

It does not include any person acting in their capacity as administrator, liquidator, external auditor, receiver or administrative receiver.

3.58 **United Kingdom**

means the United Kingdom of England, Wales, Scotland, Northern Ireland , the Isle of Man and the Channel Islands.

3.59 **USA and Canada / USA or Canada / USA and/or Canada**

means the United States of America, Canada and/or any countries, territories, possessions, dependencies or protectorates which operate under the laws of or which come within the jurisdiction of the courts of the United States of America or Canada.

3.60 **We/Us/Our**

means AXA XL Insurance Company UK Limited.

3.61 **Wrongful Act**

means an actual or alleged act, error, omission, misstatement, misleading statement, defamatory statement, negligent act, negligent error, negligent omission or negligent breach of duty committed or attempted, within in the **Territorial Limits**, by a:

- (a) **Director** of the **Company**, acting in that capacity; or
- (b) **Trustee** or officer of the **Organisation**, acting in that capacity; or
- (c) a trustee or director or administrator of a **Pension/Employee Benefit Scheme** of the **Company** or **Organisation**

and includes any wrongful act with respect to **Shareholder Derivative Actions** under the Companies Act 2006.

3.62 **You/Your**

means the **Insured**.



4 Insuring Clauses

4.1 Directors' / Trustees' Liability

We will pay on behalf of the **Insured Person** all **Loss** that the **Insured Person** is legally liable to pay for a **Claim** against the **Insured Person** arising from a **Wrongful Act** or an **Employment Practices Wrongful Act**, provided that the **Claim** is:

- (a) first made against the **Insured Person** during the **Period of Insurance**, or the **Discovery Period** if applicable; and
- (b) then also notified to **Us** during the **Period of Insurance**, or the **Discovery Period** if applicable.

4.2 Company / Organisational Reimbursement

We will pay on behalf of:

- (a) the **Company** or **Organisation** any **Loss** that the **Company** or **Organisation** is legally required or permitted to pay to the **Insured Person** as advancement or indemnity;
- (b) the **Company** or **Organisation** any such **Criminal Prosecution Defence Costs and Expenses** that the **Company** or **Organisation** is legally required or permitted to pay to the **Insured Person** as advancement or indemnity

for a **Claim** against the **Insured Person** arising from a **Wrongful Act** or an **Employment Practices Wrongful Act**, committed in the **Territorial Limits**, provided that the **Claim** is:

- (c) first made against the **Insured Person** during the **Period of Insurance** or **Discovery Period** if applicable; and then
- (d) also notified to **Us** during the **Period of Insurance**, or the **Discovery Period** if applicable.

4.3 Defence costs and expenses

We will pay on behalf of the **Insured Person**:

- (a) **Defence Costs and Expenses** in the defence, investigation or settlement of any claim which falls to be dealt with under Insuring Clauses 4.1 and 4.2;
- (b) **Defence Costs and Expenses** in the investigation of any circumstance(s) notified to **Us**, under the Claims Procedure - 9.4(a) Notification, which is (or are) likely to give rise to a **Claim**.

4.4 Other costs and expenses

We will pay on behalf of the **Insured Person**:

- (a) **Asset and Liberty Proceedings Defence Costs and Expenses;**
- (b) **Criminal Prosecution Defence Costs and Expenses;**
- (c) **Defence Costs and Expenses** in the defence or investigation of an **Identity Theft Claim;**
- (d) **Extradition Proceedings Defence Costs and Expenses;**
- (e) **Investigation Costs and Expenses;**
- (f) **Pollution and Contamination Defence Costs and Expenses;**
- (g) **Public Relations Costs.**



5 Extensions

Subject to all other terms, conditions, exceptions, limitations and exclusions of this **Policy**:

5.1 Abuse

We will pay on behalf of the **Insured Person** all **Loss** that the **Insured Person** is-legally liable to pay for a **Claim** against the **Insured Person** arising from **Abuse** of any person who is, or was at any time, in the care and/or custody and/or control of the **Insured Person** or any **Employee** of the **Insured Person**, happening after the Retroactive Date set out in the **Schedule** and before the end of the **Period of Insurance** in the **United Kingdom**, provided that the **Claim** is:

- (a) first made against the **Insured Person** during the **Period of Insurance**, or the **Discovery Period** if applicable; and
- (b) then also notified to **Us** during the **Period of Insurance**, or the **Discovery Period** if applicable.

The maximum total Limit of Liability payable by **Us** for any one **Claim** will not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles and will be in excess of:

- (c) any other potentially applicable cover, whether or not the **Claim** is accepted under such cover; and
- (d) the **Deductible** stated in paragraph 6.3 Table of Limits and Deductibles.

We will also pay **Defence Costs and Expenses**, however **we** will not be liable for any fines or penalties imposed as a consequence of any **Claim**, suit or proceedings. **Defence Costs and Expenses** will be payable as part of, and not in addition to the Limit of Liability applicable to this Extension.

(e) Condition

We will have no liability under this Extension unless the **Insured Person** has complied with all applicable laws and regulations (including those relating to the employment and supervision of staff and the carrying out of CRB, DBS and SCRO checks) and taken all other reasonable steps to prevent **Abuse**.

(f) Exclusions

- (i) there will be no cover under this Extension for any person who commits, condones or ignores **Abuse**.
- (ii) this Extension does not apply to, or include cover, for or arising out of or relating to criminal investigations or inquiries, including proceedings in the coroner's court, relating to **Abuse**.
- (iii) there will be no cover under this Extension for any **Claim** based upon or arising out of any circumstance likely to give rise to a **Claim** for which the **Insured Person** had knowledge (or otherwise had a reasonable basis to anticipate the circumstance might result in a **Claim**) before the earlier of:
 - (1) the start date of the **Period of Insurance**; or
 - (2) the Retroactive Date set out in the **Schedule**.

5.2 Automatic Acquisition Cover

This **Policy** provides automatic cover for **Loss** arising out of a **Claim** against any **Director** or **Trustee** of any newly created or acquired **Subsidiary**, including by merger, provided:

- (a) the **Total Gross Assets** of the **Company** or **Organisation** at the commencement of the **Period of Insurance** are not increased by the acquisition or creation of such **Subsidiary** or **Subsidiaries** by more than twenty-five (25%) percent; and
- (b) any **Wrongful Act** takes place while the **Subsidiary** is a **Subsidiary** of the **Company** or **Organisation**.

This Extension does not apply to any **Director** or **Trustee** of a new **Subsidiary** that:

- (c) has its securities listed or traded on any exchange; or



- (d) possesses any tangible or intangible asset located within the **USA and/or Canada**.

Where the coverage for the **Directors or Trustees** of a newly created or acquired **Subsidiary** is not automatically conferred as a consequence of (a) or (b) above, then the **Company or Organisation** may request that the **Policy** be extended to cover the **Directors or Trustees** of such **Subsidiary** and **We**, at **Our** sole discretion, may alter the terms and conditions of this **Policy** accordingly including the charging of an additional premium.

5.3 **Breach of Confidentiality**

We shall pay the **Company or Organisation** in respect of any settlement, damages, interest, claimant's costs and **Defence Costs and Expenses** arising from any demand first made against the **Company or Organisation** and notified to **Us** during the **Period of Insurance** which arises out of the activities of the **Company or Organisation** by reason of any unintentional breach of confidentiality or unintentional libel or slander committed by the **Company or Organisation, Director or Trustee** or any **Employee**.

The maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles and be in excess of:

- (a) any other potentially applicable cover, whether or not it actually responds; and
- (b) the **Deductible** stated in paragraph 6.3 Table of Limits and Deductibles.

5.4 **Corporate manslaughter**

We will pay the **Loss** of any **Director or Trustee**, under Insuring Clauses - 4.1 Directors' / Trustees' Liability , with respect to any proceeding brought against them for any gross breach of duty of care that causes the death of another person including under the Corporate Manslaughter and Homicide Act 2007.

The maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles and be in excess of:

- (a) any other potentially applicable cover, whether or not it actually responds; and
- (b) the **Deductible** stated in paragraph 6.3 Table of Limits and Deductibles.

5.5 **Data Protection**

We shall pay the **Company or Organisation** for **Defence Costs and Expenses** resulting from any prosecution first brought against the **Organisation** and/or any **Director or Trustee** and notified to **Us** during the **Period of Insurance** which arises out of the activities of the **Company or Organisation** in respect of any offences or alleged offences under sections 119(6); 132(3); 144; 148(2); 170(1), (4) or (5); 171(1) or (5); 173(3); 184(1) or (2) or Paragraph 15 of Schedule 15 of the Data Protection Act 2018.

The maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles and be in excess of:

- (a) any other potentially applicable cover, whether or not it actually responds; and
- (b) the **Deductible** stated in paragraph 6.3 Table of Limits and Deductibles.

5.6 **Discovery Period**

In the event that, on the expiry of the **Period of Insurance**:

- (a) this **Policy** is not renewed or replaced with any other policy cover broadly equivalent to this **Policy** in scope; and
- (b) there has not been an insolvency practitioner (or equivalent) appointed as a liquidator, administrator or receiver (or equivalent) of the **Company or Organisation** or a merger, consolidation or acquisition as detailed in the Extensions - 5.16 Takeovers and Mergers Run-off;

then the **Director or Trustee** may purchase a **Discovery Period** of twelve (12) or twenty-four (24) months immediately following the **Period of Insurance** so that for the purposes of Insuring Clauses - 4.1 Directors' / Trustees' Liability, any **Claim** made in the **Discovery Period** will be treated as having been first made during the **Period of Insurance**. The right to purchase the **Discovery Period** will terminate unless **We** receive, within thirty (30) days of the expiration of the **Period of Insurance**, written notice of such election together with the additional premium due.



The **Discovery Period** will be subject to the following additional conditions:

- (c) cover shall apply only in relation to **Claims** arising out of a **Wrongful Act** occurring prior to the expiry of the **Period of Insurance**; and
- (d) there is no cover for any **Claim** arising out of a **Wrongful Act** occurring after the expiry of the **Period of Insurance**; and
- (e) the limit of indemnity for the **Period of Insurance** including the **Discovery Period** shall remain as set out in the **Schedule**; and
- (f) there is no cover unless payment of an additional premium equal to fifty (50%) percent for twelve (12) months or one hundred (100%) percent for twenty-four (24) months of the annual premium shown in the **Schedule** is made within thirty (30) days of the expiry of the **Period of Insurance**; and
- (g) cover shall automatically lapse upon the **Director** or **Trustee** or the organisation effecting a **Trustee** liability or directors' and officers' liability policy cover broadly equivalent to this **Policy** in scope; and
- (h) once requested and the premium is paid for this Extension that premium is deemed fully earned and non-refundable.

5.7 **Emergency Defence Costs and Expenses**

In the event the **Director** or **Trustee** is unable to contact **Us** or **Our** representatives to obtain consent to authorise **Defence Costs and Expenses** following a **Claim**, then, in relation to any **Claim** that may be covered by Insuring Clauses - 4.1 Directors' / Trustees' Liability, **We** agree to reimburse the **Director** or **Trustee** for:

- (a) reasonable emergency **Defence Costs and Expenses**; which are
- (b) necessarily incurred during the period of up to fourteen (14) days from the date the **Claim** was first made against the **Director** or **Trustee**;

up to, but not exceeding, the amount stated in paragraph 6.3 Table of Limits and Deductibles in respect of emergency **Defence Costs and Expenses**, provided that all those costs and expenses incurred are notified to **Us** within fourteen (14) days of being incurred.

5.8 **Entity Cover**

- (a) **We** will pay:
 - (i) on behalf of the **Company** its **Loss** and its **Defence Costs and Expenses** arising from a **Claim** first made against the **Company**, provided that the **Claim** is first made during the **Period of Insurance**;
 - (ii) **Defence Costs and Expenses** incurred by the **Company** resulting from any **Claim** arising from any alleged breach by the **Company** of a written contract or agreement, other than:
 - (1) an **Employment** contract; or
 - (2) a **Claim** arising from the breach of any payment provisions in that contract or agreement.
- (b) **We** will only be liable for **Loss** and **Defence Costs and Expenses** under this Extension for an aggregate amount stated in the **Schedule** in respect of this Extension.
- (c) Each claim shall be in excess of:
 - (i) any other potentially applicable cover, whether or not is actually responds; and
 - (ii) the **Deductible** stated in the **Schedule**.
- (d) **Exclusions**

We will not have any liability under this Extension directly or indirectly arising out of, or in any way connected with:

- (i) any actual or alleged breach of contract or agreement, either oral or written, except to the extent as provided by this Extension;
- (ii) any breach of regulatory, statutory or common law aimed at preventing monopolies, price discrimination, fixing of prices or other unfair trade practices;



- (iii) an **Employment Practices Wrongful Act**;
- (iv) any proceeding brought against the **Company** for any gross breach of duty of care that causes the death of another person including under the Corporate Manslaughter and Homicide Act 2007;
- (v) any liability concerning the manufacture, sale, supply, installation or maintenance of any products or goods.

5.9 Fidelity

We shall pay the **Company** or **Organisation** for any direct loss of money or other property, belonging to the **Company** or **Organisation**:

- (a) first discovered by the **Company** or **Organisation**, and then also notified to the **Company** or **Organisation**, during the **Period of Insurance**;
- (b) arising from the dishonest, fraudulent, criminal or malicious act(s) or omission(s) of any **Employee**.

Such indemnity shall only apply in respect of losses resulting solely and directly from act(s) or omission(s) committed by any **Employee** with the manifest intent to cause loss to the **Company** or **Organisation** or to make an improper financial gain for themselves or for an identified third party, provided that:

- (c) the **Company** or **Organisation** will not be indemnified for any loss of money or other property resulting from dishonest, fraudulent, criminal or malicious act(s) or omission(s) perpetrated after the **Company** or **Organisation** could reasonably have discovered or suspected improper conduct on the part of the relevant **Employee**.
- (d) any monies which but for such dishonest, fraudulent, criminal or malicious act(s) or omission(s) would be due to the **Company** or **Organisation** or any monies of any person committing or colluding in any dishonest, fraudulent, criminal or malicious act(s) or omission(s) shall be deducted from any amount payable under this Extension.
- (e) the maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles in respect of Fidelity and be in excess of:
 - (i) any other potentially applicable cover, whether or not it actually responds; and
 - (ii) the **Deductible** stated in paragraph 6.3 Table of Limits and Deductibles.

5.10 Loss of Documents or Data

We shall pay the **Company** or **Organisation** for:

- (a) costs incurred with **Our** prior written consent for, repair, replacement or reconstitution of; and
- (b) any compensation, damages, interest and **Claimant's** costs arising from any negligent act error or omission involving any **Documents or Data** which have been unintentionally destroyed, damaged, lost or mislaid during the **Period of Insurance** (and which after diligent search cannot be found).
- (c) the maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles and be in excess of:
 - (i) any other potentially applicable cover, whether or not it actually responds; and
 - (ii) the **Deductible** stated in paragraph **6.3 Table of Limits and Deductibles**.

5.11 Non-executive director's reinstatement of cover

In the event that payments are made exhausting the limit of indemnity of this **Policy**, and:

- (a) of all other applicable management liability policies operating in excess of it; and
- (b) any other source available to provide indemnification for **Loss** to the non-executive director;

then **We** agree to provide an indemnity to the non-executive director for **Non-Indemnifiable Loss**.

For the avoidance of doubt the non-executive director's reinstatement of cover limit of indemnity shall apply only once for each non-executive director.



The **Insurer** will only be liable under this Extension to pay the sums described under Insuring Clauses - 4.1 Directors' / Trustees' Liability incurred by each non-executive director up to the limit of indemnity stated in paragraph 6.3 Table of Limits and Deductibles in respect of this Extension.

5.12 **Outside Boards**

We will indemnify the **Insured Person** in respect of any **Wrongful Act** committed by them in their capacity of **Outside Director** or **Outside Trustee**, but only in excess of the aggregate of:

- (a) the amounts indemnifiable by the **Outside Entity** on whose board the **Outside Director** or **Outside Trustee** is serving; and
- (b) the amount of loss the **Outside Director** or **Outside Trustee** serving on the **outside board** is payable by the **Outside Entity**.
- (c) any other potentially applicable cover, whether or not it actually responds; and
- (d) the **Deductible** stated in paragraph 6.3 Table of Limits and Deductibles.

5.13 **Personal Appointments**

We will indemnify the **Trustee** in respect of any actual or alleged act, error, omission, misstatement, misleading statement, negligent act, negligent error, negligent omission or negligent breach of duty committed or attempted by a **Trustee** whilst serving in a personal capacity as a governor or trustee of a **School, Charity or Charitable Organisation**, but only in excess of the aggregate of:

- (a) the amount of loss payable by the **School, Charity or Charitable Organisation** to the **Trustee**; and
- (b) any other potentially applicable cover, whether or not it actually responds;

provided that:

- (c) the **Trustee** is formally appointed on written authority; and
- (d) the maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles.

5.14 **Retirement Run-off**

- (a) In the event that, on the expiry of the **Period of Insurance**, this **Policy** is not renewed or replaced with any other trustee liability or directors' and officers' policy cover broadly equivalent to this **Policy** in scope then any **Directors** or **Trustees** who had voluntarily retired or resigned from the **Company** or **Organisation**:

- (i) during the **Period of Insurance**; or
- (ii) during the period of insurance of a previous policy with **Us** which is linked by continuous renewal to this **Period of Insurance**;

shall automatically have a discovery period of seventy-two (72) months immediately following the date of retirement in respect of any **Claim** covered under Insuring Clauses - 4.1 Directors' / Trustees' Liability.

- (b) Any **Claim** made in this automatic discovery period will be treated as having been first made during the **Period of Insurance** and shall be subject to the following conditions:

- (i) cover shall apply only in relation to a **Claim** arising out of a **Wrongful Act** occurring prior to the date of their voluntary retirement or resignation; and
- (ii) the maximum aggregate payable by **Us** shall not exceed the amount stated in paragraph 6.3 Table of Limits and Deductibles and
- (iii) the automatic discovery period will run concurrently with any other discovery period; and
- (iv) cover shall lapse in the event that the **Directors** or **Trustees** who had voluntarily retired or resigned from the **Company** or **Organisation** effect a trustee liability or directors' and officers' policy cover broadly equivalent to this **Policy** in scope; and
- (v) this Extension does not apply to any **Director** or **Trustee** who:

- (1) has been or is disqualified from holding the position of trustee or director; or



- (2) has left the **Company** or **Organisation** as a result of a merger, consolidation or acquisition as detailed in 5.16 Takeovers and Mergers Run-off; or
- (3) has left the **Company** or **Organisation** as a result of the appointment of an insolvency practitioner (or equivalent) appointed as a liquidator, administrator or receiver (or equivalent) of the **Company** or **Organisation**.

5.15 Spouses/Estates

We will pay on behalf of:

- (a) the **Director's Lawful Spouse** a sum to compromise enforcement proceedings brought against joint property held or owned by or on behalf of the **Lawful Spouse** to enforce a court judgement against the **Director** in respect of a **Claim** that would otherwise be covered under this **Policy**;
- (b) the estate, heirs and legal representatives of a **Director** in the event of their death, incapacity or bankruptcy, but only in respect of a **Claim** against the **Director** that would otherwise be covered under this **Policy**.

5.16 Takeovers and Mergers Run-off

If during the **Period of Insurance** the **Company** or **Organisation** merges with or consolidates into another company or organisation where the other company or organisation or person assumes the right to appoint or remove the majority of the **Organisation's Trustees** or board of **Directors** or assumes de-facto control of the **Company** or **Organisation**:

- (a) from the date of that merger or consolidation the **Policy** will apply only to **Claims** resulting from **Wrongful Acts** occurring prior to the effective date of that merger or consolidation; or
- (b) the **Company** or **Organisation** may cancel the remainder of this **Policy** on behalf of the **Company, Organisation, Directors** and **Trustees** by sending written notice to **Us** at the address shown in the **Schedule**, stating the date from which the cancellation is to take effect; or
- (c) the **Company** or **Organisation** may request that the **Policy** be extended for up to seventy-two (72) months to cover **Wrongful Acts** occurring prior to the effective date of such change in control. This extension period will be at **Our** sole discretion and may be subject to additional and altered terms and conditions of this **Policy** including the charging of an additional premium, and:
 - (i) Extensions 5.6 Discovery Period and 5.14 Retirement Run-off will not apply to any such extension period;
 - (ii) cover will lapse in the event that the **Company** or **Organisation** effects a trustee liability or directors' and officers' liability policy cover broadly equivalent to this **Policy** in scope; and
 - (iii) cover will not be provided to any **Trustee** or **Director** who has been or is disqualified from holding the position of trustee or director.



6 Limit of Indemnity and Deductibles

6.1 Limit of Indemnity

- (a) The aggregate limit stated in the **Schedule** is the maximum aggregate amount payable by **Us** under Section 4 Insuring Clauses and Section 5 Extensions of this **Policy** (including in respect of any claims notified during any **Discovery Period**, if applicable) irrespective of the number of **Claims**.
- (b) The limit of indemnity applicable to the Insuring Clauses and each of the Extensions shall be as stated in paragraph 6.3 Table of Limits and Deductibles.
- (c) Any payments in respect of the Insuring Clauses and Extensions shall erode the aggregate limit of indemnity stated in the **Schedule**. Once the aggregate limit of indemnity stated in the **Schedule** is completely eroded then **We** shall have no further liability under this **Policy**.
- (d) The amount payable by **Us** in respect of Insuring Clauses:
 - (i) Asset and Liberty Proceedings Defence Costs and Expenses;
 - (ii) Defence Costs and Expenses in the defence or investigation of an Identity Theft Claim;
 - (iii) Pollution and Contamination Defence Costs and Expenses;
 - (iv) Public Relations Costs.

and/or Extensions:

- (v) Emergency Defence Costs and Expenses;
- (vi) Fidelity;
- (vii) Loss of Documents or Data;
- (viii) Personal Appointments;
- (ix) Retirement Run-off;

will not exceed the sub-limits stated in paragraph 6.3 Table of Limits and Deductibles. These sub-limits are each aggregate limits and form part of the limit of indemnity stated in the **Schedule**. Once such:

- (x) sub-limit stated in paragraph 6.3 Table of Limits and Deductibles is completely eroded then **We** shall have no further liability under the applicable clause or Extension;
 - (xi) the aggregate limit of indemnity stated in the **Schedule** is completely eroded then **We** shall have no further liability under this **Policy**.
- (e) **Employment Practices Wrongful Acts**
- Subject otherwise to clauses (a) to (c), **Our** liability in respect of Section 4 Insuring Clauses relating to any **Employment Practices Wrongful Act** will not exceed the Sub-Limit stated in paragraph 6.3 Table of Limits and Deductibles.

6.2 Deductibles

The **Deductible** is not applicable to **Non-Indemnifiable Loss**.

- (a) Where a **Deductible** applies under Insuring Clauses - 4.2 Company / Organisational Reimbursement, **We** will be liable for **Loss** which exceeds the **Deductible**. The **Deductible** does not form part of **Our** liability for **Loss** and must remain uninsured. **We** will only be liable to the extent that any liability exceeds the relevant **Deductible**.
- (b) The **Deductible** is as stated in paragraph 6.3 Table of Limits and Deductibles except that:
 - (i) in respect of Insuring Clauses - 4.2 Company / Organisational Reimbursement insofar as the **Insurer** is called upon to pay loss arising in connection with any legal proceedings in the **USA or Canada** for the enforcement of any order or judgement of any **USA or Canada** court a **Deductible** as stated in the **Schedule** shall apply;
 - (ii) in respect of Extensions - clause 5.8 Entity Cover the **Deductible** as stated in the **Schedule** shall



apply.

- (c) The **Company** must pay the **Deductible** and **We** will deduct the **Deductible** from the payment **We** make unless the **Company** is unable to pay by reason of insolvent liquidation or is legally prohibited from paying. If payment of any such **Deductible** is not made within thirty (30) days **We** will advance all loss within the **Deductible** to the director. In those circumstances the **Company** agrees to repay the **Deductible** to the full extent once **We** have notified the **Company** of the amount advanced.
- (d) Only one **Deductible** will apply to **Notifiable Claims** that are related or connected in any way by reference to any common contributory factor or characteristic.
- (e) The **Deductible** includes **Defence Costs and Expenses** and **Investigation Defence Costs and Expenses** except for **Non-Indemnifiable Loss**.

6.3 Table of Limits and Deductibles

Limits of Indemnity:

Maximum aggregate stated in the **Schedule**

Combined Limit for:

- | | | |
|--|---|---|
| |) | Up to GBP 1,000,000 any one Claim and in the aggregate: |
| 4.1 Directors' / Trustees' Liability |) | ▪ inclusive of 4.3 defence costs and expenses and 4.4 other costs and expenses; |
| 4.2 Company / Organisational Reimbursement |) | ▪ subject to the Sub-Limits and Extension Limits below |

Sub-Limits:

- | | | |
|-----------|--|---|
| 4.1 & 4.2 | Employment practices wrongful acts | GBP As stated in the Schedule |
| 4.4.1 | Asset and Liberty Proceedings Defence Costs and Expenses | Up to 10% of the Combined Limit for 4.1/4.2, but not exceeding GBP 250,000 any one Claim and in the aggregate |
| 4.4.2 | Criminal Prosecution Defence Costs and Expenses | Up to 10% of the Combined Limit for 4.1/4.2, but not exceeding GBP 250,000 any one Claim and in the aggregate |
| 4.4.3 | Defence Costs and Expenses in the defence or Investigation of an Identity Theft Claim | Up to but not exceeding GBP 100,000 any one Claim and in the aggregate |
| 4.4.4 | Extradition Proceedings Defence Costs and Expenses | Up to 10% of the Combined Limit for 4.1/4.2, but not exceeding GBP 250,000 any one Claim and in the aggregate |
| 4.4.5 | Investigation Costs and Expenses | Up to 10% of the Combined Limit for 4.1/4.2, but not exceeding GBP 250,000 any one Claim and in the aggregate |
| 4.4.6 | Pollution and Contamination Defence Costs and Expenses | Up to 100% of the Combined Limit for 4.1/4.2, but not exceeding GBP 500,000 any one Claim and in the aggregate |
| 4.4.7 | Public Relations Costs | Up to 5% of the Combined Limit for 4.1/4.2, but not exceeding GBP 50,000 any one Claim and in the aggregate |

Extension Limits:

- | | | |
|-----|-----------------------------|---|
| 5.1 | Abuse | Up to GBP 250,000 |
| 5.2 | Automatic acquisition cover | Up to 50% of Total Gross Assets , but not exceeding the Limit of Indemnity for 4.1/4.2 |
| 5.3 | Breach of confidentiality | Up to 100% of the Combined Limit for 4.1/4.2, but not exceeding GBP 500,000 any one Claim and in the aggregate |
| 5.4 | Corporate manslaughter | Up to 100% of the Combined Limit for 4.1/4.2, but not exceeding GBP 500,000 any one Claim and in the aggregate |
| 5.5 | Data protection | Up to 100% of the Combined Limit for 4.1/4.2, but not exceeding GBP 500,000 any one Claim and in the aggregate |



| | | |
|------|---|---|
| 5.6 | Discovery period | The limit applicable to the Claim |
| 5.7 | Emergency defence costs and expenses | Up to 10% of the Combined Limit for 4.1/4.2, but not exceeding GBP 50,000 any one Claim and in the aggregate |
| 5.8 | Entity Cover | GBP As stated in the Schedule |
| 5.9 | Fidelity | Up to GBP 10,000 any one Claim and in the aggregate |
| 5.10 | Loss of documents or data | Up to GBP 10,000 any one Claim and in the aggregate |
| 5.11 | Non-executive director's reinstatement of cover | Up to 10% of the Combined Limit for 4.1/4.2 any one Claim and in the aggregate |
| 5.12 | Outside boards | The limit applicable to the Claim |
| 5.13 | Personal appointments | Up to 25% of the Combined Limit for 4.1/4.2, but not exceeding GBP 500,000 any one Claim and in the aggregate |
| 5.14 | Retirement run-off | Up to 100% of the Combined Limit for 4.1/4.2, but not exceeding GBP 250,000 any one Claim and in the aggregate |
| 5.15 | Spouses/Estates | The limit applicable to the Claim |
| 5.16 | Takeovers and Mergers Run-off | The limit applicable to the Claim |

Deductible:

| | | | | |
|-------------------------|--|----------------------------------|--------|-----------------------------|
| 4.2 | Organisational Reimbursement, in respect of USA or Canada judgments | GBP | 10,000 | each and every Claim |
| 5.3 | Breach of confidentiality | GBP | 500 | each and every Claim |
| 5.4 | Data protection | GBP | 500 | each and every Claim |
| 5.7 | Entity Cover | As stated in the Schedule | | |
| 5.9 | Fidelity | GBP | 500 | each and every Claim |
| 5.10 | Loss of documents or data | GBP | 500 | each and every Claim |
| 5.12 | Outside Boards | GBP | 500 | each and every Claim |
| All other Claims | | As stated in the Schedule | | |



7 Exclusions

We shall not have any liability under this **Policy** for, directly or indirectly arising out of, or in any way connected with:

7.1 Breach of copyright

any actual or alleged passing off, plagiarism or breach or infringement of copyright or trademark, patents, database rights, registered design or design rights or any comparable intellectual property right in the jurisdiction within in the **Territorial Limits** in which the **Claim** is brought.

7.2 Changes in or failure to provide Information

(a) any **Claim** against a **Director** or **Trustee**:

- (i) arising from information contained in the **Proposal** that the **Director** or **Trustee** knew, or ought reasonably to have known, had been misrepresented or which was required by **Us** prior to inception of this **Policy**, but which was not disclosed; or
- (ii) arising from a material change to the information contained in the **Proposal** or in relation to the information required by **Us** prior to inception of this **Policy**, but which was not disclosed (unless such change has been agreed in writing by **Us**), about which change the **Director** or **Trustee** knew or ought reasonably to have known.

(b) any **Claim** against the **Company** or **Organisation** (to the extent that cover may be provided to the **Company** or **Organisation** by this **Policy**):

- (i) arising from information contained in the **Proposal** that has been misrepresented or which was required by **Us** prior to inception of this **Policy**, but which was not disclosed; or
- (ii) arising from a material change in circumstances from the information contained in the **Proposal** or in relation to the information required by **Us** prior to inception of this **Policy**, but which was not disclosed, unless such change has been agreed in writing by **Us**.

7.3 Communicable Disease

any loss, damage, **Claim**, cost, expense, or other sum of any nature directly or indirectly based upon, arising out of, attributed to, caused by, or relating to:

- (a) any **Communicable Disease** (actual, threatened, perceived or suspected); or
- (b) any act, error, or omission in controlling, preventing, or suppressing, or failing to control, prevent, or suppress, or in any way relating to any actual, threatened, perceived or suspected outbreak of any **Communicable Disease**.

This exclusion applies regardless of any other cause or event contributing concurrently or in any other sequence with or to the loss.

Any actual, alleged, threatened, perceived, or suspected presence or existence of any **Communicable Disease** at, on, in, affecting, impacting, or impairing any property, or preventing any use of any property, shall not constitute loss or damage whether physical or otherwise, or loss of use to tangible or intangible property.

The presence of a person or persons at the premises that is/are actually infected, or is/are possibly infected, with a **Communicable Disease**, shall not constitute loss or damage, whether physical or otherwise.

7.4 Cyber and Electronic Data

any actual or alleged loss, damage, liability, **Claim**, fine, penalty, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

- (a) **Cyber Act** or **Cyber Incident** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **Cyber Act** or **Cyber Incident**; or
- (b) **Data Breach**; or
- (c) other loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss of, damage to, corruption of, inability to access or inability to manipulate or theft of any **Electronic Data**, including any amount pertaining to the value of such **Electronic Data**.



7.5 **Death or bodily injury**

bodily injury, sickness, disease, emotional distress, mental anguish, mental stress or the death of any person, except:

- (a) emotional distress, mental stress and mental anguish in respect of any **Employment Practices Wrongful Act**; or
- (b) emotional distress arising from any libel or slander; or
- (c) in respect of **Criminal Prosecution Defence Costs and Expenses** in any criminal proceedings or **Investigation** under health and safety/manslaughter or corporate manslaughter legislation for gross breach of duty of care that causes the death of another person or the equivalent in any other jurisdiction within in the **Territorial Limits**.

7.6 **Dishonest, fraudulent or criminal acts**

any intentional dishonest, fraudulent or criminal act or omission or any willful breach of any statute, rule or law by the **Director** or **Trustee**.

This exclusion shall only apply to the **Director** or **Trustee** who is actually guilty of the above conduct, as established through a final adjudication by any court, tribunal or other similar body, or admission by the **Director** or **Trustee**.

7.7 **Documents or data**

any repair, replacement or reconstitution cost of any **Documents or Data**, directly or indirectly occasioned by any government or public or local authority action or order or resulting from wear or tear, the action of vermin, gradual deterioration or magnetic flux or loss of magnetism (except where caused by lightning).

7.8 **Employee benefit**

any retirement, pension, profit-sharing, health, welfare or any other employee benefit fund, trust scheme or plan.

7.9 **Fidelity**

- (a) any accounting or arithmetical error or omission or unexplained shortage;
- (b) default or non-payment of any loan or other credit arrangement;
- (c) for expenses incurred in establishing the amount of any loss of money or other property;
- (d) for loss of interest;
- (e) for loss of profit; or
- (f) for any loss of money or property not belonging to the **Organisation**;

but only in respect of Extension 5.9 Fidelity.

7.10 **Fines, penalties etc.**

- (a) fines or penalties of any kind;
- (b) liquidated damages, penalty clauses or performance warranties unless proven that liability would have attached in the absence of such agreements, clauses or warranties; or
- (c) multiplication of compensatory awards or damages or in any other form whatsoever; or
- (d) punitive, exemplary or aggravated damages; or
- (e) taxes or levies.

7.11 **Major shareholder**

or attributable to any **Claim** brought by or on behalf of, whether directly or derivatively, any individual or entity which owns or controls thirty (30%) percent or more of the issued and outstanding share capital of the **Company** or **Organisation**, provided that this exclusion shall only apply to any **Claim** where such individual or entity or their representative has, directly or indirectly, participated in or ratified the alleged **Wrongful Act** which is the subject of the **Claim**.



7.12 **Medical Malpractice**

any actual or alleged negligent act, error or omission in rendering or failing to render medical professional treatment or services whether or not resulting in bodily injury, sickness, disease, emotional distress, mental anguish, mental stress or the death of any person.

7.13 **Other insurance**

any matter in respect of which the **Company, Organisation, Director or Trustee** is (or but for the existence of this **Policy** would be) entitled to cover under any other policy, except where such other insurance is written as specific excess insurance to provide an indemnity in excess of the amount payable under this **Policy**. This **Policy** shall only apply in excess of such other policy to the extent of such part of the limit of indemnity or any applicable sub-limit exceeds the limit of the other policy.

7.14 **Other Pension and Employee Benefit Schemes**

any retirement, pension, profit-sharing, health, welfare or any other employee benefit fund, trust scheme or plan or related legislation or regulations anywhere in the world, including but not limited to the US Employee Retirement Income Security Act 1974 and UK Pensions Act 1995 and/or subsequent amending or re-enacting legislation other than any **Pension/Employee Benefit Schemes**.

7.15 **PFAS**

any **PFAS** or any materials or substances containing **PFAS**.

7.16 **Pollution**

any **Pollution or Pollutants** and any regulatory direction or request to investigate, test for, assess, monitor, remove, contain, treat, detoxify or neutralise any **Pollution** or remediate **Pollution** in any other way.

However, this exclusion shall not apply to:

- (a) **Pollution and Contamination Defence Costs and Expenses** in relation to any **Wrongful Act** concerning such matters or which fall within **Non-Indemnifiable Loss**; or
- (b) any **Claim** instigated by way of **Shareholder Derivative Action** including under the Companies Act 2006 or the equivalent in any other jurisdiction within the **Territorial Limits** without the willing assistance, procurement, instigation or involvement of any **Director**.

7.17 **Prior claims, investigations or circumstances**

- (a) any **Notifiable Claim, Investigations** or circumstances known to the **Company, organisation, Director or Trustee**; or
- (b) about which the **Company, organisation, Director or Trustee** ought to have known

prior to the commencement of the **Period of Insurance**.

This exclusion shall only apply to the **Director, Trustee, the Company or Organisation** that had the requisite knowledge. this exclusion will apply to that **Director** even where the **Insurer** has waived its right to avoid the **Policy** pursuant to Condition 9.3 Avoidance by the Insurer.

7.18 **Prior and pending litigation**

any circumstance, transaction or **Wrongful Act** underlying or alleged in any prior and pending litigation commenced prior to the Retroactive Date set out in the **Schedule**:

- (a) in respect of any litigation involving **Pollutants**, or
- (b) for all other litigation.

For the purposes of this exclusion "litigation" means any civil, administrative, regulatory or criminal proceedings or any investigation, examination, inquiry or disciplinary proceedings.

7.19 **Professional liability**

the giving of professional advice or service whether or not for remuneration or any act, error or omission relating to it.

However, this exclusion shall not apply to any **Claim** arising out of the actual or alleged failure the actual or alleged



failure to supervise those who gave or failed to give professional advice or service.

7.20 **Profit or advantage**

any unlawful personal profit, remuneration or advantage gained by the **Trustee** or a financial advantage to an entity in which the **Director** or **Trustee** has a financial interest.

This exclusion shall only apply to a **Director** or **Trustee** who has admitted such conduct has occurred or against whom there has been a final adjudication by a competent court or tribunal that such conduct has occurred.

7.21 **Property damage**

any damage to or destruction or loss of any property including loss of use.

7.22 **Radioactivity**

- (a) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (b) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- (c) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- (d) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- (e) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes.
- (f) any chemical, biological, bio-chemical or electromagnetic weapon.

7.23 **Securities**

any purchase, exchange or sale or offer to purchase, exchange or sell, securities of any description by means of a prospectus or private placement on or after the commencement of the **Period of Insurance**.

7.24 **Subsidiary**

any **Claim** resulting from a **Wrongful Act** occurring after any **Subsidiary** ceases to be a **Subsidiary** of the **Organisation**.

7.25 **Terrorism**

- (a) any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the **Loss**;
- (b) loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**.

If **We** allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this **Policy** the burden of proving the contrary shall be upon the **Company, Organisation, Director** or **Trustee**.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

7.26 **United States of America claims by the Company or Organisation**

any **Notifiable Claim** made in the United States of America (or any countries, territories, possessions, dependencies or protectorates which operate under the laws of or which come within the jurisdiction of the courts of the United States of America) by or on behalf of the **Company, Organisation** or **Outside Entity** or by or on behalf of any **Director, Trustee** or **Employee**, provided that this exclusion shall not apply to:

- (a) any **Claim** brought by or at the direction of any liquidator, provisional liquidator, administrator or receiver



of any **Company, Organisation or Outside Entity**; or

- (b) any **Claim** against an **Employee** in respect of an **Employment Practices Wrongful Act**; or
- (c) any **Notifiable Claim** pursued as a **Shareholder Derivative Action** brought or maintained on behalf of a **Company or Outside Entity** without the voluntary rather than legally required intervention, assistance or active participation of any **Director** or the **Company** or any **Outside Entity**; or
- (d) any **Notifiable Claim** pursued by a **Director, Trustee or Employee** for contribution or indemnity, if the **Notifiable Claim** directly results from another **Notifiable Claim** otherwise covered by this **Policy**; or
- (e) any **Claim** pursued by any past **Director or Employee** of the **Company, Organisation or Outside Entity**; or
- (f) any **Claim** arising as a direct result of whistle-blowing; or
- (g) **Defence Costs and Expenses** of any director.

7.27 **United States of America and/or Canada**

any **Claim**, allegation, proceeding or **Investigation** brought in the **USA or Canada**, including the enforcement outside the **USA or Canada** of any judgment, order, award or settlement made within the **USA or Canada** or which arises from or is connected, directly or indirectly, with:

- (a) any event, occurrence or activity of any sort within the **USA or Canada**;
- (b) the holding of or dealing in securities listed or traded on any Exchange of **the USA or Canada** or any other form of assets, tangible or intangible in the **USA or Canada**;
- (c) any activity in the **USA or Canada** of any parent, **Subsidiary**, associated organisation, joint venture or company whether or not registered in the **USA or Canada**.

7.28 **War etc**

war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.



8 Conditions

8.1 Changes in risk

- (a) If during the **Period of Insurance** the **Company** or **Organisation** merges with or is consolidated into another entity, or any person or entity acquires fifty (50%) percent or more of its issued share capital, or another entity has or acquires the rights to vote, designate or select a majority of the board of directors of the **Company** or **Organisation** or voting rights or assumes de-facto control of the **Company** or **Organisation**:
- (i) the **Company** or **Organisation** shall within thirty (30) days give written notice to **Us** of such merger, consolidation or acquisition; and
 - (ii) cover shall apply to any **Notifiable Claim** arising directly or indirectly out of any **Wrongful Act** committed, or alleged to have been committed, prior to the effective date of such merger, consolidation or acquisition, unless otherwise agreed with **Us**, this **Policy** shall continue in full force and effect and may not be cancelled after the effective date of the merger, consolidation or acquisition. The entire premium for this **Policy** shall be deemed fully earned as of such date;
 - (iii) **We** will not have any liability under this **Policy**, including any **Endorsements**, directly or indirectly arising out of, or in any way connected with any purchase, exchange or sale, or offer to purchase or sell **Securities** by means of a prospectus or private placement on or after the commencement of the **Period of Insurance**.

However, **We** may at **Our** discretion offer such cover in this regard on terms including as to premium as **We** may think appropriate, subject to the supply and review of all material information and documentation connected with the prospectus or private placement.

8.2 Severability

- (a) This **Policy** shall operate severally in relation to each **Director** or **Trustee**.
- (b) In determining whether **We** are entitled to avoid a **Director's** or **Trustee's** interest in this **Policy** or reject a **Director's** or **Trustee's** claim for an indemnity under this **Policy**, **We** will only take into account the **Proposal** and the statements made by, or the knowledge possessed by, or the acts, omissions or conduct of that particular **Director** or **Trustee**.
- (c) Except in respect of **Claims** to which exclusion 7.2(a) applies, the **Proposal** shall operate severally in relation to each **Director** or **Trustee** and no statement, information or knowledge on the part of any **Director** or **Trustee** shall be imputed to any other **Director** or **Trustee** for the purposes of determining whether cover is available to that other **Director** or **Trustee**.



9 Claims Conditions and Procedures

9.1 Advanced payment of costs

We shall pay **Defence Costs and Expenses** as they are incurred.

However, in the event and to the extent that it is finally determined that the **Company, Organisation, Director or Trustee** is not entitled to such payments under this **Policy** the sums advanced must be repaid to **Us** upon demand. Failing that, the limit of indemnity will automatically be reduced by the amount of such advance payment.

9.2 Allocation

In the event of:

(a) any **Loss** and/or:

- (i) **Defence Costs and Expenses;**
- (ii) **Asset and Liberty Proceedings Defence Costs and Expenses;**
- (iii) **Criminal Prosecution Defence Costs and Expenses;**
- (iv) **Extradition Proceedings Defence Costs and Expenses;**
- (v) **Investigation Defence Costs and Expenses;**
- (vi) **Pollution Defence Costs and Expenses;**
- (vii) **Public Relations Costs;**
- (viii) **Shareholder Derivative Costs;**

being partially covered and/or any:

(b) **Notifiable Claim** against a **Director** or **Trustee** also being made against the **Company** or **Organisation** and/or one or more persons who is not a **Director** or **Trustee** or who are not insured under this **Policy**.

We shall use **Our** best endeavours (based on established judicial decisions) to agree such an allocation of **Loss** and those costs and expenses (comprised by (a)(i) to (a)(viii) above) to the **Policy** as may be appropriate and proportional to the aggregate of insured **Loss** and uninsured loss, damages and legal and other costs not covered under this **Policy**.

9.3 Avoidance by the Insurer

If **We** are entitled, for any reason, to avoid this **Policy** from inception, **We** may in **Our** absolute discretion elect instead to give notice to the **Company, Organisation, Director** or **Trustee** that **We** regard this **Policy** as being in full force and effect, except that no cover will be given under this **Policy** in respect of any **Claim** that arises from or is related to the ground(s) that entitled **Us** to avoid this **Policy**.

9.4 Claims Procedure

We will not make any payment under this **Policy** unless all of the following conditions have been complied with:

(a) **Notification**

The following must be notified as soon as practicably possible after they come to the attention of a **Director** or **Trustee** or the person responsible for arranging insurance:

- (i) any **Claim**; or
- (ii) any circumstance(s) of which the **Company, Organisation, Director** or **Trustee** becomes aware which is or are likely to give rise to a **Notifiable Claim** or an entitlement to be indemnified under this **Policy**; or
- (iii) receipt of any claim form, particulars of claim, arbitration notice or any other formal document commencing legal proceedings

notification must be made to **Us** in writing at the notification address shown in the **Policy Schedule** during the **Period of Insurance** or within thirty (30) days of the end of the **Period of Insurance** and should include



copies of all relevant documents.

(b) **No Admission of Liability**

The **Company, Organisation, Director or Trustee** who claim for indemnity under this **Policy** shall not, without **Our** prior written approval, admit liability for, compromise, settle or make any offer or payment in respect of any **Claim** or any circumstance(s) likely to give rise to a **Claim** or any circumstance(s) where cover has been requested under this **Policy**.

(c) **Duty to Co-operate**

The **Organisation** and/or **Trustee** shall:

- (i) provide prompt co-operation, information, documents, statements and assistance as **We** or **Our** representatives, legal advisors or agents may require; and
- (ii) ensure that all documents in both paper and electronic form relevant to any **Claim** or any circumstances likely to give rise to a **Claim** are retained and not be intentionally destroyed or disposed of.

9.5 **Consent to settle**

- (a) **We** shall not settle any **Claim** without the written consent of the person or entity insured.
- (b) If the person or entity insured refuses to consent to a settlement demand, acceptable to the **Claimant** and recommended by **Us**, and elects instead to contest the **Claim** then **Our** total liability for such **Claim** shall not exceed:
 - (i) the amount for which the **Claim** could have been settled;
 - (ii) plus any **Defence Costs and Expenses** incurred as of the date such **Claim** could have been settled and to which this **Policy** would otherwise apply

up to, but not exceeding, the applicable limit of indemnity stated in the **Schedule**.

- (c) In the event of a dispute between **Us** and the person or entity insured in relation to whether:
 - (i) a **Claim** should be settled; or
 - (ii) **Our** decision to deny consent to incur or continue incurring costs and expenses, under Insuring Clause 4.4 Other costs and expenses, is reasonable.

We may obtain an opinion from King's counsel or equivalent in the applicable jurisdiction within in the **Territorial Limits** (or a person who holds an equivalent position in any other relevant jurisdiction within in the **Territorial Limits**) at **Our** expense and such opinion shall be binding on **Us** and the person or entity insured.

9.6 **Insurer entitled to defend**

- (a) **We** shall be entitled, but not obliged, to take over the **Investigation**, defence and settlement of any **Notifiable Claim** and any circumstance(s) likely to give rise to a **Notifiable Claim** and any circumstance(s) where cover has been requested under this **Policy**, including as to the choice and appointment of legal representation.
- (b) **We** will have full discretion in the handling of the **Notifiable Claim** (despite any dispute that may have arisen between **Us** and the **Director** and/or the **Company, Trustee** and/or the **Organisation**), provided always that the **Director** and/or the **Company, Trustee** and/or the **Organisation** shall not be obliged to defend any legal proceedings unless a King's counsel or equivalent in the applicable jurisdiction within in the **Territorial Limits** (to be mutually decided upon by **Us** and the **Director** and/or the **Company, Trustee** and/or the **Organisation**) shall advise that such proceedings can be contested with a reasonable prospect of success.

9.7 **Order of payments**

- (a) Where there are multiple **Claims** for indemnities under this **Policy**, **We** shall make payments in the order those **Claims** are presented to **Us**.
- (b) If it becomes apparent to **Us**, in **Our** absolute discretion, that the limit of indemnity will not be sufficient to cover all expected payments under the **Policy** then **We** will make payments in the following order:



- (i) payments under the Insuring Clauses - 4.1 Directors' / Trustees' Liability directly to the **Directors** or **Trustees**; followed by
- (ii) payments under the Insuring Clauses - 4.2 Company / Organisational Reimbursement to the **Company** or **Organisation**; followed by
- (iii) any other payments to the **Company** or **Organisation**.

9.8 **Subrogation**

In the event of any payment by **Us** under this **Policy**, **We** shall be subrogated up to the amount of such payment to all the rights of recovery of the **Company**, **organisation**, **Director** and/or **Trustee** or any person indemnified against any third party, provided always that they shall not exercise any such rights against any **Employee** or former **Employee** unless the **Loss** was caused or contributed to by a fraudulent, dishonest or malicious act or omission by said person.

The **Company**, **Organisation**, **Director** and/or **Trustee** and any person indemnified shall, without charge, provide such assistance as **We** may reasonably require in any subrogation and shall at all times protect and preserve any rights of recovery to which **We** would become subrogated under this **Policy**.

The **Company**, **Organisation**, **Director** and/or **Trustee** and any person indemnified agree that **We**, at **Our** option, take over the conduct of any proceedings to recover monies paid or payable by **Us**, whether or not the **Company**, **Organisation**, **Director** and/or **Trustee** or person indemnified has an interest in such proceedings by reason of any uninsured losses.



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