

Management Risks Insurance

Policy

To be solid, insurance must be flexible.

Management Risks Insurance

Section 1 (General Terms) Contents

	Page	
1.1	Cover	6
1.2	Court Attendance Costs	6
1.3 & 1.4	Application of Terms	6
1.5	Definitions	6
1.6	Spouses, Partners and Estates	8
1.7	Subsidiaries	8
1.8	Acquisition of the Policyholder	8
1.9	Limits of Liability and Deductibles	8
1.10	Reporting (for Sections 2, 3, 4 and 6 – Directors and Officers Insurance, Employment Practices Insurance, Company Cover and Cyber Security Cover)	9
1.11	Reporting and Proof of Loss (for Section 6 – Employee Crime, Crime using Computers and Social Engineering Crime)	9
1.12	Notice	10
1.13	Territory	10
1.14	Subrogation	10
1.15	Authorisation Clause	10
1.16	Alteration and Assignment	10
1.17	Rights of Action	10
1.18	Termination	11
1.19	Choice of Law and Forum	11
1.20	Option for Previous Policy Cover	11
1.21	Sanctions	12
1.22	Regulatory Information	12
1.23	Complaints	12

Section 2 (Directors and Officers Insurance) Contents

	Page	
2.1	Insuring Clause 2.1: Directors and Officers Cover	13
2.2	Insuring Clause 2.2: Organisation Indemnification Cover	13

Management Risks Insurance

2.3	Definitions	13
2.4	Acquisition or Creation of Another Organisation	18
2.5	Offerings of Securities	19
2.6	Optional Management Buyout Cover	19
2.7	Additional Limit for Non-Indemnifiable Loss	19
2.8	Emergency Costs	19
2.9	Non-avoidance and Severability	20
2.10	Extended Reporting Period	20
2.11	Outside Directorships	21
2.12	Exclusions	22
2.13	Severability of Exclusions	22
2.14	Limits of Liability	22
2.15	Deductible	23
2.16	Related Claims	23
2.17	Allocation of Loss	23
2.18	Order of Payments	24
2.19	Other Insurance	24
2.20	Defence and Settlement	24
2.21	D&O Advice Service	24

Section 3 (Employment Practices Insurance) Contents

		Page
3.1	Insuring Clause 3.1: Employment Practices (including Third Party Liability)	25
3.2	Definitions	25
3.3	Acquisition or Creation of Another Organisation	28
3.4	Non-avoidance and Severability	28
3.5	Extended Reporting Period	29
3.6	Exclusions	29
3.7	Exclusions (Not applicable to Defence Costs)	30
3.8	Limits of Liability	31

Management Risks Insurance

3.9	Deductible	31
3.10	Related Claims	31
3.11	Other Insurance	31
3.12	Defence and Settlement	31
3.13	Help Line	32

Section 4 (Company Insurance) Contents

		Page
4.1	Insuring Clause 4.1: General Claims	33
4.2	Insuring Clause 4.2: Regulatory Investigations and Prosecutions	33
4.3	Insuring Clause 4.3: Corporate Manslaughter Prosecutions	33
4.4	Insuring Clause 4.4: Kidnap and Extortion Expenses	33
4.5	Definitions	33
4.6	Acquisition or Creation of Another Organisation	38
4.7	Emergency Defence Costs	38
4.8	Non-avoidance and Severability	39
4.9	Exclusions	39
4.10	Severability of Exclusions	40
4.11	Limits of Liability	41
4.12	Deductible	41
4.13	Related Claims	41
4.14	Other Insurance	41
4.15	Defence and Settlement	41

Section 5 (Employee Crime, Crime using Computers and Social Engineering Crime) Contents

		Page
5.1	Insuring Clause 5.1: Crime	43
5.2	Insuring Clause 5.2: Expenses	43
5.3	Definitions	43
5.4	Prior Subsidiaries	45
5.5	Acquisition or Creation of Another Organisation	45

Management Risks Insurance

5.6	Insolvency	46
5.7	Extended Discovery Period	46
5.8	Non-avoidance and Severability	46
5.9	Exclusions	47
5.10	Connected Crimes	48
5.11	Limits of Liability	48
5.12	Deductible	48
5.13	Other Insurance	48
5.14	Valuation	48
5.15	Recoveries	49
5.16	Policyholder and the Position of Organisations	49

Section 6 (Cyber Security) Contents

		Page
6.1	Insuring Clause 6.1: Cyber Liability	50
6.2	Insuring Clause 6.2: Privacy Notification Expenses and Crisis Management Expenses	50
6.3	Definitions	50
6.4	Acquisition or Creation of Another Organisation	54
6.5	Non-avoidance and Severability	54
6.6	Exclusions	55
6.7	Exclusions to Insuring Clause 6.1 only	55
6.8	Exclusions to Insuring Clause 6.2 only	56
6.9	Limits of Liability	57
6.10	Deductible	57
6.11	Related Claims	57
6.12	Connected Cyber Events	58
6.13	Other Insurance	58
6.14	Defence and Settlement	58

Endorsements issued at inception are attached to the Schedule.

Management Risks Insurance

In consideration of the payment of the premium, or agreement to pay the premium, the **Insurer** and the **Policyholder** agree as follows:

Section 1: General Terms

Cover

- 1.1 The **Insurer** will provide insurance cover as set out in the Insuring Clauses of those **Cover Sections** which are identified in Item 3.1, 3.2, 3.3, 3.4 and 3.5 as having a limit of liability set against them.

Court Attendance Costs

- 1.2 With regard to each **Claim, Loss** which is covered by this Policy:
- (a) the **Insurer** shall, if a director, officer or employee of an **Organisation** attends a court or arbitration hearing as a witness, compensate the **Policyholder** by paying £150 per day for that person's attendance as a witness;
 - (b) the **Insurer** shall, if a director, officer or employee of an **Organisation** attends a court or arbitration hearing as observer, compensate the **Policyholder** by paying £150 per day for that person's attendance as an observer, but the **Insurer** will only pay for one observer per day.

Compensation provided for by this Section 1.2 is only payable where that attendance is in connection with defending, not prosecuting, a **Claim**.

The **Insurer's** maximum liability for all **Court Attendance** on account of all **Claims** first made during the **Policy Period** whether involving one or any number of **Insureds**, shall not exceed £50,000. This is a maximum liability for all **Cover Sections** together, not a maximum per **Cover Section**. The **Insurer** shall only pay **Court Attendance** in respect of a **Claim** to the extent that the relevant **Cover Section's Any One Claim Limit** and **Policy Period Limit** remains unexhausted. Payment by the **Insurer** of **Court Attendance** in respect of that **Claim** shall erode that **Any One Claim Limit** and **Policy Period Limit**.

Application of Terms

- 1.3 The General Terms of this Section 1 apply to all Sections of this Policy (subject to the provisions of Section 1.4 below). The terms of each other Section of this Policy apply only to that Section and shall not be construed to apply to any other Section.
- 1.4 Where a provision in this Section 1 uses a word in bold which is defined in another Section, the provision shall be construed with the word in bold bearing the meaning given in that other Section.

Definitions

- 1.5 In this Policy the word 'persons', wherever it appears, means legal or natural person(s) unless otherwise specified. When used in bold type in this Policy:

Application means:

- (a) all proposal forms and documents provided to the **Insurer** by or on behalf of the **Policyholder** or any other **Insured**, or to which the **Insurer** was referred by or on behalf of the **Policyholder** or any other **Insured**, in the process of applying for this Policy; and
- (b) all representations to the **Insurer** by or on behalf of the **Policyholder** or any other **Insured**, in the process of applying for this Policy.

Management Risks Insurance

Court Attendance means compensation provided for by Insuring Clause 1.2.

Cover Sections means Section 2 (Directors and Officers Insurance), Section 3 (Employment Practices Insurance), Section 4 (Company Insurance), Section 5 (Employee Crime, Crime using Computers and **Social Engineering Crime**) and Section 6 (Cyber Security).

Insured means a person who is an **Organisation** or an **Insured Person**.

Insurer means MPR Underwriting Limited.

Merger Acquisition means the acquisition by the **Policyholder** of another organisation by that other organisation merging into or consolidating with the **Policyholder**.

Organisation means, for the purposes of all **Cover Sections**, an organisation which is the **Policyholder** or a **Subsidiary**. For the purposes of Section 5 only, **Organisation** includes an **Employee Benefit Plan**.

Policyholder means the entity stated in Item 1 of the Schedule.

Policy Period means the period of time stated in Item 2 of the Schedule.

Pollutants means any substance exhibiting any characteristic hazardous to the environment or having an adverse impact on the environment, including but not limited to solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, soil, chemicals and waste materials, air emissions, odour, waste water, oil, oil products, infectious or medical waste, asbestos, asbestos products and any noise.

Pollution means:

- (a) any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any **Pollutants**; or
- (b) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise any **Pollutants**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request.

Previous Policy means the management liability policy issued to the **Policyholder** by an insurer other than the **Insurer** for the policy period ending the day before the start of the **Policy Period** and which this Policy directly replaces.

Property Damage means damage or impairment to, or destruction or loss of use of, any property.

Subsidiary means a company in which the **Policyholder** directly and/or indirectly:

- (a) holds a majority of the voting rights;
- (b) has the right to appoint or remove a majority of the board of directors; or
- (c) controls alone, pursuant to a written agreement with other shareholders, a majority of the voting rights.

Subsidiary also means a **Subsidiary** or **Subsidiaries** of an **Organisation** other than the **Policyholder** as well as any foundation or not-for-profit entity established and maintained by the **Policyholder**.

Substitutable Cover Terms means those terms of the **Previous Policy** which are the **Previous Policy's** equivalents to the terms of this policy.

USA means the United States of America, its territories and possessions and any state or political subdivision thereof.

Management Risks Insurance

Spouses, Partners and Estates

- 1.6 The definition of **Insured Person** in each **Cover Section** is, solely for the **Wrongful Act** of a natural person described in such definition, extended to include such natural person's:
- (a) lawful spouse, civil partner (as defined in the Civil Partnership Act 2004) or domestic partner, if named as co-defendant solely because of his or her spousal relationship or relationship as civil partner or domestic partner; and
 - (b) estate, heirs, legal representatives or assigns, if such natural person is deceased or declared incompetent, insolvent, or bankrupt.

Subsidiaries

- 1.7 If an organisation ceases to be a **Subsidiary** before or during the **Policy Period**, there will be cover under this Policy for such **Subsidiary** and its **Insured Persons**.

With respect to each **Subsidiary** and its **Insured Persons**, cover under this Policy shall apply only for:

- (a) **Wrongful Acts** at;
- (b) (as concerns **Investigations**) conduct at;
- (c) **Crimes** occurring at;
- (d) **Kidnappings, Hijackings, Extortions** and **Cyber Extortions** commencing at,

a time when the **Subsidiary** is a **Subsidiary**. The **Insurer** may agree to provide cover for prior matters, following receipt of any information the **Insurer** may require.

Acquisition of the Policyholder

- 1.8 If, during the **Policy Period**:
- (a) the **Policyholder** merges into or consolidates with another organisation (other than in a **Merger Acquisition**); or
 - (b) a person or persons acting in concert (other than a liquidator, receiver, administrative receiver, administrator, supervisor or other insolvency office-holder) acquires or secures ownership or voting control of more than 50% of the outstanding securities representing the present right to vote for the election of the members of the board of directors of the **Policyholder**,

cover for the **Organisations** and their **Insured Persons** under Sections 2, 3, 4, 5 and 6 of this Policy shall continue until the end of the **Policy Period**, but not for **Wrongful Acts** after, or (as concerns **Investigations**) conduct after, or **Crimes** after, such merger, consolidation or acquisition.

Limits of Liability

- 1.9 The limits and sublimits of liability and Deductibles shown in the Schedule to this Policy are separate limits, sublimits and Deductibles pertaining to each **Cover Section**. No payment by the **Insurer** under one **Cover Section** shall reduce or otherwise impair the **Insurer's** liability under any other **Cover Section**.

Management Risks Insurance

Reporting (for Sections 2, 3, 4 and 6 – Directors and Officers Insurance, Employment Practices Insurance, Company Insurance and Cyber Security)

1.10 The **Insured** shall give the **Insurer** written notice of any **Claim** or **Cyber Event** as soon as practicable but in no event more than 60 days after the earlier of the following dates:

- (i) the date on which any **Organisation's** Chairman, Chief Executive, Managing Director, Finance Director, General Counsel, Risk Manager, Head of Human Resources, Information Technology Manager or holder of an equivalent position to any of the foregoing, first becomes aware that the **Claim** has been made or **Cyber Event** has occurred; and
- (ii) if this Policy is not renewed, the termination date of the **Policy Period** or, if the **Claim** or **Cyber Event** is first deemed made during the **Policy Period** because of an obtained extended reporting period, the termination date of that extended reporting period.

Each **Insured** shall give to the **Insurer** all such information and co-operation as the **Insurer** may reasonably require, including but not limited to a description of the **Claim** or **Cyber Event**, the nature of the alleged **Wrongful Act** and the date it was committed, the nature of the alleged damage, the names of the claimants and defendants and the manner in which the **Insured** first became aware of the **Claim** or **Cyber Event**.

If, during the **Policy Period** or an obtained applicable extended reporting period, an **Insured**:

- (i) becomes aware of circumstances which are likely to give rise to a **Claim**, (or becomes aware of a **Potential Claim** under the Employment Practices section) and gives written notice of such circumstances to the **Insurer**; or
- (ii) receives a written request to waive application of a limitation period to, or to suspend the running of time towards expiry of a limitation period for the commencement of, a civil proceeding against an **Insured** alleging a **Wrongful Act** before or during the **Policy Period** and gives written notice of such request and of such alleged **Wrongful Act** to the **Insurer**,

then any **Claims** or **Cyber Events** subsequently arising from such circumstances or following on from such request shall be deemed to have been first made during the **Policy Period**. Circumstances shall not be regarded as notified unless the written notice expressly identifies the **Wrongful Act** and the date it was committed, the potential damage, the potential claimants and defendants and the manner in which the **Insured** first became aware of the circumstances.

The **Insurer** shall not rely on breach of any of the **Insureds'** obligations in this Section to deny liability for any **Loss**. However, in the case of such breach, the **Insurer** shall not be liable for **Loss** which the **Insurer** believes would not have been incurred if the breach had not occurred.

Reporting and Proof of Loss (for Section 5 – Employee Crime, Crime using Computers and Social Engineering Crime)

1.11 The **Insured** shall give the **Insurer** written notice of any **Claim** as soon as practicable but in no event more than 60 days after the earlier of the following dates:

- (a) that the **Policyholder** gives the **Insurer** written notice of that **Crime** as soon as practicable after it is first **Discovered** and in any event no later than 90 days after it is first **Discovered**;
- (b) that, within 6 months after that **Crime** is first **Discovered**, the **Policyholder** provides a proof of loss, with full particulars, to the **Insurer**; and
- (c) that each **Organisation** gives to the **Insurer** all such information and co-operation as the **Insurer** may reasonably require, including but not limited to submitting to examination under oath at the **Insurer's** request and producing all pertinent records to the fullest extent legally permissible at such times and places as the **Insurer** shall reasonably require.

Management Risks Insurance

The **Policyholder** may offer a comparison between an **Organisation's** inventory records and an actual physical count of its inventory to prove the amount of **Financial Loss**, but only where the **Policyholder** establishes wholly apart from such comparison that the **Organisation** has sustained **Financial Loss**.

The **Insurer** shall not rely on breach of any **Insured's** obligations stated above to deny liability for any **Loss** except that, in the case of such breach, the **Insurer** shall not be liable for **Loss** which the **Insurer** reasonably believes would not have been incurred if the breach had not occurred.

Notice

1.12 Written notices to the **Insurer** required by Section 1.10 or 1.11 above shall be sent by email to mprclaims@axiscapital.com or by post to the Claims Department at the **Insurer's** postal address.

The **Insurer's** postal address is:

MPR Underwriting Limited
10th Floor, Chancery Place, 50 Brown Street,
Manchester, M2 2JG.

Notice shall be effective on the date of receipt by the **Insurer** by email or at the postal address.

Territory

1.13 Subject to all other terms of this Policy and unless law or regulation of any jurisdiction prevents the **Insurer** from paying, cover for **Loss** and **Expenses** shall extend to **Claims, Crimes** or **Cyber Events** brought, maintained or occurring in any jurisdiction.

Subrogation

1.14 The **Insurer** shall be subrogated to the extent of any payment under this Policy to each **Insured's** rights of recovery, and each **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights and to enable the **Insurer** to bring proceedings in the name of that **Insured**.

Authorisation Clause

1.15 The **Policyholder** hereby agrees to act on behalf of all **Insureds** with respect to the giving and receiving of notice of **Claims** or termination, the payment of premiums and the receiving of any return premiums that may become due under this Policy, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this Policy (except for the **Insured Persons'** ability to elect an extended reporting period), and the **Insureds** agree that the **Policyholder** shall so act on their behalf.

Alteration and Assignment

1.16 No change in, modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy duly executed on behalf of the **Insurer**.

Rights of Action

1.17 No person other than the **Insured Persons** shall have any rights under or in connection with this Policy by virtue of the Contracts (Rights of Third Parties) Act 1999 or any amendment or re-enactment thereof.

Management Risks Insurance

Termination

1.18 Cover under this Policy shall terminate at the earliest of the following times:

- (a) 7 days after the receipt by the **Policyholder** of a written notice of termination from the **Insurer** for non-payment of premium;
- (b) expiration of the **Policy Period** (but expiration of the **Policy Period** shall not terminate cover under an obtained extended reporting period or an obtained extended discovery period);
- (c) receipt by the **Insurer** of written notice of termination from the **Policyholder**; and
- (d) such other time as may be agreed upon by the **Insurer** and the **Policyholder** in writing.

If, at the time of termination of cover under this Policy, no **Insured** has given notice of a **Claim**, a **Potential Claim**, circumstances which are likely to give rise to a **Claim**, a **Crime**, a **Kidnapping**, a **Hijacking**, an **Extortion**, a **Cyber Extortion** or **Cyber Event**, the **Insurer** shall refund the unearned premium:

- (i) computed at customary short rates, if cover under this Policy is terminated by the **Policyholder** or if an obtained extended reporting period comes to an end as a result of another insurance policy being taken out and the **Policyholder** gives the **Insurer** written notice that such other insurance policy has been taken out; or
- (ii) computed pro-rata, if cover under this Policy is terminated other than by the **Policyholder**.

Choice of Law and Forum

1.19 The construction of the terms, and the validity and effect, of this Policy are governed by English law. Any dispute or difference arising under or in respect of this Policy shall be subject to and determined within the exclusive jurisdiction of the courts of England and Wales.

Option for Previous Policy Cover

1.20 The provisions of this Section 1.20 shall only be effective if the **Policyholder** provides to the **Insurer**, before the start of the **Policy Period**, a complete and accurate copy of the **Previous Policy** including all schedules and endorsements thereto and variations thereof and the **Insurer** confirms in writing that the provisions of this Section 1.20 are effective.

Within 30 days of the **Insurer** being given written notice of a **Claim** (as defined in each Section), a **Crime**, a **Kidnapping**, a **Hijacking**, an **Extortion**, a **Cyber Extortion** or **Cyber Event**, in accordance with Section 1.10 or 1.11 above, the **Policyholder** may give to the **Insurer** a written notice requesting coverage conversion, whereupon all the **Substitutable Cover Terms** shall apply to that **Claim**, **Crime**, **Kidnapping**, **Hijacking**, **Extortion**, **Cyber Extortion** or **Cyber Event**, and all **Claims**, **Crimes**, **Kidnappings**, **Hijackings**, **Extortions**, **Cyber Extortions** or **Cyber Events** deemed with it to be a single **Claim**, **Crime**, **Kidnapping**, **Hijacking**, **Extortion**, **Cyber Extortion** or **Cyber Event**.

Any matter which is not within a definition of **Claim**, **Crime**, **Kidnapping**, **Hijacking**, **Extortion**, **Cyber Extortion** or **Cyber Event** but would be if it was defined in the same way as an equivalent definition in the **Previous Policy's** equivalent cover, shall be regarded as within this Policy's definition of **Claim**, **Crime**, **Kidnapping**, **Hijacking**, **Extortion**, **Cyber Extortion** or **Cyber Event** for the purposes of allowing the **Policyholder** to report it in accordance with Section 1.10 or 1.11 and of requesting coverage conversion such that, if it is reported and coverage conversion is requested in accordance with this Section it shall be deemed a **Claim**, **Crime**, **Kidnapping**, **Hijacking**, **Extortion**, **Cyber Extortion** or **Cyber Event** to be dealt with under the terms of this Policy but with all the **Substitutable Cover Terms** in place of all the equivalent terms of this Policy.

Management Risks Insurance

No term of the **Previous Policy** which stipulates a deductible, excess or retention, a main policy period limit of liability, a main any one claim or any one loss or any one event limit of liability or a limit of liability in addition to any aforementioned main limit, wherever in the **Previous Policy** such term may appear (whether in a schedule, a limits of liability clause, an insuring clause, an endorsement or otherwise), shall be a **Substitutable Cover Term** and all sublimits of liability stipulated in the **Previous Policy** (other than one which is greater in amount than an applicable the **Any One Claim Limit** or **Policy Period Limit**) shall be **Substitutable Cover Terms**.

Sanctions

- 1.21 No cover or benefit shall be provided and no sum shall be payable under this Policy to the extent that providing or paying it would directly or indirectly put the **Insurer** in breach of any applicable economic or trade sanction laws or regulations.

Regulatory Information

- 1.22 This insurance is underwritten by MPR Underwriting Limited, 10th Floor, Chancery Place, 50 Brown Street, Manchester, M2 2JG, on behalf of AXIS Specialty London, a UK branch of AXIS Specialty Europe SE, authorised and regulated by the Central Bank of Ireland and regulated by the Prudential Regulation Authority and Financial Conduct Authority in respect of UK business. AXIS Specialty Europe SE Registered Office: Mount Herbert Court, 34 Upper Mount Street, Dublin 2, Ireland: Registration No. 353402SE.

Complaints

- 1.23 MPR Underwriting are committed to first class service. If you have any complaints about the service you have received, please contact your insurance broker or agent or MPR Underwriting Ltd at the address shown below:

10th Floor, Chancery Place, 50 Brown Street, Manchester, M2 2JG.

If your complaint relates to a claim on your policy, or any other matter, please contact Axis Specialty Europe SE at the address shown below:

Compliance Officer, AXIS Europe SE, 3rd floor, 71 Fenchurch Street, London, EC3M 4BS.

If you are dissatisfied with the final response to your complaint the Financial Ombudsman Service (FOS) may be approached for assistance in certain circumstances. A leaflet explaining their procedure is available on request. The FOS's contact details are:

The Financial Ombudsman Service, Exchange Tower, Harbour Exchange Square, London E14 9SR

Phone: 0800 023 4567

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

This complaint procedure does not affect your rights to take legal proceedings.

Management Risks Insurance

Section 2: Directors and Officers Insurance

Insuring Clause 2.1: Directors and Officers Cover

2.1 The **Insurer** shall pay to or on behalf of each **Insured Person**, **Loss** or **Investigation Costs** to the extent that he or she is not indemnified for that **Loss** or those **Investigation Costs**.

Insuring Clause 2.2: Organisation Indemnification Cover

2.2 The **Insurer** shall pay to or on behalf of or reimburse each **Organisation**, **Loss** or **Investigation Costs** to the extent that it has indemnified an **Insured Person** for that **Loss** or those **Investigation Costs**.

Definitions

2.3 When used in bold type in this Section 2:

Additional Insured Costs means **Bail Bond Costs, Challenge Costs, Extradition Crisis Costs, Media Costs, Mitigation Costs, Relative Costs** and **Subpoena Costs**.

Admission means:

- (a) a formal written admission;
- (b) an oral admission made in a court hearing, tribunal hearing, arbitration hearing or regulatory hearing; or
- (c) an oral admission made under oath, affirmation or similar process where law or regulation requires statements to be made truthfully.

Admission does not include an **Insured** reporting to a governmental, regulatory, law enforcement, professional or statutory body detailing conduct which might give rise to a **Claim**.

Any One Claim Limit means the Limit of Liability for any one **Claim** for this Section 2 stated in Item 3.1 of the Schedule.

Approved Person means any natural person employed by an **Organisation** to whom the Financial Conduct Authority (FCA) or the Prudential Regulation Authority (PRA), or its predecessors or successors, have given its approval to perform the Controlled Functions pursuant to Section 59 (Approval for Particular Arrangements) of the Financial Services and Markets Act 2000 (FSMA) or equivalent functions anywhere in the world.

Bail Bond Costs means reasonable premium for a bail bond, or any other financial instrument to guarantee an **Insured Person's** observance of bail conditions, required by a court in a **Claim**.

Challenge Costs means that part of **Loss** consisting of reasonable legal fees and related professional charges, arising from a **Claim** first made during the **Policy Period** and incurred personally by an **Insured Person** to bring legal proceedings to overturn:

- (a) an interim or interlocutory judicial order for the confiscation of, assumption of ownership and control of, or freezing of, any asset of such **Insured Person**;
- (b) an interim or interlocutory judicial charging order over any asset of such **Insured Person**;
- (c) an interim or interlocutory judicial order disqualifying such **Insured Person** from holding office or from managing a company; or

Management Risks Insurance

- (d) a judicial order requiring such **Insured Person** to be confined to a specified domestic residence or held in custody pending trial of that **Claim**.

Civil Fines and Penalties means fines and penalties which are non-criminal and insurable under the jurisdiction most favourable to insurability to which the **Insurer**, the **Insured** incurring the fines or penalties or the **Claim** giving rise to them has a substantial relationship.

Claim means:

- (a) (i) a written demand for specific monetary compensation or specific non-pecuniary relief;
- (ii) a civil proceeding including third party proceeding, counterclaim, arbitration proceeding or employment tribunal proceeding;
- (iii) a criminal proceeding;
- (iv) an extradition proceeding; or
- (v) a formal administrative or formal regulatory proceeding commenced by the filing of a notice of charges,

made against an **Insured Person**, alleging a **Wrongful Act**; or;

- (b) an **Investigation**;

Defence Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees incurred in defending or investigating a **Claim** (as defined in (a) in the definition of **Claim**) first made during the **Policy Period** or in appealing against a judgment made in such a **Claim**. **Defence Costs** does not include internal corporate costs and expenses but does also include:

- (a) reasonable premium paid for insurance instruments or for bonds which are required to institute an appeal; and
- (b) **Bail Bond Costs**,

but without any obligation to furnish or procure any instrument or bond.

Employment Claim means a **Claim** (as defined in (a) in the definition of **Claim**) by an **Insured Person** or past, present or prospective employee of an **Organisation** or of an **Outside Entity**, or brought by any government authority regulating employment practice, based upon or arising out of an actual or alleged, wrongful or unfair, employment related: discipline, dismissal, discharge or termination of employment, breach of an oral or written contract, misrepresentation, discrimination (including harassment), failure to employ or promote, deprivation of a career opportunity, failure to grant tenure, evaluation, invasion of privacy, defamation, infliction of emotional distress, or retaliation in respect of whistle blowing or of the exercise or attempted exercise of legally protected rights.

Extradition Crisis Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees, incurred with the prior written consent of the **Policyholder**, of an accredited counsellor or tax adviser engaged to counsel or advise an **Insured Person** directly in connection with the extradition proceedings part of a **Claim** first made during the **Policy Period**.

Indemnifiable means not prevented:

- (a) by law or insolvency; or
- (b) by an **Organisation's** constitution, memorandum or articles of association, bylaws, shareholder resolutions, or board or other governing body resolutions,

Management Risks Insurance

from being indemnified or reimbursed by an **Organisation**.

Insured Capacity means:

- (a) with regard to an **Insured Person** as defined in (a) or (c) of the definition of **Insured Person**, performance of the functions, duties and responsibilities for which such **Insured Person** has been retained, appointed or employed by an **Organisation**;
- (b) with regard to an **Insured Person** as defined in (b) of the definition of **Insured Person**, the capacity of **Shadow Director** of an **Organisation**.

Insured Person means a natural person who was, is or becomes:

- (a) a director (including a de facto director) or officer, or the equivalent in any jurisdiction, or an **Approved Person**, of an **Organisation**;
- (b) a **Shadow Director** of an **Organisation** by virtue of being a director, officer or employee of another **Organisation**; or
- (c) an employee of an **Organisation**, but only:
 - (i) with respect to an **Employment Claim**;
 - (ii) to the extent that such employee is acting in any managerial or supervisory capacity or **Outside Directorship**; or
 - (iii) with respect to any **Claim** in which such employee is named as a co-defendant with a director or officer, or the equivalent in any jurisdiction, of an **Organisation**.

Insured Person does not include externally appointed auditor, insolvency administrator or receiver, bankruptcy trustee or liquidator of an **Organisation**.

Investigation means:

- (a) a formal investigative inquiry which is:
 - (i) into the conduct of an **Organisation** or into the conduct, in his or her **Insured Capacity**, of an **Insured Person**; and
 - (ii) instituted by a governmental, regulatory, law enforcement, professional or statutory body with powers to investigate that **Organisation** or **Insured Person**;
- (b) an interview of, or meeting with, an **Insured Person** in his or her **Insured Capacity** and requested by a governmental, regulatory, law enforcement, professional or statutory body in connection with an investigation by that body;
- (c) an interview of, or meeting with, an **Insured Person** in his or her **Insured Capacity** and requested by an **Organisation** in connection with an investigation, raid or visit by a governmental, regulatory, law enforcement, professional or statutory body; or
- (d) an interview of, or meeting with, an **Insured Person** in his or her **Insured Capacity** and requested by an **Organisation** in connection with a formal written notification by that **Organisation** to a governmental, regulatory, law enforcement, professional or statutory body with powers to investigate that **Organisation** or **Insured Person** of suspected material breach of a legal or regulatory duty by that **Insured Person** in his or her **Insured Capacity**, if and to the extent that such inquiry is requested by an **Official Body**.

Management Risks Insurance

Investigation does not include any inquiry, interview or meeting which is part of a routine or regularly scheduled oversight, compliance, audit or inspection procedure of a governmental, regulatory, law enforcement, professional or statutory body.

An **Investigation** shall be deemed to be first made when the **Insured Person** is first so required or identified.

Investigation Costs means that part of **Loss** consisting of reasonable legal representation fees and related professional charges which an **Insured Person** incurs personally and solely for the purposes of his or her own representation at an **Investigation** which is first made during the **Policy Period** and which are only incurred:

- (a) in the case of an inquiry described in (a) of the definition of **Investigation**, after that **Insured Person** has been notified in writing by the body which has instituted the inquiry that it is looking into whether or not that **Insured Person** is culpable of misconduct or that it requires that **Insured Person** to attend that inquiry;
- (b) in the case of an interview or meeting described in (b) or (c) of the definition of **Investigation**, after that **Insured Person** has received the request for the interview or meeting and, if applicable, the raid or visit described in (c) of the definition of **Investigation** has occurred; or
- (c) in the case of an interview or meeting described in (d) of the definition **Investigation**, after that **Insured Person** has received the request for the interview or meeting and the formal written notification described in (d) of the definition of **Investigation** has been given.

Investigation Costs does not include any costs or expenses of producing, disclosing, or giving discovery of, documents and does not include the remuneration of any **Insured Person**, costs of their time or any other costs or overheads of any **Organisation**.

Loss means:

- (a) for a **Claim** which is not an **Investigation** the amount which an **Insured Person** is legally liable to pay on account of a **Claim** first made during the **Policy Period** including:
 - (i) **Defence Costs;**
 - (ii) awards of damages, judgments, pre- and post- judgment interest, awards of claimant's costs and sums payable pursuant to any settlements (including punitive, exemplary or aggravated damages, and the multiple portion of any multiplied damages award, but only to the extent that such damages or multiple portion are insurable under the jurisdiction most favourable to insurability to which the **Insurer**, that **Insured Person** or the **Claim** giving rise to the damages or multiple portion has a substantial relationship);
 - (iii) **Additional Insured Costs (Bail Bond Costs, Challenge Costs, Extradition Crisis Costs, Media Costs, Mitigation Costs, Relative Costs and Subpoena Costs).**
- (b) for a **Claim** which is an **Investigation**, **Investigation Costs;**

Loss does not include:

- (i) matters (other than **Civil Fines and Penalties**, punitive, exemplary or aggravated damages and the multiple portion of any multiplied damages award) uninsurable under English law;
- (ii) fines or penalties (other than **Civil Fines and Penalties**); or
- (iii) taxes or damages reflecting taxes (other than such taxes or damages for which an **Insured Person** is not **Indemnifiable** and which are on account of a **Claim** against that **Insured Person** seeking to make that **Insured Person** personally liable for non-payment of taxes due from that **Insured Person's Organisation**).

Management Risks Insurance

Media Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees, incurred with the prior written consent of the **Insurer**, of an independent public relations consultant engaged to advise an **Insured Person** on making a public communication with respect to, or for preventing or minimising business disruption and adverse publicity resulting from, a **Claim** (including in connection with extradition proceedings) first made during the **Policy Period**, including the costs of disseminating findings made in a judicial disposition of that **Claim** which exonerates the **Insured Person** from fault, liability or culpability.

Mitigation Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees, incurred with the prior written consent of the **Insurer** to indemnify an **Insured Person** for any reasonable and necessary payments to a potential claimant, or an **Insured Person's** reasonable and necessary costs and expenses incurred as a result of action taken by the **Insured Person**, solely to prevent or mitigate a **Potential D&O Claim** against an **Insured Person** which, if it were to become a **Claim**, would give rise to a covered **Loss** under this Section, provided that:

- (i) the circumstances resulting in the payment, costs or expenses are reported in accordance with Section 1.10 (Reporting and Notice) of this Policy; and
- (ii) the **Insured Person** demonstrates, to the reasonable satisfaction of the **Insurer**, that the incurring of such payments, costs or expenses is reasonable and proportionate, and is reasonably likely to prevent or mitigate the **Claim**; and
- (iii) the liability of the **Insurer** under **Mitigation Costs** shall in no event exceed the amount of covered **Loss** it would have incurred if a **Claim** were to be pursued against the **Insured Person**; and
- (iv) the onus of proving that any **Potential D&O Claim** would be covered under **Mitigation Costs** shall rest with the **Insured**.

Outside Directorship means the position of director, officer, trustee (but not a pension trustee), governor, or the equivalent in any jurisdiction, held by an **Insured Person** in his or her **Insured Capacity** in an **Outside Entity** provided that such position is assumed and maintained with the knowledge and consent of, or at the specific request of, an **Organisation**.

Outside Entity means an organisation:

- (a) which is incorporated; or
- (b) which is a tax-exempt non-profit organisation, a tax-exempt trade association or a registered charity.

Outside Entity does not include an organisation:

- (i) which is within the definition of **Organisation**;
- (ii) which has any of its debt securities or equity securities publicly traded in the **USA**, or which is incorporated or domiciled in the **USA**, unless included by endorsement; or
- (iii) which carries on any financial services business, including, but not limited to, the provision of banking, clearing, credit, brokerage, investment or insurance services.

Personal Injury means bodily injury, mental illness or emotional distress (except emotional distress with respect to any **Employment Claim**), sickness, disease or death of any natural person.

Policy Period Limit means the Limit of Liability for each **Policy Period** for this Section stated in Item 3 of the Schedule.

Policy Period Sublimit means a Sublimit for each **Policy Period** stated in Item 4 of the Schedule or in any endorsement or any part in this policy.

Management Risks Insurance

Potential D&O Claim means a complaint or allegation of a **Wrongful Act** by or on behalf of a potential claimant which does not constitute a **Claim**, but may subsequently give rise to a **Claim**.

Relative means a parent, spouse, civil partner (as defined in the Civil Partnership Act 2004), son or daughter of an **Insured Person**.

Relative Costs means that part of **Loss** consisting of reasonable travel and accommodation costs and expenses incurred by an **Insured Person** for the attendance of one **Relative** of that **Insured Person** at the hearing of a **Claim** (not **Investigation**) first made during the **Policy Period** if the hearing takes place in a country where that **Insured Person** is not resident.

Retired Insured Persons means **Insured Persons** who have ceased to act in their **Insured Capacity** prior to the expiry of the **Policy Period** for reasons other than:

- (a) disqualification, on grounds relating to fitness or propriety, from holding office or from managing a company;
- (b) merger or consolidation into, or acquisition by, another organisation; or
- (c) insolvency of an **Organisation**.

Shadow Director means a shadow director, as defined in Section 251 of the Companies Act 2006, or the equivalent in any jurisdiction.

Subpoena means a subpoena or witness summons served on an **Insured Person** in his or her **Insured Capacity**, seeking:

- (a) the production of information by that **Insured Person** (whether that information is contained, or alleged to be contained, in documents or any other medium); or
- (b) that **Insured Person's** attendance to give evidence,

for the purposes of a **Claim** first made during the **Policy Period**.

Subpoena Costs means that part of **Loss** consisting of reasonable legal representation fees and related professional charges which an **Insured Person** incurs personally in producing information sought by, or in attending to give evidence sought by, a **Subpoena** (excluding include internal corporate costs or expenses).

USA Claim means a **Claim** brought or maintained, in whole or in part, in the **USA** or based, in whole or in part, on any law of the **USA**.

Wrongful Act means any wrongful act or omission, error, misstatement, misleading statement, neglect or breach of duty committed, attempted or proposed to be committed (or allegedly committed, attempted or proposed to be committed) by an **Insured Person**, individually or otherwise, in his or her **Insured Capacity**, or any matter claimed against him or her solely by reason of his or her serving in such **Insured Capacity**.

Acquisition or Creation of Another Organisation

2.4 If, during the **Policy Period**, an **Organisation**:

- (a) acquires securities or voting rights in another organisation which as a result of such acquisition becomes a **Subsidiary**;
- (b) creates an organisation which as a result of such creation becomes a **Subsidiary**; or
- (c) acquires any organisation by merger into or consolidation with that **Organisation**,

Management Risks Insurance

then that organisation and its **Insured Persons** shall automatically become **Insureds** under this Section with effect from the date of such acquisition or creation but only with respect to **Wrongful Acts** after, and (as concerns **Investigations**) conduct after, such acquisition or creation. The **Insurer** may agree to provide cover for prior **Wrongful Acts** and prior conduct, following the receipt of any information the **Insurer** may require.

If such organisation described in (a) or (c):

- (i) has gross consolidated assets that increase the total consolidated assets of all the **Organisations** together by more than 25%; or
- (ii) has any of its debt securities or equity securities publicly traded in the **USA**, or is incorporated or domiciled in the **USA**,

for that organisation and its **Insured Persons** to become **Insureds** under this Section, the **Policyholder** must give written notice of that acquisition, and such information as the **Insurer** may require, to the **Insurer**. The **Insurer** shall have the right to amend the terms of this Section including charging an additional premium.

Offerings of Securities

- 2.5 If, during the **Policy Period**, an **Organisation** makes a public offering of its debt securities or equity securities, the **Policyholder** shall provide the **Insurer** with the prospectus or offering document no later than 30 days prior to the offering taking place together with any additional information the **Insurer** may require. The **Insurer** shall have the right to amend the terms of this Section including charging an additional premium.

Optional Management Buy Out Cover

- 2.6 If, during the **Policy Period**, a **Subsidiary** completes a management buy-out and upon written instruction from the **Policyholder** prior to such event that cover for such **Subsidiary** is required, this policy shall continue to provide cover for **Wrongful Acts** committed after such buy-out for a period of 45 days, subject to the **Policy Period** or Extended Reporting Period. This extension shall not apply in circumstances where there is other insurance in force which provides cover in respect of such **Wrongful Acts** or conduct.

Additional Limit for Non-Indemnifiable Loss

- 2.7 The **Insurer** shall, from the moment when **Loss** paid by the **Insurer** under this Section 2 reaches an amount equal to the amount stated in Item 3.1 of the Schedule, have a further liability for **Insured Persons' Loss** for which **Insured Persons** are not **Indemnifiable**, provided that:
- (a) the **Insurer** shall not have that further liability until all valid and collectable insurance written specifically excess of this Section has been exhausted by payment under such excess insurance; and
 - (b) the maximum amount of that further liability on account of all **Claims** first made during the **Policy Period**, whether involving one or any number of **Insureds**, shall not exceed the Non-Indemnifiable **Loss** Additional Limit of Liability for each **Policy Period** stated in Item 4.2 of the Schedule.

Emergency Costs

- 2.8 Notwithstanding the provisions of Section 2.20 below, if, because of an emergency, the **Insurer's** prior written consent to incurring **Defence Costs**, **Investigation Costs** or **Additional Insured Costs** on account of a **Claim** cannot be requested, **Defence Costs**, **Investigation Costs** or **Additional Insured Costs** can be incurred without that consent for work performed during the period of 30 days immediately following the date on which the **Claim** was first made.

Management Risks Insurance

Non-avoidance and Severability

2.9 This Section is severable and covers each **Insured** in respect of their own individual interest.

In respect of the **Application**, no statements made or information possessed by any **Insured** shall be imputed to any **Insured Person** for any reason.

In the event of a fraudulent or dishonest breach of the duty of fair presentation by any **Insured** determined by admission, final non-appealable judgment or adjudication:

- (i) if the breach occurs prior to the inception date of the Policy, the **Insurer** may avoid the contract and refuse all claims, and need not return any of the premiums paid, in respect of such **Insured**;
- (ii) if the breach is in relation to a variation of the Policy, the **Insurer** may treat the Policy as if the variation was never made and need not return any of the premiums paid in respect of the variation, in respect of such **Insured**.

It is agreed that in the event of a breach of the duty of fair presentation by an **Insured**, which is not fraudulent or dishonest, the **Insurer** irrevocably waives all and any rights and remedies it may have because of such breach, including any remedy that would have been available under the UK Insurance Act 2015. For the purposes of this clause, the phrase "duty of fair presentation" shall have the same meaning as given to it in the UK Insurance Act 2015.

Extended Reporting Period

- 2.10 (a) If the **Insurer** or the **Policyholder** refuses to renew this Policy for any reason other than non-payment of premium, or because of merger or consolidation into, or acquisition by, another organisation, then the **Insured** will be entitled to purchase one of the following extended reporting periods;
- (i) 12 months for 75% of the Section 2 annual premium;
 - (ii) 24 months for 100% of the Section 2 annual premium;
 - (iii) 36 months for 125% of the Section 2 annual premium; or
 - (iv) 72 months for 150% of the Section 2 annual premium.

Written notice of election and payment of premium must be received within 60 days of the expiry of the **Policy Period**. This extended reporting period shall commence from the expiry date of the **Policy Period** and shall apply only to **Wrongful Acts** prior to, and (as concerns **Investigations**) conduct prior to, that date.

- (b) If, during the **Policy Period**, the **Policyholder** merges or consolidates into, or is acquired by, another organisation, then the **Insured** will be entitled to purchase one of the following extended reporting periods;
- (i) 12 months for 100% of the Section 2 annual premium;
 - (ii) 36 months for 125% of the Section 2 annual premium; or
 - (iii) 72 months for 150% of the Section 2 annual premium.

Written notice of election and payment of premium must be received within 60 days following that merger or consolidation or acquisition. This extended reporting period shall commence from the date at which that merger or consolidation or acquisition arises and shall apply only to **Wrongful Acts** prior to, and (as concerns **Investigations**) conduct prior to, that date.

- (c) If the **Insurer** or the **Policyholder** refuses to renew this Policy then the **Retired Insured Persons** shall obtain an unlimited extended reporting period. This extended reporting period shall commence from the expiry date of the **Policy Period** and shall, for each **Retired Insured Person**, apply only to **Wrongful Acts** prior to, and (as concerns **Investigations**) conduct prior to, the date on which that

Management Risks Insurance

Retired Insured Person became a **Retired Insured Person**. This extended reporting period shall only be provided:

- (i) when this policy is not renewed or replaced with directors' & officers' liability cover (or directors' & officers' liability section of cover); or
- (ii) where this **Policy** is renewed or replaced with directors' & officers' liability cover (or directors' & officers' liability section of cover), such renewal or replacement policy does not provide an extended discovery period of at least 6 years for such **Retired Insured Persons**.

If no election is made under Section 2.10(a) above, the **Policyholder** and the **Insured Persons** shall obtain an extended reporting period of 60 days. This extended reporting period shall commence from the expiry date of the **Policy Period** and shall apply only to **Wrongful Acts** prior to, and (as concerns **Investigations**) conduct prior to, that date.

A **Claim** first made during an obtained extended reporting period shall be deemed to have been first made during the **Policy Period**.

Outside Directorships

- 2.11 Subject to the other terms of this Policy, cover under Insuring Clauses 2.1 and 2.2 is extended to cover **Loss** arising out of an **Outside Directorship** provided that:
- (a) the **Insurer's** liability for each **Claim** shall apply only to that part of the **Loss** which is excess of:
 - (i) all other valid and collectable insurance payable;
 - (ii) the amount of the **Loss** for which the **Insured Person** serving in such **Outside Directorship** is indemnified by the **Outside Entity**; and
 - (iii) the applicable Deductible for Section 2 stated in Item 4.5 of the Schedule; and
 - (b) such cover is not extended to **Loss** arising out of an **Outside Directorship** on account of any **USA Claim** by or on behalf of the **Outside Entity** in which that **Outside Directorship** is or was held or any director, officer, trustee, governor, or equivalent in any jurisdiction, of that **Outside Entity** except:
 - (i) an **Employment Claim**;
 - (ii) a derivative claim, derivative proceeding or derivative action on behalf of an **Outside Entity** by a securityholder of that **Outside Entity** in their capacity as such;
 - (iii) a **Claim** by or on behalf of an **Outside Entity** due to its insolvency;
 - (iv) a **Claim** against an **Insured Person** who is no longer acting in an **Insured Capacity** when that **Claim** is first made; and
 - (v) **Defence Costs**; and
 - (c) such cover is not extended to **Loss** arising out of an **Outside Directorship** on account of any **Claim** which is for **Wrongful Acts** at a time when such **Insured Person** is not serving in the **Outside Directorship** or on account of any **Investigation** which is an inquiry into conduct at a time when such **Insured Person** is not serving in the **Outside Directorship**.

Management Risks Insurance

Exclusions

- 2.12 The **Insurer** shall not be liable for **Loss** on account of any **Claim**:
- (a) based upon, arising from, or in consequence of any fact or **Wrongful Act** forming part of circumstances or of a **Claim** of which written notice has been accepted under any policy which this Policy renews, replaces or follows in whole or in part;
 - (b) based upon, arising from, attributable to or derived from substantially the same facts or circumstances alleged in, any pending or prior proceedings of any nature against any **Insured** or **Outside Entity** commenced before the date stated in Item 4.6 of the Schedule;
 - (c) seeking remedy for **Personal Injury** or **Property Damage** (this exclusion shall not apply to **Defence Costs** on account of a proceeding for manslaughter or any other alleged breach of occupational health and safety law, or in respect of **Defence Costs** which are not **Indemnifiable**);
 - (d) seeking remedy for breach of any law, duty or trust by an **Insured Person** in his or her capacity as trustee, fiduciary or administrator of any superannuation, pension, profit sharing, health and welfare or other employee benefit scheme, programme, plan or trust established or maintained to provide benefits to employees or directors;
 - (e) based upon, arising from or in consequence of any deliberate fraudulent act or omission or any intentional breach of law by such **Insured Person**, if there is a finding (but not one applied for by the **Insurer**) of such fraud or breach in a final non-appealable judgment or adjudication or if such **Insured Person** makes an **Admission** of such fraud or breach;
 - (f) based upon, arising from or in consequence of such **Insured Person** having gained any personal profit, remuneration or advantage to which such **Insured Person** was not legally entitled, if there is a finding (but not one applied for by the **Insurer**) of such gain in a final non-appealable judgment or adjudication or if such **Insured Person** makes an **Admission** of such gain;
 - (g) which is a **USA Claim** by or on behalf of any **Organisation** except:
 - (i) a **Claim** by or on behalf of an **Organisation** due to its insolvency;
 - (ii) a **Claim** against an **Insured Person** who is no longer acting in an **Insured Capacity** when that **Claim** is first made; and
 - (iii) **Defence Costs**;
 - (h) based upon, arising from or in consequence of **Pollution** except **Defence Costs**, up to the sublimit for **Pollution Defence Costs** stated in Item 4.3 of the Schedule.

Severability of Exclusions

- 2.13 For purposes of determining whether an exclusion in Section 2.12 applies, no conduct of any **Insured Person** shall be imputed to any other **Insured Person**.

Limits of Liability

- 2.14 The **Insurer's** maximum liability for all **Loss** and **Court Attendance**, whether covered under one or more of the Insuring Clauses and/or otherwise, on account of all **Claims** first made during the **Policy Period**, whether involving one or any number of **Insureds**, shall not exceed the **Policy Period Limit** together with the **Defence Costs** Additional Limit of Liability for the **Policy Period** stated in Item 4.1 of the Schedule.

Management Risks Insurance

On account of any one **Claim**, the **Insurer's** maximum liability for all **Loss** and **Court Attendance**, whether covered under one or more of the Insuring Clauses and/or otherwise, and whether that **Claim** involves one or any number of **Insureds**, shall not exceed the **Any One Claim Limit**. However, this is without prejudice to the **Defence Costs** Additional Limit of Liability for the **Policy Period** stated in Item 4.1 of the Schedule.

Further, on account of all **Claims** first made during the **Policy Period**:

- (a) the **Insurer's** maximum liability for all **Loss** in respect of which there is a **Policy Period Sublimit**; and
- (b) the **Insurer's** maximum liability for all **Court Attendance**,

whether covered under one or more of the Insuring Clauses and/or otherwise, and whether involving one or any number of **Insureds**, shall not exceed the relevant **Policy Period Sublimit**. **Policy Period Sublimits** are part of and not in addition to the maximum liabilities of the **Insurer** referred to above in this Section.

Defence Costs, **Investigation Costs** and **Additional Insured Costs** are part of and not in addition to the **Policy Period Limit** and the **Any One Claim Limit**. The payment by the **Insurer** of **Defence Costs**, **Investigation Costs** or **Additional Insured Costs** erodes those limits of liability. However, the payment by the **Insurer** of **Defence Costs** shall erode those limits of liability only after exhaustion of the **Defence Costs** Additional Limit of Liability for the **Policy Period** stated in Item 4.1 of the Schedule.

Amounts stated for limits and sublimits of liability are maximum liabilities of the **Insurer** for all **Insureds** together, not maximum liabilities per **Insured**.

Deductible

- 2.15 The **Insurer's** liability for each and every **Claim** shall apply only to **Loss** which is allocated to covered **Loss** and only to that part of **Loss** so allocated which is in excess of the applicable Deductible stated in Item 4.5 of the Schedule, which shall be borne by the **Insureds** uninsured and at their own risk.

The maximum Deductible applicable to a **Claim** to which more than one Deductible stated in Item 4.5 of the Schedule applies shall be the highest of the applicable Deductibles.

Related Claims

- 2.16 All **Claims** directly or indirectly arising out of, consequent upon or attributable to one source or originating cause shall be deemed to be a single **Claim** first made on:

- (a) the date when the first of such **Claims** was first made; or
- (b) the earliest date one of such **Claims** is deemed first made by this Policy or any policy which this Section 2 renews, replaces or follows in whole or in part (if that earliest date is earlier than the date referred to in (a) immediately above),

regardless of whether that date is before or during the **Policy Period**.

Allocation of Loss

- 2.17 If a **Claim** involves both covered matters and matters or persons that are not covered under this policy, there shall be allocated to covered **Loss** only that part of liability imputable to an **Insured Person** on account of covered matters.

Management Risks Insurance

If an **Insured** and the **Insurer** cannot agree on an allocation, the **Insurer**, if requested by the **Insured**, shall submit the dispute to binding arbitration before a panel, which shall consist of one arbitrator selected by the **Insured**, one arbitrator selected by the **Insurer**, and a third independent arbitrator selected by the first two arbitrators.

Order of Payments

2.18 For **Loss** payable during the **Policy Period** involving more than one insuring clause, the **Insurer** shall make payments in the following order:

- (1) the **Loss** of an **Insured Person** under Insuring Clause 2.1;
- (2) reimbursement of the **Loss** the **Organisation** has indemnified under Insuring Clause 2.2.

The insolvency of an **Organisation** shall not affect the priority of payments set out in this Clause.

Other Insurance

2.19 This policy shall always apply excess over any other more specific valid and collectable management liability insurance or indemnification available to the **Insured** or available to **Outside Entities**, other than any insurance specifically written to apply excess of this policy.

Defence and Settlement

2.20 It shall be the duty of each **Insured** and not the duty of the **Insurer** to defend **Claims**. The **Insurer** shall have the right, and shall be given the opportunity to, associate with each **Insured** in the investigation, defence, negotiation and settlement of any **Claim, Loss** on account of which appears reasonably likely to be covered in whole or in part by this Section 2.

Each **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defence Costs, Investigation Costs** or **Additional Insured Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the **Insurer's** prior written consent, which shall not be unreasonably withheld.

The **Insurer** shall pay covered **Defence Costs**, covered **Investigation Costs** and covered **Additional Insured Costs** promptly upon the **Insurer's** receipt of suppliers' invoices.

D&O Advice Service

2.21 By purchasing this Policy, the **Insureds** have the benefit of a free 60-minute consultation via the **Insurer's** "trouble-shooting" directors and officers legal advice service (the "D&O Advice Service") administered by the specialist D&O team at law firm, Reynolds Porter Chamberlain LLP ("RPC").

During the **Policy Period**, for each separate instance that may relate to a D&O liability, any director, officer or manager of the **Policyholder** (on its own behalf or on behalf of any **Insured Person**) may obtain a consultation by emailing their query directly to RPC at mpr-do@rpc.co.uk. In the first email, the sender should identify himself/herself to RPC and provide the **Policyholder's** name, the policy number and their telephone number. RPC will aim to respond to your query within one (1) working-day to set-up the consultation.

The **Policyholder (or any Insured Person)** may extend the consultation beyond 60 minutes, but will be charged fees for the additional time at rates agreed with RPC. If the lawyer needs to obtain documents held by the **Policyholder** or any **Insured Person**, the time taken to review these documents will fall within the total consultation time. Please note that RPC is not the **Insurer's** agent for receipt of notices. Therefore, any communication to or consultation with RPC will not amount to giving the **Insurer** notice of any **Claim**, circumstance or other matter, notice of which is required by this Policy to be given to the **Insurer**. Such notice must still be given by **Insureds** directly to the **Insurer**. The **Insureds** accept that the **Insurer** shall have no responsibility for, or liability arising out of, advice or services provided by RPC.

Management Risks Insurance

Section 3: Employment Practices Insurance

Insuring Clause 3.1 Employment Practices (including Third Party Liability)

3.1 The **Insurer** shall pay, on behalf of each **Insured**, **Loss** arising from a **Claim** made against an **Insured** for a **Wrongful Act**.

Definitions

3.2 When used in bold type in this Section 3:

Any One Claim Limit means the Limit of Liability for any one **Claim** for this Section 3 stated in Item 3.2 of the Schedule.

Benefits means perquisites, fringe benefits, deferred compensation, payments (including insurance premiums) in connection with an employee benefit plan or pension scheme and all other payments to or for the benefit of an employee arising out of the employment relationship. **Benefits** does not include salary, wages, commissions, bonuses, **Stock Benefits** or un-deferred cash incentive compensation.

Claim means:

- (a) a written demand for monetary relief or an assertion of a legal right;
- (b) a criminal or civil proceeding including tribunal proceeding, application for injunctive or non-pecuniary relief, request for reinstatement or re-engagement, counter claim or arbitration proceeding; or
- (c) a formal administrative or formal regulatory proceeding commenced by the filing of a notice of charges,

which is:

- (i) made by or on behalf of any past, present or prospective director, officer, employee, **Independent Contractor** or volunteer of an **Organisation** against an **Insured**, alleging a **Wrongful Act**; or
- (b) made by or on behalf of any natural person who is a customer or supplier of an **Organisation** against an **Insured**, alleging;
 - sexual harassment (including unwelcome sexual advances, requests for sexual favours or other verbal, visual or physical conduct of a sexual nature); or
 - discrimination which is against that person because of that person's race, colour, religion, age, sex, national origin, disability, veteran status, pregnancy, genetics, sexual orientation, sexual preference, obesity, marital status, HIV status or other status that is protected pursuant to any law in any jurisdiction and which is not also an actual or alleged breach of any antitrust law or other law which protects competition.

Claim does not include any labour or grievance arbitration or proceeding pursuant to a collective bargaining agreement.

Defence Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees (including but not limited to lawyers' fees and experts' fees) incurred in defending or investigating a **Claim** (other than internal corporate expenses of an **Organisation**). **Defence Costs** shall also include premium paid for insurance instruments or bonds which are required to institute an appeal but without any obligation to furnish or procure such insurance instruments or bonds.

Management Risks Insurance

Independent Contractor means a natural person working for an **Organisation** pursuant to an express contract between them and who is not an employee of an **Organisation** and who an **Organisation** directs and supervises and provides indemnification in the same manner as an employee.

Insured Person means a natural person who has been, now is or shall become a director, officer, employee (whether permanent, temporary, full-time, part-time, leased or seasonal) or volunteer of an **Organisation**, but does not include external auditors of an **Organisation** and does not include any liquidator, receiver, administrator, supervisor or other insolvency office-holder of an **Organisation** or of an **Organisation's** assets.

Labour Relations means:

- (a) the rights of employees to engage in, or to refrain from engaging in, union or other collective activities;
- (b) the duty or obligation to notify, meet, discuss with, consult with or bargain with any employee or employee representative, collectively or otherwise;
- (c) collectively bargained agreements; or
- (d) strikes, work stoppages, boycotts, picketing, lockouts or other industrial action.

Loss means any **Defence Costs** and any other amount, including any awards of damages (including back pay and front pay, and any court order to pay compensation for damages, including punitive, exemplary, liquidated or aggravated damages and the multiple portion of any multiplied damages award), awards of costs or settlements, pre and post judgment interest on a covered judgment or award, and the multiplied portion or multiple damages, which an **Insured** is legally liable to pay resulting from a **Claim** first made during the **Policy Period**.

Loss shall not include: civil or criminal fines or penalties imposed by law; taxes or national insurance; any amounts for which an **Insured** is not financially liable or which are without legal recourse to an **Insured**; employment-related benefits, **Stock Benefits**, perquisites, deferred compensation or any other type of compensation (including severance payments and amounts in respect of a notice period) other than salary, wages or bonus compensation; matters uninsurable under the law of the jurisdiction where the **Claim** was made.

Personal Injury means bodily injury, sickness, disease, mental illness, death, mental anguish, emotional distress or humiliation of any natural person (but not mental anguish, emotional distress or humiliation resulting from any **Wrongful Act**).

Policy Period Limit means the Limit of Liability for each **Policy Period** for this Section 3 stated in Item 3 of the Schedule.

Potential Claim means a complaint or allegation of a **Wrongful Act** by or on behalf of a potential claimant which does not constitute a **Claim**, but may subsequently give rise to a **Claim** and is lodged with an **Organisation's** Human Resources Department or other comparable department.

Retaliation means retaliatory treatment against a director, officer, employee, volunteer or **Independent Contractor** of an **Organisation** on account of such person:

- (a) exercising their rights in law;
- (b) refusing to breach any law;
- (c) opposing any unlawful practice;
- (d) disclosing, or threatening to disclose, an alleged breach of law to a superior or to any governmental agency; or

Management Risks Insurance

- (e) assisting in, testifying in or cooperating with a proceeding or investigation regarding an alleged breach of law.

Stock Benefits means:

- (a) any offering, plan or agreement between an **Organisation** and any employee which grants stock, stock warrants or stock options of an **Organisation** to that employee, including, but not limited to, grants of stock options, grants of restricted stock, grants of stock warrants, grants of performance stock shares and any other compensation or incentive granted in the form of securities of an **Organisation**; or
- (b) any payment or instrument, the amount or value of which is derived from the value of securities of an **Organisation**, including, but not limited to, stock appreciation rights and phantom stock plans or arrangements.

Stock Benefits does not include employee stock ownership plans or employee stock purchase plans.

USA Claim means a **Claim** brought or maintained, in whole or in part, in the **USA**.

Wages and Hours means:

- (a) the amount, calculation, timing or manner of payment of minimum wages, prevailing wage rates, overtime pay or other reward;
- (b) the classification of employees for wage or hours of work purposes;
- (c) withholdings or other deductions from wages;
- (d) rights to leave or absence from work or rights to pay during such absence;
- (e) child labour; or
- (f) pay equity or comparable worth.

Wrongful Act means any employment-related:

- (a) wrongful or unfair dismissal, discharge or termination of employment (including constructive dismissal), breach of any written, oral or implied employment contract or breach of any quasi-employment contract;
- (b) harassment (including workplace bullying, sexual harassment whether “quid pro quo”, hostile work environment or otherwise, including “same-sex” sexual harassment);
- (c) discrimination (including, but not limited to, discrimination based upon age, gender, gender identity or expression, race, colour, national origin, religion, sexual orientation or preference, genetic information, pregnancy, military status or disability obesity, marital status, HIV status or other status that is protected pursuant to any law in any jurisdiction);
- (d) wrongful employment decision which is any wrongful demotion, denial of tenure or failure or refusal to promote, negligent evaluation, wrongful discipline, negligent reference, defamation (including libel and slander), invasion of privacy, breach of confidentiality or malicious falsehood;
- (e) **Retaliation**;
- (f) failure to provide or consistently enforce employment-related corporate policies and procedures which is alleged as part of a **Claim** alleging any employment-related matter described in (a) to (e) above;

Management Risks Insurance

- (g) negligent retention, supervision, hiring or training which is alleged as part of a **Claim** alleging any employment-related matter described in (a) to (e) above; or
- (h) negligent or intentional misrepresentation, false imprisonment, or wrongful infliction of emotional distress, mental anguish or humiliation, which is alleged as part of a **Claim** alleging any employment-related matter described in (a) to (e) above,
committed, attempted, or allegedly committed or attempted by
 - (i) an **Organisation**; or
 - (ii) an **Insured Person** in their capacity as such.

Acquisition or Creation of Another Organisation

3.3 If, during the **Policy Period**, an **Organisation**:

- (a) acquires securities or voting rights in another organisation which as a result of such acquisition becomes a **Subsidiary**;
- (b) creates an organisation which as a result of such creation becomes a **Subsidiary**; or
- (c) acquires any organisation by merger into or consolidation with that **Organisation**,

then that organisation and its **Insured Persons** shall automatically become **Insureds** under this Section 3 with effect from the date of such acquisition or creation but only with respect to **Wrongful Acts** after such acquisition or creation. The **Insurer** may agree to provide cover for prior **Wrongful Acts**, following the receipt of any information the **Insurer** may require.

However, if such acquired or created organisation:

- (i) causes the total number of persons employed by all the **Organisations** together to increase by more than 20%; or
- (ii) has directors, officers, employees or volunteers in the **USA**,

in order for that organisation and its **Insured Persons** to become **Insureds** under this Section, the **Policyholder** must give written notice of that acquisition, and such information as the **Insurer** may require, to the **Insurer**. The **Insurer** shall have the right to amend the terms of this Section including charging an additional premium.

Non-avoidance and Severability

3.4 This Policy is severable and covers each **Insured** in respect of their own individual interest.

In respect of the **Application**:

- (i) No statements made or information possessed by any **Insured** shall be imputed to any **Insured Person** for any reason;
- (ii) Statements made and information possessed by any chief executive, managing director, head of human resources or head of legal department of an **Organisation** shall be imputed to the **Organisation** for the purposes of determining whether there has been a breach of the duty of fair presentation by the **Organisation**.

Management Risks Insurance

In the event of a fraudulent or dishonest breach of the duty of fair presentation by any **Insured** determined by admission, final non-appealable judgment or adjudication:

- (i) if the breach occurs prior to the inception date of the Policy, the **Insurer** may avoid the contract and refuse all claims, and need not return any of the premiums paid, in respect of such **Insured**;
- (ii) if the breach is in relation to a variation of the Policy, the **Insurer** may treat the Policy as if the variation was never made and need not return any of the premiums paid in respect of the variation, in respect of such **Insured**.

It is agreed that in the event of a breach of the duty of fair presentation by an **Insured**, which is not fraudulent or dishonest, the **Insurer** irrevocably waives all and any rights and remedies it may have because of such breach, including any remedy that would have been available under the UK Insurance Act 2015. For the purposes of this clause, the phrase "duty of fair presentation" shall have the same meaning as given to it in the UK Insurance Act 2015.

Extended Reporting Period

- 3.5 (a) If the **Insurer** or the **Policyholder** refuses to renew this Policy for any reason other than non-payment of premium, or because of merger or consolidation into, or acquisition by, another organisation, the **Policyholder** and the **Insured Persons** may elect to obtain an extended reporting period of 1 year for 75% of the Section 3 annual premium, provided that written notice of such election and payment of the additional premium are received by the **Insurer** within 60 days following the expiry of the **Policy Period**; this extended reporting period shall commence from the expiry date of the **Policy Period** and shall apply only to **Wrongful Acts** prior to that date.
- (b) If, before or during an extended reporting period obtainable or obtained under Section 3.5(a) above, any **Organisation** takes out any other insurance policy which affords employment practices liability cover (whether or not equivalent to this Section 3 in cover), that extended reporting period shall then come to an end (or, if not yet obtained, cease to be obtainable).
- (c) A **Claim** first made during an obtained extended reporting period shall be deemed to have been first made during the **Policy Period**.

Exclusions

- 3.6 The **Insurer** shall not be liable for **Loss** on account of any **Claim**:
- (a) based upon, arising from, or in consequence of any fact or **Wrongful Act** forming part of circumstances or of a **Claim** of which written notice has been given and accepted under any policy which this Policy renews, replaces or follows in whole or in part;
 - (b) based upon, arising from, attributable to or derived from substantially the same facts or circumstances alleged in, any pending or prior proceedings of any nature against any **Insured** commenced before the date stated in Item 5.2 of the Schedule;
 - (c) based upon, arising from or attributable to a breach of any law, duty or trust by an **Insured** in their capacity as trustee, fiduciary or administrator of any superannuation, pension, profit sharing, health and welfare or other employee benefit scheme, programme, plan or trust established or maintained to provide benefits to employees or directors (but this exclusion shall not apply to a **Claim** seeking remedy for **Retaliation**);
 - (d) based upon, arising from or in consequence of any actual or alleged breach of a legal obligation to obtain or maintain insurance or of any legal obligation relating to any state or legally required sickness, healthcare, disability, pension, benefit, social security or national insurance system (but this exclusion shall not apply to a **Claim** seeking remedy for **Retaliation**);

Management Risks Insurance

- (e) based upon, arising from, or in consequence of the liability of another person assumed by an **Insured** under any contract or agreement except to the extent that that **Insured** would have been liable in the absence of such contract or agreement;
- (f) based upon, arising from or in consequence of any actual or alleged breach of any law (except the Equal Pay Act 1970, The Equal Pay Act (Northern Ireland) 1970, and the Equal Pay Act 1963, the latter being a **USA** statute) or duty relating to **Wages and Hours** (but this exclusion shall not apply to a **Claim** seeking remedy for **Retaliation** nor shall it apply to **Defence Costs** up to a sublimit of £50,000);
- (g) based upon, arising from or in consequence of any actual or alleged breach of any law or duty relating to **Labour Relations**;
- (h) which is brought and maintained entirely outside the **USA** and:
 - (i) is seeking remedy for breach of any law or duty relating to collective redundancy procedures or requirements, or
 - (ii) is seeking remedy for breach of any law or duty relating to non-collective redundancy procedures where the breach is deliberate or reckless,
 but this exclusion shall not apply to a **Claim** seeking remedy for **Retaliation**;
- (i) which is a **USA Claim** and is for violation of the responsibilities, obligations or duties imposed by any law or amendments to or regulations promulgated under any such law that governs any obligation of an employer to notify, discuss or bargain with its employees or others in advance of any plant or facility closing, mass lay-off, or any similar obligation (but this exclusion shall not apply to a **Claim** seeking remedy for **Retaliation**);
- (j) seeking remedy for **Personal Injury** or **Property Damage**;
- (k) seeking remedy for breach of an express contract between an **Independent Contractor** and an **Organisation**;
- (l) brought by any **Director** or **Officer** or partner of an **Organisation**, unless such **Claim** is based solely on their capacity as an employee.

Exclusions (Not applicable to Defence Costs)

3.7 The **Insurer** shall not be liable for **Loss**, except **Defence Costs**:

- (a) which constitutes the cost of any obligation, however arising, to provide or modify any premises, equipment or working methods to accommodate the needs of a person with a disability;
- (b) which constitutes the costs of compliance with any order for, grant of or agreement to provide injunctive or non-pecuniary relief;
- (c) which constitutes **Benefits** due or to become due or the equivalent value of such **Benefits** (however this exclusion shall not apply to **Loss** which arises out of a wrongful or unfair dismissal, discharge or termination of employment).

Management Risks Insurance

Limits of Liability

- 3.8 The **Insurer's** maximum liability for all **Loss**, whether covered under Insuring Clause 3.1 and/or otherwise, on account of all **Claims** first made during the **Policy Period**, whether involving one or any number of **Insureds**, shall not exceed the **Policy Period Limit**.

On account of any one **Claim**, the **Insurer's** maximum liability for all **Loss** and **Court Attendance**, whether covered under one or more of the Insuring Clauses and/or otherwise, and whether that **Claim** involves one or any number of **Insureds**, shall not exceed the **Any One Claim Limit**.

Defence Costs are part of and not in addition to the **Any One Claim Limit** and **Policy Period Limit**. The payment by the **Insurer** of **Defence Costs** erodes the **Any One Claim Limit** and **Policy Period Limit**.

Payment by the **Insurer** of **Court Attendance** in respect of a **Claim** to which this Section 3 relates shall, as provided in Section 1.2, erode the **Any One Claim Limit** and **Policy Period Limit**.

Amounts stated for the **Any One Claim Limit** and **Policy Period Limit** and other limits are maximum liabilities of the **Insurer** for all **Insureds** together, not maximum liabilities per **Insured**.

Deductible

- 3.9 The **Insurer's** liability for each and every **Claim** shall apply only to that part of **Loss** which is in excess of the applicable Deductible stated in Item 5.1 of the Schedule, which shall be borne by the **Insureds** uninsured and at their own risk. However, no Deductible shall apply to a **Claim** made solely against an **Insured Person**, provided that such **Insured Person's Organisation** is unable to reimburse the **Insured Person** for, or pay on behalf of the **Insured Person**, all of the **Loss** on account of that **Claim**.

Related Claims

- 3.10 All **Claims** directly or indirectly arising out of, consequent upon or attributable to one source or originating cause shall be deemed to be a single **Claim** first made on:

- (a) the date when the first of such **Claims** was first made; or
- (b) the earliest date one of such **Claims** is deemed first made by this Policy or any policy which this Section 3 renews, replaces or follows in whole or in part (if that earliest date is earlier than the date referred to in (a) immediately above),

regardless of whether that date is before or during the **Policy Period**.

Other Insurance

- 3.11 This policy shall always apply excess over any other more specific valid and collectable management liability insurance available to the **Insured**, other than any insurance specifically written to apply excess of this policy.

Defence and Settlement

- 3.12 The **Insurer** shall have the right, but not the duty, to defend **Claims** and to appoint lawyers for that purpose.

Each **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defence Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the **Insurer's** prior written consent, which shall not be unreasonably withheld.

Management Risks Insurance

The **Insurer** may make any settlement of a **Claim** it considers sensible. If the **Insured** withholds consent to such settlement, the **Insurer's** liability for **Loss** on account of that **Claim** shall not exceed an amount calculated as follows:

- (a) by taking the amount for which the **Insurer** could have settled that **Claim** on the **Insured's** behalf plus **Defence Costs** accrued as of the date at which acceptance of such settlement was proposed in writing by the **Insurer** to the **Insured** ("the Possible Settlement and Defence Costs Amount"); and
- (b) by adding to the Possible Settlement and Defence Costs Amount 70% of the Difference, but, if the **Insured** does not bear uninsured and at its own risk at least 30% of the Difference, by adding nothing to the Possible Settlement and Defence Costs Amount.

For these purposes, "the Difference" means the difference between:

- (i) the amount of **Loss** which, but for the limitations of the paragraph immediately above, the **Insurer** would be liable for on account of the **Claim**; and
- (ii) the Possible Settlement and Defence Costs Amount.

Each **Insured** undertakes not to prejudice the **Insurer's** interests or its potential or actual rights of recovery and to give to the **Insurer** such information and co-operation as the **Insurer** may require.

Any dispute between the **Insurer** and an **Insured** in connection with the terms of this Section 3.12 shall be submitted to arbitration. The arbitrator shall be a barrister of at least ten years call to the Bar of England and Wales, to be appointed by agreement between the parties to the dispute (or, in the absence of such agreement, by the Chairman for the time being of the Bar Council).

Help Line

- 3.13 The **Policyholder** may, during the **Policy Period**, obtain 15 minutes of free consultation, per each separate employment-related matter (and up to a maximum of 4 separate matters), via a helpline administered by Browne Jacobson LLP. To obtain such consultation, a director, officer or manager of the Policyholder should telephone Browne Jacobson LLP's helpline number (0330 045 2744) between 9.00 am and 5.00 pm on normal working days and then provide Browne Jacobson LLP with the **Policyholder's** name and policy number.

Any requirement of the **Policyholder** to consult beyond 15 minutes shall be on a basis agreed between the **Policyholder** and Browne Jacobson LLP.

Browne Jacobson LLP is not the **Insurer's** agent for receipt of notices and communication with Browne Jacobson LLP will not amount to giving the **Insurer** notice of any **Claim**, **Potential Claim** or other matter, notice of which is required by this Policy to be given to the **Insurer**.

Management Risks Insurance

Section 4: Company Insurance

Insuring Clause 4.1: General Claims

4.1 The **Insurer** shall pay, on behalf of each **Organisation**, **Loss**.

Insuring Clause 4.2: Regulator Investigations and Prosecutions

4.2 The **Insurer** shall pay, on behalf of each **Organisation**, **Regulator Costs**.

Insuring Clause 4.3: Corporate Manslaughter Prosecutions

4.3 The **Insurer** shall pay, on behalf of each **Organisation**, **Defence Costs** on account of a **Corporate Manslaughter Prosecution**.

Insuring Clause 4.4: Kidnap and Extortion Expenses

4.4 The **Insurer** shall reimburse the **Policyholder** for **Expenses** paid by an **Organisation** resulting directly from a **Kidnap and Extortion Event**.

Definitions

4.5 When used in bold type in this Section 4:

Any One Claim Limit means the Limit of Liability for any one **Claim** for this Section 4 stated in Item 3.3 of the Schedule.

Claim means:

(a) for the purposes of Insuring Clause 4.1:

- (i) a written demand for specific monetary compensation or specific non-pecuniary relief;
- (ii) a civil proceeding including third party proceeding, counterclaim or arbitration proceeding; or
- (iii) a criminal proceeding;

made against an **Organisation**, alleging a **Wrongful Act** or a **Cyber Wrongful Act**, but not including a **Regulator Investigation**, a **Regulator Prosecution**, a **Corporate Manslaughter Prosecution** or a **Kidnap and Extortion Event**:

(b) for the purposes of Insuring Clause 4.2, a **Regulator Investigation** or a **Regulator Prosecution**;

(c) for the purposes of Insuring Clause 4.3, a **Corporate Manslaughter Prosecution**;

(d) for the purposes of Insuring Clause 4.4, a **Kidnap and Extortion Event**.

Computer System means a computer and its facilities.

Corporate Manslaughter Prosecution means a criminal proceeding for corporate manslaughter or corporate homicide under the Corporate Manslaughter and Corporate Homicide Act 2007.

Management Risks Insurance

Cyber Extortion means a threat made solely and directly against an **Organisation** by a person or group to:

- (a) alter, damage, destroy or render unusable any **Data** owned by that **Organisation** or for which that **Organisation** is legally liable; or
- (b) disseminate, divulge or utilise a **Record**;

by the unauthorised input into a **Computer System** of **Instructions**, where:

- (i) that person or group has obtained, or claims to have obtained, unauthorised access to that **Computer System** and is demanding payment in exchange for the mitigation or removal of such threat; and
- (ii) the **Organisation** has conducted a reasonable investigation and reasonably determined that such threat is technologically credible.

Cyber Wrongful Act means a **Wrongful Act** involving use of, or alleged use of, the internet or of a computer.

Data means information, concepts or instructions processed and stored in a **Computer System**.

Defence Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees (including but not limited to lawyers' fees and experts' fees) incurred in defending or investigating a **Claim** (as defined in (a) or (c) in the definition of **Claim**) or a **Regulator Prosecution** first made during the **Policy Period** (other than internal corporate expenses of an **Organisation**). **Defence Costs** shall also include premium paid for insurance instruments or for bonds which are required in order to institute an appeal but without any obligation to furnish or procure such insurance instruments or bonds.

Employee means a natural person who:

- (a) is in the regular service of an **Organisation** in the ordinary course of its business, whether temporary, permanent, full-time, part-time or seasonal;
- (b) is governed by, directed by, and reporting directly to, an **Organisation** in the performance of such service; and
- (c) is compensated by an **Organisation** through salary, wages or commissions or is a volunteer, student, secondee or intern.

Expenses means:

- (a) the reasonable cost of any of the following incurred in connection with a **Kidnapping, Hijacking, Extortion** or **Cyber Extortion**:
 - (i) a negotiator or security consultant who is independent of the **Insureds**;
 - (ii) a public relations consultant who is independent of the **Insureds**;
 - (iii) travel and accommodation of an **Insured Person**;
 - (iv) legal advice (but not advice or representation for defending against a claim) from a person who is independent of the **Insureds**;
 - (v) assessment of the **Extortion** by a security consultant who is independent of the **Insureds**;
 - (vi) assessment of the **Cyber Extortion** by a computer network security consultant who is independent of the **Insureds**; and

Management Risks Insurance

- (vii) the salary, wages, bonuses, commissions, health benefits, welfare benefits and pension benefits which an **Organisation** continues to pay an **Employee** from the time the **Kidnapping** or **Hijacking** starts until expiry of thirty days after that **Employee** is released or dies or, if earlier, expiry of sixty months after the **Kidnapping** or **Hijacking** began (but only to the extent of the rate of salary etc. that that **Employee** was entitled to at the start of the **Kidnapping** or **Hijacking**).
- (b) **Recall Expenses**; and
- (c) other reasonable expenses (but not ransom) incurred by an **Organisation** with the **Insurer's** prior written consent.

The **Insurer's** maximum liability for all **Expenses**, on account of all **Claims** first made during the **Policy Period**, whether involving one or any number of **Organisations**, shall not exceed £25,000, which is part of and not in addition to the maximum liability of the **Insurer** referred to in Section 4.11.

Extortion means a threat made solely and directly against an **Organisation** by a person or group to:

- (a) commit a **Kidnapping** of, do bodily harm to, or wrongfully abduct or detain any **Insured Person**;
- (b) damage or destroy any tangible property owned or leased by an **Organisation**;
- (c) damage or destroy any tangible property for which an **Organisation** is legally liable and which is located on the **Premises**;
- (d) contaminate any product manufactured or distributed by an **Organisation**;
- (e) to make known to persons outside all **Organisations** that a product manufactured or distributed by an **Organisation** has been contaminated or is the subject of a threat to contaminate it;
- (f) disseminate, divulge or utilise any **Proprietary Information**,

where that person or group is demanding payment in exchange for the mitigation or removal of such threat.

Hijacking means the unlawful detention, other than a **Kidnapping**, of an **Insured Person** by violence or threat of violence by a person or group, where such unlawful detention:

- (a) commences while that **Insured Person** is travelling in an aircraft, watercraft or motor vehicle and lasts for more than four hours; or
- (b) commences while that **Insured Person** is travelling in an aircraft or watercraft and results in that **Insured Person** dying.

Instructions means an ordered set of coded information that, when executed by a **Computer System**, causes such **Computer System** to process **Data** or perform one or more operations.

Insured Person means a natural person who is:

- (a) an **Employee**;
- (b) a **Relative**;
- (c) physically at the home of an **Employee** as a person employed in that **Employee's** household; or
- (d) physically on the **Premises** of an **Organisation** as a guest or customer.

Kidnap and Extortion Event means a **Kidnapping**, **Hijacking**, **Extortion** or **Cyber Extortion** which commences during the **Policy Period**.

Management Risks Insurance

Kidnapping means:

- (a) a wrongful abduction and detention of an **Insured Person**, against their will or by deception, by a person or group demanding payment by an **Organisation** in exchange for the release of that **Insured Person**; or
- (b) a claim by a person or group demanding such a payment, to have carried out such a wrongful abduction and detention.

Loss means:

- (a) for the purposes of Insuring Clause 4.1, the amount which an **Organisation** is legally liable to pay on account of a **Claim** first made during the **Policy Period** including:
 - (i) awards of damages, including punitive, exemplary or aggravated damages, the multiple portion of any multiplied damages award, judgments, pre- and post- judgment interest, awards of claimant's costs and sums payable pursuant to any settlements; and
 - (ii) **Media Costs**.
- (b) for the purposes of Insuring Clause 4.2, **Regulator Costs** and **Media Costs**;
- (c) for the purposes of Insuring Clause 4.3, **Defence Costs** and **Media Costs**;
- (d) for the purposes of Insuring Clause 4.4, **Expenses**.

Loss does not include:

- (i) matters uninsurable under English law; or
- (ii) fines or penalties.

Media Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees, incurred with the prior written consent of the **Insurer**, of an independent public relations consultant engaged to advise an **Insured Person** on making a public communication with respect to, or for preventing or minimising business disruption and adverse publicity resulting from, a **Claim** first made during the **Policy Period**, including the costs of disseminating findings made in a judicial disposition of that **Claim** which exonerates the **Insured Person** from fault, liability or culpability. The **Insurer's** maximum liability for all **Media Costs**, whether covered under one or more of the Insuring Clauses and/or otherwise, on account of all **Claims** first made during the **Policy Period**, whether involving one or any number of **Organisations**, shall not exceed £25,000, which is part of and not in addition to the maximum liability of the **Insurer** referred to in Section 4.11.

Organisation Identity Theft means pretending to be an **Organisation**.

Personal Injury means bodily injury, sickness, disease or death of any natural person, but not mental or emotional distress.

Policy Period Limit means the Limit of Liability for each **Policy Period** for this Section 4 stated in Item 3.3 of the Schedule.

Proprietary Information means confidential information of an **Organisation**, unique to its business, and which is protected by physical or electronic control or other reasonable efforts to prevent it being disclosed.

Recall Expenses means:

- (a) reasonable transportation expenses; and

Management Risks Insurance

(b) other reasonable expenses for which the **Insurer** has given prior written consent;

incurred by an **Organisation** in the withdrawal, physical inspection or destruction of products manufactured or distributed by that **Organisation** which are the subject of a threat to contaminate, but excluding:

(i) refunds for, the value of, or the cost of replacing such products; and

(ii) expenses which, even in the absence of such threat, would be, or would need to be, incurred in such withdrawal, physical inspection or destruction because of a known or suspected defect or lack of quality or because of any other reason.

Record means an **Organisation's** information about its relationship with a customer which is not publicly available and is stored in an electronic medium, provided that such information is protected by electronic control to prevent it being disclosed.

Regulatory Authority means a United Kingdom or Ireland public authority or government agency or body responsible for exercising authority in a regulatory or supervisory capacity over activity in the following areas:

(a) media, communications and data protection;

(b) health and safety at work; or

(c) the environment and natural resources.

Regulator Costs means:

(a) that part of **Loss** which consists of reasonable legal representation fees and related professional charges which an **Organisation** incurs in its representation at a **Regulator Investigation** which is first made during the **Policy Period**; and

(b) **Defence Costs** on account of a **Regulator Prosecution** first made during the **Policy Period**.

Regulator Costs shall also include recovery of the Health and Safety Executive's costs, including inspection, investigation and enforcement action costs in accordance with the Health and Safety (Fees) Regulations 2012 resulting from a material breach of the law by the **Insured**, but does not include any other costs of the Health and Safety Executive.

Regulator Investigation means a formal enquiry into the conduct of an **Organisation** conducted by a **Regulatory Authority**. Wherever in this Policy there is a reference to when a **Claim** is first made or deemed to be first made, that reference, as applied to a **Regulator Investigation**, means when the **Regulator Investigation** is first instituted or deemed to be first instituted.

Regulator Prosecution means a criminal proceeding made against an **Organisation**, alleging a **Regulatory Wrongful Act**.

Regulatory Wrongful Act means a breach of legislation which a **Regulatory Authority** is responsible for enforcing or promoting.

Relative means a person who is, in relation to an **Employee**, a spouse, sibling, ancestor, spouse's ancestor, lineal descendant or lineal descendant's spouse. Lineal descendants include adopted children, foster children and stepchildren. Ancestors include adoptive parents and stepparents.

Securityholder Derivative Claim means a derivative claim, derivative proceeding or derivative action on behalf of an **Organisation** by a securityholder of that **Organisation** in their capacity as such.

USA Claim means a **Claim** brought or maintained, in whole or in part, in the **USA**.

Management Risks Insurance

Wrongful Act means:

- (a) any wrongful act or omission, error, misstatement, misleading statement, neglect, or breach of duty or breach of trust; or
- (b) any **Regulatory Wrongful Act**,

committed, attempted, or allegedly committed or attempted, by an **Organisation** (including where allegedly committed or attempted by an **Organisation** but in fact committed or attempted by a person committing **Organisation Identity Theft**).

Wrongful Employment Practice means any of the following employment-related matters committed or attempted by an **Organisation**: wrongful or unfair dismissal, discharge or termination of employment (including constructive dismissal), breach of any written, oral or implied employment contract or quasi-employment contract, wrongful discrimination, wrongful segregation, wrongful classification, wrongful harassment (whether sexual or non-sexual), bullying, wrongful demotion or denial of tenure, wrongful failure or refusal to promote, negligent evaluation, wrongful discipline, negligent reference, defamation, invasion of privacy, breach of confidentiality, malicious falsehood, wrongful retaliation, failure to provide or consistently enforce employment-related corporate policies and procedures, negligent retention, negligent supervision, negligent hiring, negligent training, misrepresentation, false imprisonment, wrongful infliction of emotional distress, mental anguish or humiliation, wrongful deprivation of a career opportunity, failure to grant tenure.

Acquisition or Creation of Another Organisation

4.6 If, during the **Policy Period**, an **Organisation**:

- (a) acquires securities or voting rights in another organisation which as a result of such acquisition becomes a **Subsidiary**;
- (b) creates an organisation which as a result of such creation becomes a **Subsidiary**; or
- (c) acquires any organisation by merger into or consolidation with that **Organisation**,

then that organisation shall automatically become an **Organisation** under this Section 4 with effect from the date of such acquisition or creation but only with respect to **Wrongful Acts** after such acquisition or creation. The **Insurer** may agree to provide cover for prior **Wrongful Acts**, following the receipt of any information the **Insurer** may require.

However, if such acquired or created organisation:

- (i) has gross consolidated assets that increase the total consolidated assets of all the **Organisations** together by more than 25% as recorded in the latest annual audited report and consolidated accounts of the **Policyholder**; or
- (ii) has any of its debt securities or equity securities publicly traded in the **USA**, or is incorporated or domiciled in the **USA**,

for that organisation to become **Insureds** under this Section, the **Policyholder** must give written notice of that acquisition, and such information as the **Insurer** may require, to the **Insurer**. The **Insurer** shall have the right to amend the terms of this Section including charging an additional premium.

Management Risks Insurance

Emergency Defence Costs

- 4.7 Notwithstanding the provisions of the third paragraph of Section 4.15 below, if, because of an emergency, the **Insurer's** prior written consent to incurring **Defence Costs, Regulator Costs** or **Media Costs** on account of a **Claim** cannot be requested, **Defence Costs, Regulator Costs** or **Media Costs** can be incurred without that consent for defence or investigation work performed during the period of 30 days immediately following the date on which the **Claim** was first made.

Non-avoidance and Severability

- 4.8 Statements made and information possessed by any past, present or future director, company secretary, head of the legal department or head of the human resources department of an **Organisation** shall be imputed to the **Organisation** for the purposes of determining whether there has been a breach of the duty of fair presentation by an **Organisation** in relation to this Section 4.

In the event of a fraudulent or dishonest breach of the duty of fair presentation by an **Organisation** determined by admission, final non-appealable judgment or adjudication:

- (i) if the breach occurs prior to the inception date of the Policy, the **Insurer** may avoid the contract and refuse all claims, and need not return any of the premiums paid, in respect of such **Organisation**;
- (ii) if the breach is in relation to a variation of the Policy, the **Insurer** may treat the Policy as if the variation was never made and need not return any of the premiums paid in respect of the variation, in respect of such **Organisation**.

It is agreed that in the event of a breach of the duty of fair presentation by an **Organisation**, which is not fraudulent or dishonest, the **Organisation** irrevocably waives all and any rights and remedies it may have because of such breach, including any remedy that would have been available under the UK Insurance Act 2015. For the purposes of this clause, the phrase "duty of fair presentation" shall have the same meaning as given to it in the UK Insurance Act 2015.

Exclusions

- 4.9 The **Insurer** shall not be liable for **Loss** on account of any **Claim**:
- (a) based upon, arising from, or in consequence of any fact or **Wrongful Act** forming part of circumstances or of a **Claim** of which written notice has been accepted under any policy which this Policy renews, replaces or follows in whole or in part;
 - (b) based upon, arising from, attributable to or derived from substantially the same facts or circumstances alleged in, any pending or prior proceedings of any nature against any **Insured** commenced before the date stated in Item 6.4 of the Schedule;
 - (c) seeking remedy for **Personal Injury** (but not including **Corporate Manslaughter**), or **Property Damage**, except **Defence Costs**. The **Insurer's** maximum liability for all such **Defence Costs** on account of all **Claims** first made during the **Policy Period** whether involving one or any number of **Insureds**, shall not exceed £50,000;
 - (d) based upon, arising from, or in consequence of any **Wrongful Act** in any way connected to a superannuation, pension, profit sharing, health and welfare or other employee benefit scheme, programme, plan or trust established or maintained to provide benefits to employees or directors;
 - (e) based upon, arising from, or in consequence of any actual or alleged **Wrongful Employment Practice**;
 - (f) based upon, arising from or in consequence of any dishonest or fraudulent act or omission or any intentional breach of law by an **Organisation** or its director, officer, or equivalent in any jurisdiction;

Management Risks Insurance

- (g) based upon, arising from or in consequence of any **Organisation** having gained any profit or advantage to which such **Organisation** was not legally entitled;
- (h) seeking remedy for breach of any law or regulation or other legal obligation concerning competition or for tortious interference with trade;
- (i) based upon, arising from, or in consequence of any or in consequence of the performance of or failure to perform professional services, or the provision of or failure to provide any professional advice to a customer or client, or to a potential customer or client, of the **Insured**;
- (j) seeking remedy for misappropriation, infringement or breach of copyright, patent, trademark, trade secret or any other intellectual property right, except **Defence Costs**. The **Insurer's** maximum liability for all such **Defence Costs** on account of all **Claims** first made during the **Policy Period** whether involving one or any number of **Insureds**, shall not exceed £50,000;
- (k) based upon, arising from or in consequence of any public offering, solicitation, sale, distribution or issuance of securities, except **Defence Costs**. The **Insurer's** maximum liability for all such **Defence Costs** on account of all **Claims** first made during the **Policy Period** whether involving one or any number of **Insureds**, shall not exceed £50,000;
- (l) based upon, arising from or in consequence of any contractual obligation, except **Defence Costs**. The **Insurer's** maximum liability for all such **Defence Costs** on account of all **Claims** first made during the **Policy Period** whether involving one or any number of **Insureds**, shall not exceed £100,000;
- (m) based upon, arising from or in consequence of **Pollution**, except **Defence Costs**. The **Insurer's** maximum liability for all such **Defence Costs** on account of all **Claims** first made during the **Policy Period** whether involving one or any number of **Insureds**, shall not exceed £75,000;
- (n) for direct or indirect tax obligations of any kind;
- (o) brought by or on behalf of any **Organisation** or any director or officer, or equivalent in any jurisdiction, of an **Organisation**, except a **Securityholder Derivative Claim**;
- (p) based upon, arising from or in consequence of any written demand, civil proceeding or criminal proceeding made, brought, maintained or instigated by any administrative or regulatory body, except **Regulator Investigations** or **Regulator Prosecutions**.

Severability of Exclusions

- 4.10 For purposes of determining whether an exclusion applies, there shall be imputed to an **Organisation** only facts pertaining to, and knowledge possessed by, any past, present or future director, company secretary, head of the legal department, head of the human resources department, or equivalent of any of the foregoing.

Limits of Liability

- 4.11 The **Insurer's** maximum liability for all **Loss**, whether covered under Insuring Clause 4.1 and/or otherwise, on account of all **Claims** first made during the **Policy Period**, whether involving one or any number of **Insureds**, shall not exceed the **Policy Period Limit**.

On account of any one **Claim**, the **Insurer's** maximum liability for all **Loss** covered under Insuring Clause 4.1, and whether that **Claim** involves one or any number of **Insureds**, shall not exceed the **Any One Claim Limit**.

The **Insurer's** maximum liability for all **Loss** in respect of which there is a sublimit specified anywhere in this Section, or in any endorsement, will be the maximum aggregate amount on account of all **Claims** first made during the **Policy Period**.

Management Risks Insurance

The **Insurer's** maximum liability for all **Loss** on account of **USA Claims** first made during the **Policy Period**, whether involving one or any number of **Insureds**, shall not exceed an aggregate amount which is equal to the **Any One Claim Limit** for this Section 4 stated in Item 3.3 of the Schedule.

Defence Costs, Regulator Costs and Media Costs are part of and not in addition to the **Any One Claim Limit** and **Policy Period Limit**. The payment by the **Insurer** of **Defence Costs, Regulator Costs and Media Costs** erodes the **Any One Claim Limit** and **Policy Period Limit**.

Payment by the **Insurer** of **Court Attendance** in respect of a **Claim** to which this Section 3 relates shall, as provided in Section 1.2 above, erode the **Any One Claim Limit** and **Policy Period Limit**.

Amounts stated for the **Any One Claim Limit** and **Policy Period Limit** and other limits are maximum liabilities of the **Insurer** for all **Insureds** together, not maximum liabilities per **Insured**.

Deductible

- 4.12 The **Insurer's** liability for each and every **Claim** shall apply only to that part of **Loss** which is in excess of the Deductible stated in Item 6.3 of the Schedule, which shall be borne by the **Organisations** uninsured and at their own risk.

Related Claims

- 4.13 All **Claims** directly or indirectly arising out of, consequent upon or attributable to one source or originating cause shall be deemed to be a single **Claim** first made on:
- (a) the date when the first of such **Claims** was first made; or
 - (b) the earliest date one of such **Claims** is deemed first made by this Policy or any policy which this Section 4 renews, replaces or follows in whole or in part (if that earliest date is earlier than the date referred to in (a) immediately above),

regardless of whether that date is before or during the **Policy Period**.

Other Insurance

- 4.14 This policy shall always apply excess over any other more specific valid and collectable insurance available to the **Insured**, other than any insurance specifically written to apply excess of this policy.

Defence and Settlement

- 4.15 The **Insurer** shall have the right, but not the duty, to take over and conduct at any time the defence of **Claims**, including to appoint lawyers or other representatives or advisers for that purpose.

With respect to any **Claim**, the **Insurer** may at any time pay to the **Policyholder** the amount of the **Any One Claim Limit** and/or **Policy Period Limit** which remains uneroded, the amount of any applicable sublimit which remains uneroded or the amount for which the **Claim** can be settled, whichever is the lowest. Such payment shall immediately discharge all liability of the **Insurer** in respect of the **Claim** including liability for further **Defence Costs** and liability for further **Court Attendance**.

Each **Organisation** agrees not to settle or offer to settle any **Claim**, incur any **Defence Costs, Regulator Costs or Media Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the **Insurer's** prior written consent, which shall not be unreasonably withheld. Subject to Section 4.7 above, the **Insurer** shall not be liable for any settlement, **Defence Costs, Regulator Costs or Media Costs**, assumed obligation or admission to which it has not consented in writing.

Management Risks Insurance

Each **Organisation** undertakes not to prejudice the **Insurer's** interests or its potential or actual rights of recovery, not to prejudice the defence of any **Claim** and to give to the **Insurer** such information and co-operation as the **Insurer** may require.

Management Risks Insurance

Section 5: Employee Crime, Crime using Computers and Social Engineering Crime

Insuring Clause 5.1: Crime

- 5.1 The **Insurer** shall pay **Financial Loss** sustained by an **Organisation** and resulting from a **Crime** first **Discovered** during the **Policy Period**.

Insuring Clause 5.2: Expenses

- 5.2 The **Insurer** shall pay **Expenses** incurred by an **Organisation** and resulting from a **Crime** first **Discovered** during the **Policy Period**.

Definitions

- 5.3 When used in bold type in this Section 5:

Client means a customer of an **Insured** to whom goods or services are provided by an **Insured** under written contract or for a fee.

Computer Fraud means the theft of **Money, Securities or Merchandise** resulting from unauthorised access into a computer system and its facilities. **Computer Fraud** does not include **Social Engineering Fraud**, except as specified in, and covered under, (b) in the definition of **Social Engineering Fraud**.

Crime means:

- (a) the criminal taking by an **Employee**, acting alone or in collusion with others, of **Money, Securities or Property** to the deprivation of an **Organisation**;
- (b) **Funds Transfer Fraud** by a **Third Party**;
- (c) **Computer Fraud** by a **Third Party**;
- (d) **Social Engineering Fraud**; or
- (e) **Remote Access Fraud**.

Discovered means learnt of, and **Discovery** means the learning of, by a director, officer or **Insurance Representative** of an **Organisation** that there has been a **Crime**, including but not limited to a **Crime**:

- (a) which occurred prior to the **Policy Period**;
- (b) which results in **Loss** totalling less than the Deductible stated in Item 7.3 of the Schedule; or
- (c) where the exact amount and details of the **Financial Loss** are unknown.

The time when a director, officer or **Insurance Representative** of an **Organisation** first suspects that there may have been a **Crime** shall be deemed to be the time when that director, officer or **Insurance Representative** learns of that **Crime**.

Employee means a natural person:

- (a) who:
 - (i) is in the regular service of an **Organisation** in the ordinary course of its business, whether temporary, permanent, full-time, part-time or seasonal;

Management Risks Insurance

- (ii) is governed and directed by, and reporting directly to, an **Organisation** in the performance of such service; and
 - (iii) is compensated by an **Organisation** through salary, wages or commissions or is a volunteer, student, secondee or intern; or
- (b) who is a member of the board of directors, board of trustees or equivalent management board of an **Organisation**.

Employee Benefit Plan means a pension scheme, benefit plan or programme established, maintained or sponsored solely by an **Organisation** for the benefit of its employees.

Expenses means:

- (a) reasonable expenses, other than an **Organisation's** internal corporate costs, incurred by an **Organisation** with the **Insurer's** prior written consent to establish the existence and amount of any covered **Financial Loss** payable by the **Insurer** in excess of the Deductible stated in Item 7.3 of the Schedule; and
- (d) reasonable expenses, other than an **Organisation's** internal corporate costs, incurred by an **Organisation** with the **Insurer's** prior written consent to reproduce or reconstitute **Data**.

Fake Person means a person purporting or claiming to be, or impersonating:

- (a) an **Employee** authorised to instruct other **Employees** to transfer, pay or deliver **Money**, **Securities** or **Merchandise**;
- (b) a **Vendor**; or
- (c) a **Client**,

but who is not such **Employee**, **Vendor** or **Client**.

Financial Loss means:

- (a) direct financial loss resulting from a **Crime** other than a **Remote Access Fraud**; and
- (b) **Telephone Fraud Loss**.

Funds Transfer Fraud means fraudulent written, electronic, telegraphic, cable, teletype, tested telex or telephone instructions issued to a financial institution directing such institution to transfer, pay or deliver **Money** or **Securities** from any account maintained by an **Organisation** at such institution without an **Organisation's** knowledge or consent. **Funds Transfer Fraud** does not include **Social Engineering Fraud**, except as specified in, and covered under, (b) in the definition of **Social Engineering Fraud**.

Insurance Representative means an **Employee** designated to represent an **Organisation** for the purpose of effecting and maintaining insurance.

Loss means **Financial Loss** and **Expenses**.

Merchandise means an **Organisation's** inventory, raw materials, work in progress and any products manufactured or distributed by an **Organisation**.

Money means currency, coin, bank notes, bullion or funds.

Policy Period Limit means the Limit of Liability for each **Policy Period** for this Section 5 stated in Item 3 of the Schedule.

Management Risks Insurance

Property means tangible property other than **Money, Securities and Merchandise**.

Remote Access Fraud means the fraudulent use by any person, from a location other than premises occupied by an **Organisation** for conducting its business, of telephone lines rented or subscribed to by an **Organisation**.

Securities means negotiable and non-negotiable instruments or contracts representing either **Money** or other property.

Social Engineering Fraud means:

- (a) the criminal taking by a **Fake Person**, acting alone or in collusion with others, of **Money, Securities or Merchandise** to the deprivation of an **Organisation**, which is committed by means of that **Fake Person** deceiving an **Employee** into transferring, paying or delivering that **Money, Securities or Merchandise**; or
- (b) a **Funds Transfer Fraud**, or **Computer Fraud**, which involves a **Third Party** deceiving an **Employee** into providing any security detail for operating or having access to an account held by an **Organisation** with a bank or any other financial institution.

Telephone Fraud Loss means call charges incurred by an **Organisation** solely as a result of **Remote Access Fraud**.

Third Party means a person other than an **Organisation** or an **Employee**.

Vendor means a person that provides, or has provided, goods or services to an **Insured** under a legitimate pre-existing arrangement or written agreement.

Prior Subsidiaries

- 5.4 Should an organisation have ceased, within the two years prior to the start of the **Policy Period**, to be a **Subsidiary**, there shall nonetheless be cover under this Section 5 for that organisation during the **Policy Period**, but:
- (a) only if, at the time of that cessation, there was in force a crime policy issued by the **Insurer** to the **Policyholder**; and
 - (b) that cover shall not be for **Crimes** occurring after the date of that cessation.

Acquisition or Creation of Another Organisation

- 5.5 If, during the **Policy Period**, an **Organisation**:
- (a) acquires securities or voting rights in another organisation which as a result of such acquisition becomes a **Subsidiary**;
 - (b) creates an organisation which as a result of such creation becomes a **Subsidiary**; or
 - (c) acquires any organisation by merger into or consolidation with that **Organisation**,

then that organisation shall automatically become an **Organisation** under this Section 5 with effect from the date of such acquisition or creation but shall not have cover for **Crimes** occurring before such acquisition or creation.

However, if such acquired or created organisation:

Management Risks Insurance

- (i) has an amount of employees that increases the amount of employees of all **Organisations** together by more than 25%; or
- (ii) has an amount of turnover that increases the amount of turnover of all **Organisations** together by more than 25%.

the **Policyholder** shall give written notice of such acquisition or creation to the **Insurer** as soon as practicable and also such information as the **Insurer** may require. The **Insurer** shall have the right to amend the terms of this Policy including charging an additional premium.

Insolvency

- 5.6 If, during the **Policy Period**, the **Policyholder** or a **Subsidiary** enters into winding up of any kind, administration, voluntary arrangement or any other insolvency procedure or if a receiver or holder of a similar position is appointed over any of its assets, cover for the **Organisations** under this Section shall continue until the end of the **Policy Period**, but not for **Crimes** occurring after the date of that entry or appointment.

Extended Discovery Period

- 5.7 (a) Should the **Insurer**, other than for non-payment of premium, or the **Policyholder** refuse to renew this Section 5, the **Organisations** shall automatically obtain an extended discovery period of 90 days, which shall run from the expiry date of the **Policy Period**. However:
- (i) the **Organisations** shall not obtain that extended discovery period if the reason for refusal to renew this policy is because of merger or consolidation into, or acquisition by, another organisation;
 - (ii) an **Organisation** other than the **Policyholder** shall not obtain that extended discovery period if, during the **Policy Period**, that **Organisation** enters into winding up of any kind, administration, voluntary arrangement or any other insolvency procedure or if a receiver or holder of a similar position is appointed over any of its assets.
- (b) A **Crime** first **Discovered** during an obtained extended discovery period shall be deemed to have been first **Discovered** during the **Policy Period**, provided that it occurs prior to expiry of the **Policy Period**.

Non-avoidance and Severability

- 5.8 Statements made and information possessed by any past, present or future director, company secretary, head of the legal department, risk manager or head of internal audit department of an **Insured** shall be imputed to the **Insured** for the purposes of determining whether there has been a breach of the duty of fair presentation by any **Insured**.

In the event of a fraudulent or dishonest breach of the duty of fair presentation by any **Insured** determined by admission, final non-appealable judgment or adjudication:

- (i) if the breach occurs prior to the inception date of the Policy, the **Insurer** may avoid the contract and refuse all claims, and need not return any of the premiums paid, in respect of such **Insured**;
- (ii) if the breach is in relation to a variation of the Policy, the **Insurer** may treat the Policy as if the variation was never made and need not return any of the premiums paid in respect of the variation, in respect of such **Insured**.

It is agreed that in the event of breach of the duty of fair presentation by an **Insured**, which is not fraudulent or dishonest, the **Insurer** irrevocably waives all and any rights and remedies it may have because of such breach, including any remedy that would have been available under the UK Insurance Act 2015. For the purposes of

Management Risks Insurance

this clause, the phrase "duty of fair presentation" shall have the same meaning as given to it in the UK Insurance Act 2015.

Exclusions

5.9 The **Insurer** shall not be liable for:

- (a) **Loss** resulting from the loss of trade secrets, confidential processing methods or other confidential information of any kind;
- (b) **Loss** resulting from **Crime** committed by any person controlling at any time more than 10% of the issued share capital of an **Organisation** (but, if that **Loss** would, but for this exclusion, be covered by this Section 5, then the **Insurer** shall pay so much of that **Loss** as exceeds the value of that person's shareholding on the day immediately preceding the date of **Discovery** of the **Crime**);
- (c) **Loss** sustained by one **Organisation** to the advantage of any other **Organisation**;
- (d) interest (except **Expenses**), gains, profits or other income;
- (e) consequential loss of any kind except for **Expenses**;
- (f) **Loss** resulting from any **Crime** committed by an **Employee** after a director, officer or **Insurance Representative** of an **Organisation** acquires knowledge of:
 - (i) **Crime**, fraud or dishonesty by that **Employee** whilst employed by an **Organisation**; or
 - (ii) fraud or dishonesty committed by that **Employee** when not employed by an **Organisation** and involving any assets worth £15,000 or more;
- (g) **Loss** resulting from extortion;
- (h) **Loss** resulting directly or indirectly from any authorised or unauthorised trading of **Money, Securities** or **Property**, whether or not in the name of an **Organisation** and whether in a genuine or fictitious account (but this exclusion shall not apply to that amount of **Financial Loss** which constitutes the amount of improper personal financial gain thereby accruing to an **Employee** - improper personal financial gain does not include salary, commissions, fees, or other emoluments, including but not limited to promotions and raises, paid by an **Organisation** to that **Employee**);
- (i) **Loss** resulting from **Crime** committed by any person who is an agent or representative of an **Organisation** and to whom an **Organisation** has entrusted **Money, Securities** or **Property** or has given the means to access an **Organisation's Money, Securities** or **Property**;
- (j) **Expenses** to reproduce **Data** recorded on magnetic media, optical media or flash memory, unless there is an analysis file, specification or backup of that **Data** held somewhere other than any of the premises occupied by the **Organisations** in conducting their businesses.

Management Risks Insurance

Connected Crimes

- 5.10 All **Crimes** resulting from a single act or any number of acts in which the same person is concerned or implicated, whether such act or acts occurred before or during the **Policy Period**, shall be deemed to be a single **Crime** first **Discovered** on the date when the first of such **Crimes** was first **Discovered**.

Limits of Liability

- 5.11 In respect of each single **Crime**:
- (a) the liability of the **Insurer** for all **Loss** on account of that **Crime** shall be limited to the **Loss Limit** each **Crime** stated in Item 7.1 of the Schedule; and
 - (b) the liability of the **Insurer** under Insuring Clause 5.2 shall be limited to the **Expenses Limit** each **Crime** stated in Item 7.2 of the Schedule, which limit is part of, and not in addition to, the **Loss Limit** each **Crime** stated in Item 7.1 of the Schedule.

However, the **Insurer's** liability for all **Loss** on account of all **Crimes** first **Discovered** during the **Policy Period** shall be limited to the **Policy Period Limit**.

Regardless of the number of times this Policy is renewed and of the total premium amounts due or paid, the limits of the **Insurer's** liability under this Section 5 shall not be cumulative from year to year or policy period to policy period.

Amounts stated for the **Policy Period Limit** and other limits are maximum liabilities of the **Insurer** for all **Organisations** together, not maximum liabilities per **Organisation**.

Deductible

- 5.12 In respect of each single **Crime**:
- (a) the **Insurer** shall only be liable for that amount of **Loss** which exceeds the total of:
 - (i) the Deductible stated in Item 7.3 of the Schedule; and
 - (ii) the amount of recoveries made prior to the **Insurer** making payment; and
 - (b) if an **Organisation** receives payment under another policy or bond after application of a deductible for **Loss** also covered by this Section 5, the Deductible stated in Item 7.3 of the Schedule shall, in respect of that **Crime**, be reduced by that deductible applied under the other policy or bond.

Other Insurance

- 5.13 This policy shall always apply excess over any other more specific valid and collectable insurance available to the **Insured**, other than any insurance specifically written to apply excess of this policy.

Valuation

- 5.14 For the purposes of establishing the amounts of **Financial Loss** payable by the **Insurer**, the following shall apply for valuation:
- (a) for **Securities**, the least of:

Management Risks Insurance

- (i) the closing price of the **Securities** on the business day immediately preceding the day on which the **Crime** is first **Discovered**;
 - (ii) the cost of replacing the **Securities**; and
 - (iii) the cost to post a lost instrument bond (which cost the **Insurer** shall pay on behalf of the **Organisation**);
- (b) for paper, microfilm, tapes, disks, computers and other material or means for storing information, the cost of such material or means as if blank and not the value of whatever is recorded therein;
- (c) for **Property**, the lesser of:
- (i) the price paid by an **Organisation** for the **Property**; and
 - (ii) the cash value of the **Property** at the time the **Crime** is first **Discovered**; and
- (d) for foreign currency, the Pound Sterling value of that currency based on the rate of exchange published in The Financial Times on the day the **Crime** is first **Discovered**.

Recoveries

5.15 For the purposes of this Section, recoveries (whether effected by the **Insurer** or by an **Organisation**), less the cost of recovery, shall be distributed as follows:

- (a) first, to the **Policyholder** for the amount of **Loss** otherwise covered but in excess of the **Insurer's** limits of liability less any applicable Deductible;
- (b) second, to the **Insurer** for the amount paid to the **Policyholder** for covered **Loss**;
- (c) third, to the **Policyholder** for the applicable Deductible; and
- (d) fourth, to the **Policyholder** for **Loss** specifically excluded by this Section.

For the purposes of this Section 5.15, a recovery from any reinsurance of, or indemnity to, the **Insurer** shall not be regarded as a recovery.

Policyholder and the Position of Organisations

5.16 Only the **Policyholder** can:

- (a) give notice of a **Crime** or provide proof of loss in accordance with Section 1.11 above; or
- (b) make a claim under this Section or adjust, receive or enforce payment of any **Loss**.

Regardless of which **Organisation** sustains or incurs **Loss**, the **Insurer** shall only be obliged to pay **Loss** to the **Policyholder**, although the **Insurer** may, if it wishes, pay to the **Organisation** which sustains or incurs the **Loss**.

Each **Organisation** is deemed for all purposes of this Section to be insured jointly and not separately for their several interests.

Management Risks Insurance

Section 6: CyberSecurity

Insuring Clause 6.1: Cyber Liability

6.1 The **Insurer** shall pay, on behalf of each **Insured**, **Loss** on account of a **Claim** first made during the **Policy Period**.

Insuring Clause 6.2: Privacy Notification Expenses and Crisis Management Expenses

6.2 The **Insurer** shall pay, on behalf of each **Insured**, **Privacy Notification Expenses** and **Crisis Management Expenses**.

Definitions

6.3 When used in bold type in this Section:

Claim means:

- (a) a written demand for specific monetary compensation or specific non-pecuniary relief;
- (b) a civil proceeding including third party proceeding, counterclaim, arbitration proceeding or employment tribunal proceeding;
- (c) a criminal proceeding;
- (d) an extradition proceeding; or
- (e) a formal administrative or formal regulatory proceeding commenced by the filing of a notice of charges,

made against an **Insured**, alleging a **Wrongful Act**.

Computer means a device or group of devices that by manipulation of electronic, magnetic, optical or electromechanical impulses pursuant to a computer programme can perform operations on **Data**.

Conduit Wrongful Act means:

- (a) the transmission, on or after the **Retrodate** and before the end of the **Policy Period**, of a **Cyberattack** into an **Organisation's System** which is simultaneously or later received into a **Third Party System**; or
- (b) unauthorised access, on or after the **Retrodate** and before the end of the **Policy Period**, to a **Third Party System** through an **Organisation's System**,
and resulting in that **Third Party System** being unusable or impaired.

Crisis Management Expenses means the reasonable cost of:

- (a) a lawyer who is independent of the **Insureds**;
- (b) an information security forensic investigator;
- (c) a public relations consultant; and
- (d) public relations activity (including, without limitation, call centre activity) and advertising,

Management Risks Insurance

incurred by an **Organisation** in direct connection with a **Wrongful Act** which is first **Discovered** during the **Policy Period**.

Crisis Management Expenses does not include any cost which falls within the definition of **Defence Costs**.

Customer means a person who:

- (a) is applying for, or requesting, an **Organisation's** products or services;
- (b) has applied for, or requested, an **Organisation's** products or services; or
- (c) is using, or has used, an **Organisation's** products or services.

Cyberattack means transmission of fraudulent or unauthorised **Data** that is designed to modify, alter, damage, destroy, delete, record or transmit information within a **System** without authorisation, including **Data** that is self-replicating or self-propagating and is designed to contaminate other computer programmes or legitimate computer data, consume computer resources or in some way usurp the normal operation of a **System**.

Cyber Event means:

- (a) for the purposes of **Privacy Notification Expenses** cover, a potential or unauthorised access described in the definition of **Privacy Wrongful Act**;
- (b) for the purposes of **Crisis Management Expenses** cover, a **Wrongful Act** which is first **Discovered** during the **Policy Period**.

Data means a representation of information, knowledge, facts, concepts or instructions which are being processed, or have been processed, in a **Computer**.

Defence Costs means that part of **Loss** consisting of reasonable costs, expenses, charges and fees incurred in defending or investigating a **Claim** first made during the **Policy Period** (but not internal corporate costs and expenses) or in appealing against a judgment made in such a **Claim**.

Discovered means learnt of, and **Discovery** means the learning of, by a director, principal, partner, Risk Manager or **Insurance Representative** of an **Organisation**.

Event Loss means **Privacy Notification Expenses** or **Crisis Management Expenses**.

Fraudulent Access means a person:

- (a) fraudulently accessing an **Organisation's System** without authorisation;
- (b) using authorised access to an **Organisation's System** to perform unauthorised fraudulent operations, including the fraudulent input of **Data**; or
- (c) launching a **Cyberattack** into an **Organisation's System**.

Impaired Access Wrongful Act means impairment or denial of a **Customer's** authorised access to an **Organisation's System** as a direct result of a **Fraudulent Access** which first occurs on or after the **Retrodate** and before the end of the **Policy Period**.

Insured Person means a natural person who has been, now is, or shall become a director, principal, partner or employee of an **Organisation**, provided that such person shall only be covered under this Section 6 in respect of **Wrongful Acts** occurring while that person is such director, principal, partner or employee.

Management Risks Insurance

Insurance Representative means an employee designated to represent an **Organisation** for effecting and maintaining insurance.

Internet means a group of connected networks that allow access to an **Insured's System** through service providers using telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer media.

Liquidated Damages means a sum of money stipulated by a contract as the amount of damages for breach of that contract.

Loss means the amount which an **Insured** is legally liable to pay on account of a **Claim** first made during the **Policy Period**, including:

- (a) **Defence Costs**; and
- (b) awards of damages, including punitive, exemplary or aggravated damages, the multiple portion of any multiplied damages award, judgments, pre- and post- judgment interest, awards of claimant's costs and sums payable pursuant to any settlements.

Loss does not include:

- (i) matters uninsurable under English law;
- (ii) fines or penalties;
- (iii) taxes or damages reflecting taxes;
- (iv) costs or expenses of replacing, upgrading, improving or maintaining a **System** or damages reflecting such costs or expenses;
- (v) any return of fees, charges, commissions or other consideration paid to an **Insured** which the **Insured** has returned or must return;
- (vi) costs or expenses incurred to perform any obligation assumed by, on behalf of or with the consent of any **Insured**;
- (vii) costs or expenses incurred by an **Insured** of compliance with any order for, or agreement to provide, injunctive or non-pecuniary relief; or
- (viii) **Liquidated Damages**.

Media means an item or material, other than paper, on which **Data** can be stored so that it can be read, retrieved or processed by a **Computer**.

Personal Injury means bodily injury, mental illness or emotional distress (except emotional distress with respect to a **Privacy Wrongful Act**), sickness, disease or death of any natural person.

Policy Period Limit means the Limit of Liability for each **Policy Period** for this Section 6 stated in Item 3 of the Schedule.

Privacy Notification Expenses means the reasonable cost of:

- (a) notifying natural persons who may be directly affected by a potential or actual unauthorised access to a **Record**;
- (b) changing those natural persons' account numbers, other identification numbers and security codes; and

Management Risks Insurance

- (c) providing those natural persons, for a stipulated period of time and with the prior written consent of the **Insurer**, with credit monitoring or other similar services that may help protect them against fraudulent use of the **Record**,

incurred by an **Organisation** in direct connection with a **Privacy Wrongful Act** which is first **Discovered** during the **Policy Period**.

Privacy Notification Expenses does not include any cost which falls within the definition of **Crisis Management Expenses**.

Privacy Regulatory Action means:

- (a) a written demand, whether or not containing a demand for monetary compensation;
- (b) a civil proceeding; or
- (c) a formal regulatory proceeding commenced by the service of a written complaint, charge or similar document,

made against an **Insured** by a governmental or regulatory body alleging a **Privacy Wrongful Act**.

Privacy Wrongful Act means a potential or actual unauthorised access, which commences on or after the **Retrodate** and before the end of the **Policy Period**, to a **Record**.

Record means a natural person's first name or initial combined with their last name and with any of the following which is intended by an **Organisation** to be accessible only by persons it has specifically authorised:

- (a) a national insurance number, social security number, national health service number, driving licence number or other personal identification number (including an employee identification number or student identification number);
- (b) a financial account number (including a bank account number, pension scheme number, or medical insurance policy number);
- (c) a credit, debit or payment card number; or
- (d) any information relating to the employment of that natural person by an **Organisation**.

Retrodate means the date stated in Item 8.2 of the Schedule.

System means a **Computer** and:

- (a) all input, output, processing, storage and communication devices controlled, supervised or accessed by the operating systems that are owned by, or licensed to, the owner of the **Computer**; and
- (b) **Media**.

Third Party Service Provider means an organisation that performs any of the following services for or on behalf of an **Organisation**:

- (a) processing, holding or storing information;
- (b) data back-up, data storage or data processing;
- (c) hosting that **Organisation's** website, applications or infrastructure services.

Third Party System means a **System** which is not an **Organisation's System**.

Management Risks Insurance

USA Claim means a **Claim** brought or maintained, in whole or in part, in the **USA** or based, in whole or in part, on any law of the **USA**.

Wrongful Act means a **Conduit Wrongful Act**, an **Impaired Access Wrongful Act** or a **Privacy Wrongful Act**.

Acquisition or Creation of Another Organisation

6.4 If, during the **Policy Period**, an **Organisation**:

- (a) acquires securities or voting rights in another organisation which as a result of such acquisition becomes a **Subsidiary**;
- (b) creates an organisation which as a result of such creation becomes a **Subsidiary**; or
- (c) acquires any organisation by merger into or consolidation with that **Organisation**,

then that organisation and its **Insured Persons** shall automatically become **Insureds** under this Section with effect from the date of such acquisition or creation but only with respect to **Wrongful Acts** after such acquisition or creation. The **Insurer** may agree to provide cover for prior **Wrongful Acts**, following the receipt of any information the **Insurer** may require.

If such organisation described in (a) or (c):

- (i) has gross consolidated assets that increase the total consolidated assets of all the **Organisations** together by more than 25%; or
- (ii) has any assets in the **USA**,

for that organisation and its **Insured Persons** to become **Insureds** under this Section, the **Policyholder** must give written notice of that acquisition, and such information as the **Insurer** may require, to the **Insurer**. The **Insurer** shall have the right to amend the terms of this Section including charging an additional premium.

Non-avoidance and Severability

6.5 Statements made and information possessed by any past, present or future Chairman, Chief Executive, Managing Director, Finance Director, General Counsel, Risk Manager, Information Technology Manager, Chief Information Security Officer, or Information Security Officer of an **Organisation** shall be imputed to the **Organisation** for the purposes of determining whether there has been a breach of the duty of fair presentation by an **Organisation** in relation to this Section.

In the event of a fraudulent or dishonest breach of the duty of fair presentation by an **Organisation** determined by admission, final non-appealable judgment or adjudication:

- (i) if the breach occurs prior to the inception date of the Policy, the **Insurer** may avoid the contract and refuse all claims, and need not return any of the premiums paid, in respect of such **Organisation**;
- (ii) if the breach is in relation to a variation of the Policy, the **Insurer** may treat the Policy as if the variation was never made and need not return any of the premiums paid in respect of the variation, in respect of such **Organisation**.

It is agreed that in the event of a breach of the duty of fair presentation by an **Organisation**, which is not fraudulent or dishonest, the **Organisation** irrevocably waives all and any rights and remedies it may have because of such breach, including any remedy that would have been available under the UK Insurance Act 2015. For the purposes of this clause, the phrase "duty of fair presentation" shall have the same meaning as given to it in the UK Insurance Act 2015.

Management Risks Insurance

Exclusions to All Insuring Clauses

- 6.6 The **Insurer** shall not be liable for **Loss** on account of any **Claim**, or for any **Event Loss**:
- (a) based upon, arising from or in consequence of any fact or **Wrongful Act** forming part of circumstances or of a **Claim** of which written notice has been accepted under any policy which this Policy renews, replaces or follows in whole or in part;
 - (b) seeking remedy for **Personal Injury** or for physical damage to or destruction or loss of use of any tangible property;
 - (c) based upon, arising from or in consequence of:
 - (i) any actual or alleged breach of, or liability under, any contract or agreement; or
 - (ii) any actual or alleged liability assumed by an **Insured** by contract or agreement,

(but this exclusion shall not apply to a **Claim** seeking remedy for a **Conduit Wrongful Act**, an **Impaired Access Wrongful Act** or a **Privacy Wrongful Act** and shall not apply to such **Loss** or **Event Loss** as the **Insured** would have incurred or sustained in the absence of such contract or agreement);
 - (d) based upon, arising from or in consequence of:
 - (i) any deliberate fraudulent act or omission or any intentional breach of law by an **Insured**; or
 - (ii) any publication (whether electronic, written, oral or otherwise) by an **Insured** of false information with knowledge of its falsehood or which a reasonable person in that **Insured's** circumstances would know to be false,

(but this exclusion shall apply only to those **Insureds** in respect of whom there is a finding, but not one applied for by the **Insurer**, in a final non-appealable judgment or adjudication that they committed such act, omission, breach or publication or who make an **Admission** that they committed such act, omission, breach or publication; and, for the purposes of determining whether this exclusion applies to an **Organisation**, only conduct of, and **Admissions** by, its past, present or future Chairman, Chief Executive, Managing Director, Finance Director, General Counsel, Risk Manager, Information Technology Manager or holder of an equivalent position to any of the foregoing shall be imputed to it);
 - (e) which an **Insured** incurs in the position of trustee in bankruptcy, liquidator, receiver, administrator, supervisor or any other insolvency office-holder;
 - (f) which is a **USA Claim**.

Exclusions to Insuring Clause 6.1 Only

- 6.7 The **Insurer** shall not be liable under Insuring Clause 6.1 for **Loss** on account of any **Claim**:
- (a) based upon, arising from, attributable to or derived from substantially the same facts or circumstances alleged in, any pending or prior proceedings of any nature against any **Insured** or **Outside Entity** commenced before the date stated in Item 8.4 of the Schedule;
 - (b) seeking remedy for breach of any law, duty or trust by an **Insured** in their capacity as trustee, fiduciary or administrator of any superannuation, pension, profit sharing, health and welfare or other employee benefit scheme, programme, plan or trust established or maintained to provide benefits to employees or directors;

Management Risks Insurance

- (c) by or on behalf of any natural person who is a director, principal or partner in an **Organisation**;
- (d) based upon, arising from or in consequence of any actual or alleged infringement or misappropriation of a patent or trade secret;
- (e) based upon, arising from or in consequence of any actual or alleged failure of any good, product or service to conform with any representation or warranty about it;
- (f) based upon, arising from or in consequence of:
 - (i) controlling, creating, designing or developing any website which is not an **Organisation's**;
 - (ii) controlling, creating, designing, developing, determining or providing the content or material of any website which is not an **Organisation's**; or
 - (iii) controlling, facilitating or providing (or failing to control, facilitate or provide) access to the **Internet**;
- (g) based upon, arising from or in consequence of any actual or alleged infringement or misappropriation of any right to or interest in any:
 - (i) software or its source content or material;
 - (ii) computer code or its source content or material; or
 - (iii) expression, method or process designed to control or facilitate any operation or other use of a **Computer** or automated system;
- (h) which is a formal investigative inquiry by any regulatory, administrative or licensing body into the conduct or affairs of an **Insured** (but this exclusion shall not apply to a **Privacy Regulatory Action**);
- (i) which is a proceeding against an **Insured** by any regulatory, administrative or licensing body, alleging breach of any law, regulation or licence or alleging any failure to have a requisite licence (other than a proceeding by such body solely in its capacity as a **Customer**; and this exclusion shall not apply to a **Privacy Regulatory Action**);
- (j) which is a **Privacy Regulatory Action** (but this exclusion shall not apply to **Defence Costs**).

Exclusions to Insuring Clause 6.2 Only

- 6.8 The **Insurer** shall not be liable under Insuring Clause 6.2 for any:
- (a) return of fees, charges, commissions or other consideration paid to an **Insured**;
 - (b) costs or expenses incurred to perform any obligation assumed by, on behalf of or with the consent of any **Insured** (but this exclusion shall not apply to **Privacy Notification Expenses**);
 - (c) costs or expenses incurred to establish the existence of or amount of any **Event Loss** (but this exclusion shall not apply to **Crisis Management Expenses** consisting of the reasonable cost of an information security forensic investigator);
 - (d) costs or expenses incurred to replace, upgrade, update, improve or maintain a **System**;
 - (e) costs or expenses incurred to comply with any order for, or agreement to provide, injunctive or non-pecuniary relief (but this exclusion shall not apply to **Privacy Notification Expenses**);

Management Risks Insurance

- (f) taxes, fines, penalties or **Liquidated Damages**;
- (g) income (including, but not limited to, interest and dividends) which an **Insured** or **Customer** does not realise.

Limits of Liability

6.9 The **Insurer's** maximum liability for:

- (a) all **Loss**, whether covered under Insuring Clause 6.1 and/or otherwise, on account of all **Claims** first made during the **Policy Period**; and
- (b) all **Event Loss**, whether covered under Insuring Clause 6.2 and/or otherwise, on account of all **Cyber Events**;

whether involving one or any number of **Insureds**, shall not exceed the **Policy Period Limit**.

The **Insurer's** maximum liability for all **Privacy Regulatory Action Defence Costs** and **Event Loss**, whether covered under one or more of the Insuring Clauses and/or otherwise, on account of all **Claims** and **Cyber Events**, whether involving one or any number of **Insureds**, shall not exceed the sublimit for **Privacy Regulatory Action Defence Costs** and **Event Loss** stated in Item 8.1 of the Schedule, which sublimit is part of and not in addition to the maximum liability of the **Insurer** referred to in the first paragraph of this Section.

Defence Costs are part of and not in addition to the **Policy Period Limit**. The payment by the **Insurer** of **Defence Costs** erodes the **Policy Period Limit**.

Payment by the **Insurer** of **Court Attendance** in respect of a **Claim** to which this Section 6 relates shall, as provided in Section 1.2 above, erode the **Policy Period Limit**.

Amounts stated for the **Policy Period Limit** and other limits are maximum liabilities of the **Insurer** for all **Insureds** together, not maximum liabilities per **Insured**.

Deductible

6.10 With respect to each single **Claim**, the **Insurer** shall only be liable for that part of **Loss** which is in excess of the Deductible stated in Item 8.3 of the Schedule.

With respect to each single **Cyber Event**, the **Insurer** shall only be liable for that part of the **Event Loss** which is in excess of the Deductible stated in Item 8.3 of the Schedule.

Related Claims

6.11 All **Claims** directly or indirectly arising out of, consequent upon or attributable to one source or originating cause shall be deemed to be a single **Claim** first made on:

- (a) the date when the first of such **Claims** was first made; or
- (b) the earliest date one of such **Claims** is deemed first made by this Policy or any policy which this Section 6 renews, replaces or follows in whole or in part (if that earliest date is earlier than the date referred to in (a) immediately above),

regardless of whether that date is before or during the **Policy Period**.

Management Risks Insurance

Connected Cyber Events

- 6.12 All **Cyber Events** resulting from the same conduct, the same series of related acts of the same person, or the same event shall be deemed to be a single **Cyber Event**.

Other Insurance

- 6.13 This policy shall always apply excess over any other more specific valid and collectable insurance available to the **Insured**, other than any insurance specifically written to apply excess of this policy.

Defence and Settlement

- 6.14 The **Insurer** shall have the right, but not the duty, to take over and conduct at any time the defence of **Claims**, including to appoint lawyers or other representatives or advisers for that purpose.

The **Insurer** may make any settlement of a **Claim** it considers sensible. If the **Insured** withholds consent to such settlement, the **Insurer's** liability for **Loss** on account of that **Claim** shall not exceed the amount for which the **Insurer** could have settled that **Claim** on the **Insured's** behalf plus **Defence Costs** accrued as of the date at which acceptance of such settlement was proposed in writing by the **Insurer** to the **Insured**.

Each **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the **Insurer's** prior written consent, which shall not be unreasonably withheld. The **Insurer** shall not be liable for any settlement, **Defence Costs**, assumed obligation or admission to which it has not consented in writing.

Each **Insured** undertakes not to prejudice the **Insurer's** interests or its potential or actual rights of recovery, not to prejudice the defence of any **Claim** and to give to the **Insurer** such information and co-operation as the **Insurer** may require.