

# PrivateEdge

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All insurance covers are afforded solely for *claims* first made against an *insured* during the *policy period* and reported to the *insurer* as required by this policy.

At the sole option of the *policyholder*, the *insurer* will assume a duty to defend any *claim* made against an *insured* subject to General Provision 5.3- Defence and Settlement.

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

## 1. Insurance Covers

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### 1.1. Management Liability Cover

(i) Individuals

The *insurer* shall pay the *loss* of each *manager* resulting from any *claim* in connection with *management liability*.

(ii) Company reimbursement

The *insurer* shall pay on behalf of each *company* the *loss* of any *manager* resulting from any *claim* in connection with *management liability*.

(iii) Reinstatement Limit

The *insurer* shall pay a separate *reinstatement limit* on behalf of each of the *policyholder's board directors* for any *loss* that is not indemnified by the *company*. Cover shall only apply to *loss* that is not a related *claim* or circumstance as specified in Condition 5.2 - Related Claims and circumstances.

### 1.2. Corporate Liability Cover

(i) Corporate Liability

The *insurer* shall pay the *loss* of any *company* resulting from any *claim* in connection with *corporate liability*.

(ii) Company Pollution Condition Defence Costs

The *insurer* shall pay the *defence costs* of any *company* resulting from any *claim* in connection with a *pollution condition*.

(iii) Breach of Contract

The *insurer* shall pay the *defence costs* of any *company* resulting from any *claim* in connection with an alleged breach by any *company* of any express (written or oral) contract or agreement.

(iv) Liability to Third Parties Entities due to Employee Dishonesty or Fraud

The *insurer* shall pay the *defence costs* of any *company* resulting from any *claim* made against such *company* by a third party entity, where:

- a) such *claim* is in connection with any direct financial loss sustained by such third party; and

b) such direct financial loss directly arises in connection with any dishonest or fraudulent act committed by any *employee* of such *company* acting in collusion with any director, officer, governor, trustee or *employee* of such third party, with the intent to obtain improper personal financial gain for such *employee* or other person, to the deprivation of the third party entity.

(v) Pension Schemes

The *insurer* shall pay the *loss* of any *company* resulting from any *claim* in connection with any act, error or omission in connection with the operation, administration or sponsorship of any pension, profit sharing or *employee* benefits programme whose activities are not controlled by *pension trustees*. No cover shall apply for any *pension trustee liability*.

(vi) Identity fraud

If any party other than any *insured person* enters into any agreement with any third party entity fraudulently representing themselves as any *company*, then the *insurer* shall pay any reasonable fees, costs and expenses incurred by such *company* in establishing that such fraudulent misrepresentation has occurred, should the third party entity seek to enforce such agreement against such *company*.

(vii) Crisis Event

The *insurer* shall pay the *insured entity's* reasonable fees, costs and expenses of *public relations consultants* to mitigate the adverse effect or potential adverse effect on an *insured entity's* reputation with respect to a *crisis event*.

The Covers referred to in Sections 1.2 (ii) to 1.2 (vii) (inclusive) above shall be subject to the sub-limits referred to in item 5 of the schedule.

### 1.3. Employment Practices Liability Cover

(i) Employment Practices Liability

The *insurer* shall pay the *loss* of each *company* resulting from any *claim* in connection with *employment practices liability*.

(ii) Retention waiver

No *retention* shall apply under this policy with respect to any *claim* in connection with *employment practices liability* provided that:

- a) the *company* has a formal written grievance procedure in place; and
- b) with respect to the dispute which is the subject of the *claim*, the *company* has followed the advice of the *legal advice team* from the date the *company's* formal written grievance procedure is first invoked.

### 1.4. Pension Trustee Liability Cover

(i) Individual Pension trustees

The *insurer* shall pay the *loss* of each *pension trustee* resulting from any *claim* in connection with *pension trustee liability*.

(ii) Insured entity reimbursement

The *insurer* shall pay on behalf of each *insured entity* the *loss* of any *pension trustee* resulting from any *claim* in connection with *pension trustee liability*.

(iii) Exoneration

The *insurer* shall pay the *loss* of the *plan* resulting from any *claim* made against a *pension trustee* in connection with *pension trustee liability* for which the *plan* becomes liable solely and directly as the result of the operation of an *exoneration clause*.

(iv) Insured entity liability

The *insurer* shall pay the *loss* of each *insured entity* resulting from any *claim* in connection with *pension trustee liability*.

(v) Pension Ombudsman and Pension Regulator awards

The *insurer* shall pay the *loss* of each *pension trustee* where there is a finding of culpability against such *pension trustee* as determined by an *official body* solely and directly as a result of acts, errors or omissions committed by such *pension trustee*.

(vi) Contribution Notice

- a) The *insurer* shall pay the *loss* of each *pension trustee* in the event that a *contribution notice* is issued against such *pension trustee*, including the costs of challenging any *contribution notice*.
- b) In the event that a *pension trustee* issues legal proceedings challenging the reasonableness of a *contribution notice*, the *insurer* shall pay for *defence costs* of any *associated person* or *connected person*.

(vii) Loss of documents

If any *company*, *plan* or corporate trustee company shall sustain *loss* caused by loss of any *document* that is the property of the *pension trustee*, or for which the *pension trustee* is legally responsible and;

- a) such *document* is or is believed to be in the custody of the *pension trustee* or in the custody of any other person to whom such *document* has been entrusted, lodged or deposited by the *insured*; and
- b) in the course of business, such *document* has been destroyed, damaged, lost or mislaid; and
- c) such *loss* is first *discovered* during the *policy period* or any applicable *discovery period*,

then, the *insurer* will pay for reasonable fees, costs and expenses incurred by any *company*, *plan* or *corporate trustee* in replacing or restoring such *document* (excluding the value to the *insured* of the information or material contained in such *document*).

The Covers referred to in items 1.4(vi)(b) – *associated and connected persons contribution notices* and 1.4 (vii) – Loss of *documents* above shall be subject to the sub-limits referred to in item 5 of the schedule.

## 2. Extensions

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**Applicable to all covered *loss* under all Insurance Covers shown on the schedule as purchased (except Insurance Cover 1.5- Crime). Extensions of Cover shall not apply to any *insured entity* where only Insurance Cover 1.1 is purchased.**

### 2.1. Pre- Investigations and Investigations

The *insurer* shall pay the reasonable and necessary fees, costs and expenses of each *insured person* incurred directly with respect to:

- (i) any *pre-investigation*;
- (ii) preparing any written notice or reports to any *official body* in connection with any *pre-investigation*; and
- (iii) preparing for and attending an *investigation*;

except remuneration of any *insured person*, cost of their time or costs or overheads of any *insured entity*. Except with respect to Insurance Cover 1.4 – Pension Trustee Liability, all loss shall be paid under Insurance Cover 1.1-Management Liability.

## **2.2. Corporate Manslaughter**

- (i) The *insurer* shall pay the *loss* of any *insured* with respect to any proceeding brought against them for *corporate manslaughter* including under the Corporate Manslaughter and Homicide Act 2007.
- (ii) The *insurer* shall pay up to the amount referred to in item 5 of the schedule, for reasonable fees, costs and expenses of *public relations consultants* to provide *public relations services* in connection with *corporate manslaughter* proceedings, or the referral of the allegations of *corporate manslaughter* to the Crown Prosecution Service or any similar body in any jurisdiction.

Cover shall only apply to an *insured entity* where Insurance Cover 1.2- Corporate Liability Cover is purchased.

## **2.3. Bodily Injury and Property Damage Defence Costs**

The *insurer* shall pay the *defence costs* of each *insured* for any *claim* for *bodily injury and/or property damage*. With respect to *insured entities*, cover shall apply only where Insurance Cover 1.2 – Corporate Liability Cover is purchased, and shall be subject to the sub-limit specified in item 5 of the schedule.

## **2.4. Legal expenses policy**

Where any *insured* holds a *legal expenses policy* at the same time as this policy, which provides cover which is the same as any cover provided under this policy, such that the *insured* is covered for legal expenses under both this policy and the *legal expenses policy*, then the *insurer* shall pay such legal expenses on a primary basis on the condition precedent that prior to such payment, the *insured* has notified its *legal expenses policy* insurer in writing of its request for cover with respect to such legal expenses, and provides written evidence to the *insurer* of such notification.

## **2.5. Emergency costs**

If the *insurer's* written consent cannot reasonably be obtained before *defence costs* are incurred in respect of a *claim*, the *insurer* will give retrospective approval for such *defence costs* up to the amount referred to in item 5 of the schedule.

## **2.6. Civil Fines and Penalties**

The *insurer* shall pay any civil fine or penalty imposed upon an *insured person* by an *official body* as a direct result of such person acting in an *insured person* capacity unless that civil fine or penalty is uninsurable under the applicable law of the *claim*.

## **2.7. Discovery period**

The *policyholder* shall be entitled to a *discovery period*:

- (i) automatically of 90 days if this policy is not renewed or replaced with a similar policy; or

- (ii) as specified in item 9 of the schedule, subject to the *policyholder* making a request for such *discovery period* in writing and paying any additional premium required, no later than 30 days after the expiry of the *policy period*.

A *discovery period* is non-cancellable and shall not apply if a *transaction* occurs. However, upon written request of the *policyholder*, the *insurer* may quote a run-off *discovery period*. In considering such request, the *insurer* shall be entitled to fully underwrite the exposure and to extend such offer on whatever terms, conditions and limitations that the *insurer* reasonably deems appropriate.

## 2.8. Run-off for retired *insured persons*

The *insurer* will provide:

- (i) an unlimited *discovery period* for any *manager*; or
- (ii) a *discovery period* of twelve years for any *pension trustee*,

who retires or resigns prior to or during the *policy period*, other than by reason of a *transaction*; and provided that:

- a) the cover purchased under this policy is not renewed or replaced; or
- b) where the cover purchased under this policy is renewed or replaced, such renewal or replacement policy does not provide an extended discovery provision of at least 6 years for such person.

## 2.9. Extradition counselling, tax advisor costs and PR expenses

The *insurer* will pay up to the amount referred to in item 5 of the schedule, for the reasonable fees, costs and expenses incurred by any *insured person* for each of (i) and (ii) below:

- (i) accredited counsellor or tax advisor retained by an *insured person* approved by the *insurer*, directly in connection with extradition proceedings brought against such *insured person*; or
- (ii) *public relations consultants* to provide *public relations services* in connection with extradition proceedings.

## 2.10. Assets and Liberty costs

The *insurer* shall pay the reasonable fees, costs and expenses incurred by any *insured person* with respect to any *asset and liberty proceeding*.

## 2.11. Public relations expenses

The *insurer* shall pay up to the amount referred to in item 5 of the schedule, for reasonable fees, costs and expenses of *public relations consultants* to provide *public relations services* in connection with a covered *claim*, *pre-investigation* or *investigation*, where such *public relations expenses* are not otherwise specifically covered elsewhere in this policy.

## 2.12. Court Attendance

The *insurer* shall pay the following rates per day for each day on which attendance in a *court* by an *insured person* is required in connection with any covered *claim*, up to the amount referred to in item 5 of the schedule:

- (i) for any director or officer; *outside entity director*; or any *employee*; of an *insured entity* acting in a managerial or supervisory capacity: £300
- (ii) any other *insured person* not referred to in (i) above: £150

### 2.13. Access to free legal advice

The *insurer* has arranged for the following free legal advice to be provided during the *policy period*:

- (i) the *legal advice team* to provide to any *manager* or *company*: employment law, health and safety law and general commercial law advice under the relevant laws of the United Kingdom of Great Britain, Northern Ireland, Channel Islands and the Isle of Man only. Cover shall only be available where Insurance Covers 1.2 – Corporate Liability Cover and 1.3 – Employment Practices Liability Cover are purchased.
- (ii) the *pension advice team* to provide *pension trustee liability advice* to a *pension trustee* under the relevant laws of England and Wales only. Cover shall only be available where Insurance Cover 1.4-Pension Trustee Liability is purchased.

### 2.14. Confidential whistleblowing helpline

The *insurer* has arranged for the *whistleblowing helpline team* to make available during the *policy period* a *whistleblowing service*.

### 2.15. New subsidiary

If the *policyholder* during the *policy period*:

- (i) obtains either directly or indirectly, through one or more of its *subsidiaries*:
  - (a) control of the composition of the board of directors;
  - (b) control of more than half of the shareholder voting power; or
  - (c) a holding of more than half of the issued share capital;of any entity; or
- (ii) creates any entity,

then the term *subsidiary* will be extended to include that entity automatically, unless at the time of obtaining such control or holding or creation, the entity is:

- (i) incorporated or domiciled in the United States of America;
- (ii) has any of its *securities* listed on a securities exchange or market; or
- (iii) is situated in a country in which a *company* does not already hold a *subsidiary*.

## 3. Definitions

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In this policy the following words in italics shall have the definitions that follow:

### 3.1. *Asset and Liberty Proceeding*

Any proceeding brought against any *insured person* by any *official body* seeking:

- (i) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of an *insured person*;
- (ii) a charge over real property or personal assets of such *insured person*;
- (iii) a temporary or permanent prohibition on such *insured person* from holding the office of or performing the function of a director or officer;
- (iv) a restriction of such *insured person's* liberty to a specified domestic residence or an official detention;

- (v) deportation of an *insured person* following revocation of otherwise proper, current and valid immigration status for any reason other than such *insured person's* conviction of a crime.

### **3.2. Associated person**

Any natural person who is deemed an associated person as defined in Section 435 of the Insolvency Act 1986 and is joined as a party to legal proceedings challenging the reasonableness of a *contribution notice*.

### **3.3. Board director**

A director of the board of the *policyholder*.

### **3.4. Bodily Injury and/or Property Damage**

Bodily injury, sickness, disease, death or emotional distress of any natural person; or damage to, destruction, impairment or loss of use of any property.

### **3.5. Claim**

- (i) A written demand;
- (ii) A civil, regulatory, mediation, administrative or arbitration proceeding, including a counter-claim seeking compensation or other legal remedy;
- (iii) A criminal proceeding;  
for a specified act, error or omission.
- (iv) An extradition proceeding; or
- (v) An *asset and liberty proceeding*.

### **3.6. Company**

The *policyholder* or any *subsidiary*.

### **3.7. Connected person**

Any natural person who is deemed a connected person as defined in Section 249 of the Insolvency Act 1986 and is joined as a party to legal proceedings challenging the reasonableness of a *contribution notice*.

### **3.8. Contribution notice**

A notice issued by the Pensions Regulator as referred to in Section 38 of the Pensions Act 2004.

### **3.9. Corporate liability**

any liability arising from any actual or alleged act, error or omission of a *company*, except with respect to any *employment practices liability*.

### **3.10. Corporate Manslaughter**

A gross breach of duty of care causing the death of another person.

### **3.11. Continuity date**

The applicable date specified as such in Item 7 of the Schedule.

### **3.12. Court**

Any official court of law presided over by a judge or judges in which legal issues and *claims* are heard and determined (except a Tribunal).

### **3.13. Crisis event**

Any of the following unforeseen events occurring during the *policy period* where, in the reasonable opinion of the chief executive officer of the *policyholder*, the event has the potential to make a significant impact on the consolidated annual revenues or the reputation of the *company* if left unmanaged:

- (i) the sudden, unexpected death or disability of any director or officer;
- (ii) the criminal conviction of any director or officer;
- (iii) loss of a major customer, contract or credit facility;
- (iv) *employee* workplace violence;
- (v) the first apparent unauthorized intrusion into any *company's* computer facilities;
- (vi) a recall or boycott of any product;
- (vii) a man-made disaster;
- (viii) any criminal or fraud investigation; or
- (ix) any *claim*.

*Crisis event* does not include an event that affects the *company's* industry in general; rather than the *company*, specifically.

### **3.14. Defence costs**

- (i) Reasonable fees, costs and expenses incurred by or on behalf of an *insured* either as emergency costs under Extension 2.5 –Emergency Costs, or with the *insurer's* prior written consent (which shall not be unreasonably delayed or withheld), after a *claim* is made, directly in connection with its investigation, defence, settlement or appeal;
- (ii) Reasonable fees, costs and expenses of accredited experts retained through defence counsel to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in connection with the defence of a covered *claim*; or
- (iii) The reasonable premium for any appeal bond, attachment bond or similar bond.

### **3.15. Discovered**

when the *pension trustee* first becomes aware of facts which would cause a reasonable person to assume that loss or damage to *documents* covered by Insurance Cover 1.4.7- Loss of *Documents* has been sustained, even though the exact amount of details of the loss or damage may not then be known.

### **3.16. Discovery period**

A period immediately following expiry of the *policy period* during which written notice may be given to the *insurer* of a *claim* first made during such period or the *policy period*, with respect to an act, error or omission occurring prior to the expiry of the *policy period*.

### **3.17. Document**

Means all documents, in paper or electronic version (excluding any bearer bonds, coupons, bank or currency notes or any other negotiable instruments whether printed or reproduced by any other method) the property of the *pension trustee* or for which the *pension trustee* is legally responsible which relate to any *plan*.

### **3.18. Employee**

- (i) any natural person full-time, part-time, seasonal or temporary worker of any *company* who works under a contract of service with the *company*, whom such *company* has the right to govern and direct in the performance of such services, and whom the *company* compensates by way of salary, wages and/or commissions; or
- (ii) any natural person independent contractor or any natural person seconded to the *company*, if such individual is under the direction and supervision of the *company* and the *company* provides indemnification to such individual in the same manner as is provided to the *employees* referred to in (i).

### **3.19. Employment practices liability**

Any liability arising from any actual or alleged act, error or omission with respect to:

- (i) any employment of any past, present or future *employee* or *insured person* of any *company*;
- (ii) any prospective employment of any person; or
- (iii) any harassment of or discrimination against any natural person third party who is not an *employee*.

### **3.20. Employment-related benefits**

- (i) perquisites and fringe benefits;
- (ii) payments due under any employee benefit plan or pension scheme;
- (iii) stock or share options or any other right to purchase, acquire or sell stock or shares of any *company*; or
- (iv) incentive or deferred compensation.

### **3.21. Exoneration clause**

Any provision in the governing trust deeds or rules of a *plan* which relieves a *pension trustee* of the burden of blame, obligation, duty, responsibility or liability which, in the absence of such clause, would attach to that *pension trustee*.

### **3.22. Insured**

Any *insured entity* and/or *insured person*.

### **3.23. Insured entity**

Any *company* or *plan*

### **3.24. Insured person**

- (i) *manager*; or
- (ii) *pension trustee*.

### **3.25. Insurer**

AIG UK Limited.

### **3.26. Investigation**

Any hearing, examination or inquiry by an *official body* into the affairs of an *insured entity* or *outside entity*, or an *insured person* of such entity, once an *insured person* receives written documentation during the *policy period*:

- (i) requiring them to attend before or produce documents to the *official body*; or
- (ii) identifying them as a target in writing by an investigating *official body* as a target of the hearing, examination or inquiry.

An *investigation* shall be deemed to be first made when the *insured person* is first so required or so identified.

### **3.27. Legal advice team**

Any person or entity described in Item 9 of the schedule.

### **3.28. Legal expenses policy**

Any policy solely or primarily providing cover for legal expenses.

### **3.29. Limit of liability**

The sums specified at Item 4 of the schedule.

### **3.30. Loss**

Any amount which the *insured* is legally liable to pay resulting from a *claim* including *defence costs*, *pre-investigation costs*, *investigation costs*, awards of damages (including punitive and exemplary damages), awards of costs or settlements (including claimant's legal costs and expenses), pre- and post- judgment interest on a covered judgment or award, and the multiplied portion of multiple damages. Enforceability of this paragraph for punitive, exemplary and multiple damages shall be governed by such applicable law that most favours coverage for such damages. *Loss* includes any amount covered under any Extension applicable to the Insurance Cover purchased.

*Loss* shall not include:

- (i) any fines and penalties except to the extent covered under Extension 2.6-Civil Fines and Penalties;
- (ii) taxes;
- (iii) remuneration, cost of the time of any *insured person*, or costs or overheads of any *insured entity*, except with respect to Extension 2.12 - Court Attendance.
- (iv) amounts which are uninsurable under the applicable law of the *claim*; or
- (v) any sum payable pursuant to a financial support direction or contribution notice issued by the UK Pensions Regulator unless to the extent covered under Insurance Cover 1.4- *Pension Trustee Liability* if purchased.

Additionally, with respect to any *claim* in connection with *employment practices liability* only, *loss* shall not include:

- (vi) compensation payable in respect of contractual or statutory notice periods;
- (vii) *employment-related benefits*;

- (viii) any liability or costs incurred by any *insured* to modify any building or property in order to make the building or property more accessible or accommodating to a disabled person;
- (ix) any liability or costs incurred in connection with any educational, sensitivity or other corporate programme, policy or seminar relating to an *employment practice claim* or the costs of reinstatement of any *employee*.

### **3.31. Manager**

Any natural person who was, is or during the *policy period* becomes:

- (i) a director or officer of any *company*, but not an external auditor or insolvency office-holder of any *company*;
- (ii) an *employee* of any *company*;
- (iii) a *shadow director*;
- (iv) a de facto director; or
- (v) an *outside entity director*;

but only when and to the extent that such *manager* is acting for and on behalf of the *company* in any of the capacities referred to in (i) to (v) above.

(vi) *Manager* is extended to include:

- a) the spouse or domestic partner (including same sex relationship civil partnerships, if applicable); and
- b) the administrator, heirs, legal representatives, or executor of a deceased, incompetent insolvent or bankrupt estate

of the *manager* referred to in (i) to (v) above with respect to the acts, errors or omissions of such *manager*.

### **3.32. Management liability**

Any actual or alleged:

- (i) act, error or omission of any *manager* or arising solely because of any person's status as a *manager*; or
- (ii) *employment practices liability* of any *manager*.

*Management liability* also means with respect to shareholder derivative actions only, any proposed act, error or omission.

### **3.33. Official body**

Any regulator, disciplinary body, criminal authority, government body, government agency, official trade body, or any other body that is empowered by statute to investigate the affairs of an *insured*.

### **3.34. Outside entity**

Any entity, including any not for profit entity, but other than an entity that:

- (i) is a *subsidiary*;
- (ii) is incorporated or domiciled in the United States of America;
- (iii) is a bank, clearing house, credit institution, undertaking for collective investment in securities, investment firm, investment advisor/manager, investment fund or mutual

fund, private equity or venture capital company, stock brokerage firm, insurance company or similar entity; or

- (iv) has its *securities* listed on any *securities* exchange; unless listed by endorsement to this policy as an *outside entity*.

### **3.35. Outside entity director**

A natural person who did or does, or during the *policy period* begins to serve, at the specific request of any *company* as a *director, officer, trustee* (other than as a *pension trustee*), governor or equivalent of an *outside entity*.

### **3.36. Pension advice team**

Any person or entity described in Item 9 of the schedule.

### **3.37. Pension benefits**

Any obligation under a *plan* to a participant or beneficiary under a *plan* which is a payment of money or property, or the grant of a privilege or perquisite.

### **3.38. Pension trustee**

- (i) any natural person who was, now is or shall be:
  - a) a pension trustee or administrator of the *plan* or constructive trustee of the *plan*;
  - b) a director or officer or *employee* of a *company, plan* or corporate pension trustee company established to act as a pension trustee of the *plan*, but not an external auditor or insolvency office-holder; but solely while acting in the capacity as a pension trustee or administrator of any *plan*.
- (ii) any corporate pension trustee company established to act as a pension trustee or administrator of the *plan*
- (iii) any natural person who was, is or during the *policy period* becomes responsible for internal dispute resolution procedures of a *plan* as defined in section 50 of the Pensions Act 1995.

### **3.39. Pension trustee liability**

Any liability arising from any actual or alleged act, error or omission with respect to any *plan*; or arising solely because of any person's status as a *pension trustee*.

### **3.40. Pension trustee liability advice**

Confidential legal advice of up to one hour per enquiry deriving from the same or related facts with respect to:

- (i) pension legislation or regulation;
- (ii) a matter or circumstance that a *pension trustee* may reasonably expect to give rise to a covered or potentially covered *claim* in connection with *pension trustee liability*.

### **3.41. Plan**

- (i) any past, present or future employee benefit or welfare benefit plan; or
- (ii) any past or present pension plan;

established, administered or sponsored by the *company* for the sole benefit of its *employees*; or

- (iii) any pension, employee benefit or welfare benefit plan merged, transferred or terminated prior to or during the *policy period*;
- (iv) any pension, employee benefit or welfare benefit plan created or acquired by the *policyholder* during the *policy period*.

#### **3.42. Policyholder**

The organisation specified in Item 1 of the Schedule.

#### **3.43. Policy period**

The period from the inception date to the expiry date specified in Item 3 of the schedule.

#### **3.44. Pollutant**

any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including, but not limited to, asbestos, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste.

#### **3.45. Pollution condition**

any actual, alleged or threatened discharge, dispersal, release or escape of a *pollutant*; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *pollutants*, nuclear material or nuclear waste.

#### **3.46. Pre-Investigation**

- (i) raid or on-site visit to any *insured entity* by an *official body* first occurring during the *policy period* that involves the production, review, copying or confiscation of records or interviews of any *insured person*; or
- (ii) any formal notification by any *insured entity* to an *official body* first given during the *policy period* where the *insured entity* reasonably considers that:
  - a) a material breach of the *insured entity's* legal or regulatory duty has occurred, may have occurred or may occur in the foreseeable future; or
  - b) an event has occurred which the *insured entity* reasonably considers is an event of which the *official body* expects notice as set out in the *official body's* rules and regulations.

#### **3.47. Public relations consultants**

Public relations consultants approved by the *insurer* retained by an *insured*

#### **3.48. Public relations services**

Services provided by the *public relations consultants* directly to mitigate the adverse effect or potential adverse effect on an *insured person's* reputation.

#### **3.49. Reinstatement limit**

The amount specified in item 6 of the Schedule that is available for any *loss* when the original *limit of liability* has been exhausted.

### **3.50. Retention**

The sum specified in Item 4 of the Schedule.

### **3.51. Security**

Any security representing debt of or equity interests in any *company*.

### **3.52. Senior Counsel**

A senior lawyer to be mutually agreed upon by the parties, or in the absence of agreement, to be appointed by the head of the bar association/law society (or equivalent organisation) in the jurisdiction in which the *loss* was incurred.

### **3.53. Shadow director**

Any natural person, who, as a consequence of being a director, officer or *employee* of any *company*, is deemed a shadow director, as defined in Section 250 of the Companies Act 2006, of any other company.

### **3.54. Subsidiary**

An entity:

- (i) which does not have its *securities* listed on any securities exchange; and
- (ii) in which the *policyholder* either directly or indirectly through one or more other entities:
  - a) controls the composition of the board of directors; or
  - b) controls more than half of the shareholder voting power

on or before the inception date of this policy.

Cover for any *subsidiary* or any *insured persons* of such *subsidiary* shall only apply for acts, errors or omissions committed or occurring whilst such entity is a *subsidiary*.

### **3.55. Transaction**

Any one of the following events:

- (i) the *policyholder* consolidates with or merges into (such that the *policyholder* is no longer the parent company), or sells all or substantially all of its assets to, any other person or entity or group of persons and/or entities acting in concert; or
- (ii) any person or entity, whether individually or collectively with any other person or persons, entity or entities becomes entitled to exercise more than 50% of the rights to vote at general meetings of the *policyholder* or control the appointment of directors who are able to exercise a majority of votes at meetings of the board of directors of the *policyholder*; or
- (iii) any *company* lists its *securities* on any *securities* exchange.

### **3.56. US Claim**

A *claim* brought or maintained within the jurisdiction of, or based upon any laws of, the United States of America, its territories or possessions.

### **3.57. Whistleblowing helpline team**

The person or entity referred to in item 9 of the schedule

### **3.58. Whistleblowing services**

Services providing advice and guidance on the actions to be taken in the event of any suspected act, error or omission by any *manager* of any *company*

## **4. Exclusions**

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### **Exclusions Applicable to all Insurance Covers**

The *insurer* shall not be liable for *loss*:

#### **4.1. Conduct**

arising out of, based upon or attributable to:

- (i) the gaining of profit or advantage to which the *insured* was not legally entitled; or
- (ii) the committing of any deliberate dishonest or fraudulent act,

in the event that any of the above is established by final adjudication by a judicial or arbitral tribunal or any formal written admission by the *insured*.

#### **4.2. Prior claims and circumstances**

arising out of, based upon or attributable to:

- (i) facts alleged or the same or related acts, errors or omissions alleged or contained in any *claim* which has been reported or in any circumstances of which notice has been given under any policy of which this policy is a renewal or replacement or which it may succeed in time; or
- (ii) any pending or prior civil, criminal, administrative or regulatory proceeding, investigation, arbitration or adjudication as of the *continuity date*, or alleging or deriving from the same or essentially the same facts as alleged in such actions.

#### **4.3. Bodily Injury and/or Property Damage**

in connection with any *claim* made for *bodily injury and/or property damage*. This exclusion shall not apply to:

- (i) any *claim* for emotional distress with respect to *employment practices liability* or *pension trustee liability*; or
- (ii) Extension 2.3- *Bodily Injury & Property Damage Defence Costs*.

#### **4.4. US Claims brought by Insureds**

arising out of, based upon or attributable to any *US claim* which is brought by or on behalf of any:

- (i) *insured*; or
- (ii) *outside entity* in which such *insured person* serves or served as an *outside entity director*.

This Exclusion shall not apply to:

- (iii) any *claim* against any *insured person*:
  - a) for any *employment practice violation* brought by any *insured person*;
  - b) pursued by an *insured person* for contribution or indemnity, if the *claim* directly results from another *claim* otherwise covered by this policy;

- c) pursued by any past director or officer or *employee* of any *company* or *outside entity*; or
  - d) pursued by an insolvency administrator, receiver or trustee or liquidator of any *company* or *outside entity* either directly or derivatively on behalf of a *company* or *outside entity*; or
- (iv) *defence costs* of any *insured person*.

## **Exclusions Applicable to Sections 1.2 – Corporate Liability and 1.3- Employment Practices Liability only**

The *insurer* shall not be liable for *loss*:

### **4.5. Pollution**

arising out of, based upon or attributable to the actual, alleged or threatened discharge, dispersal, release or escape of, or records concerning, *pollutants*; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *pollutants*; This exclusion shall not apply to *Corporate Liability* Insurance Cover 1.2 (ii)- *Company Pollution Defence Costs* if purchased.

### **4.6. Intellectual Property Rights**

in connection with any *claim* made for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights.

### **4.7. Anti-competitive practices**

in connection with any *claim* made for any actual or alleged violation of any law, whether statutory, regulatory or common law, with respect to any of the following activities: anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationships.

### **4.8. Employment practices liability**

with respect to *Corporate Liability* Insurance Cover 1.2 only, any *claim* arising out of, based upon or attributable to *employment practices liability*.

### **4.9. Professional services**

in connection with any *claim* made for rendering or failure to render any service or advice to a customer or client of the *insured*;

### **4.10. Benefits**

arising out of, based upon or attributable to any obligation pursuant to any workers' compensation, disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, retirement benefits, social security benefits, pension benefits or any similar law or obligation whatsoever. This exclusion shall not apply to *Corporate Liability* Insurance Cover 1.2 (v) –Pension Schemes if purchased.

### **4.11. Contract**

arising out of, based upon or attributable to any liability of any *company* under any express oral or written contract or agreement. This exclusion shall not apply to any *company* liability that would have attached in the absence of such contract, any *claim* in connection with *employment practices liability* and *Corporate Liability* Insurance Cover 1.2 (iii) – *Company Breach of Contract* if purchased.

#### **4.12. Proceedings seeking fines or penalties**

in connection with any *claim* seeking fines or penalties or non-monetary relief against any *insured entity*; provided that this exclusion shall not apply to:

- (i) *securities claims*; or
- (ii) *claims* by any regulatory authority with respect to:
  - a) health and safety legislation;
  - b) *corporate manslaughter*; or
  - c) *employment practices liability*.

#### **Exclusions Applicable to only Section 4 –*Pension trustee Liability***

The *insurer* shall not be liable for *loss*:

#### **4.13. Failure to fund a *plan***

in connection with any *claim* made for failure to fund a *plan* in accordance with the *plan* trust document or instrument or the failure to collect contributions owed to the *plan*. This exclusion shall not apply to *defence costs* and *Pension Trustee Liability* Insurance Cover 1.4 (vi) *Contribution Notice* if purchased.

#### **4.14. *Pension Benefits***

which constitutes *pension benefits*, or that portion of any settlement or award in an amount equal to such *pension benefits*, unless and to the extent that recovery of such *pension benefits* is based solely upon a covered *pension trustee liability* and is payable as a personal obligation of a *pension trustee*.

#### **4.15. ERISA**

arising out of, based upon or attributable to any *plan*, fund or programme subject to regulation under Title 1 of the Employee Retirement Income Security Act of 1974 (USA), as amended, or any part thereof, or meets the requirements for qualification under Section 401 of the Internal Revenue Code of 1986 (USA), as amended.

## **5. Claims**

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The following Provisions apply to all purchased Insurance Covers:

#### **5.1. Reporting a claim and circumstances**

The Covers provided under this policy are granted solely with respect to any:

- (i) *Claim, pre-investigation, investigation* or other event covered in the Extensions that is reported to the *insurer* as soon as practicable after the *policyholder's* Finance Director, Risk Manager or General Counsel first becomes aware of such *claim, pre-investigation* or *investigation*, but in all events no later than:
  - a) during the *policy period* or *discovery period*; or
  - b) within 90 days after the end of the *policy period* or *discovery period* as long as notice is given to the *insurer* within 90 days after such *claim* was first made against the *insured*.

Any *insured* may, during the *policy period*, notify the *insurer* of any circumstance reasonably expected to give rise to a *claim*. The notice must include the reasons for anticipating that *claim* and full relevant particulars as to dates, acts and the potential *insured* and claimant concerned.

All notifications relating to *claims* or circumstances must be in writing to:

Financial Lines Claims  
AIG UK Limited  
2-8 Altyre Road  
Croydon CR9 2LG.

or by facsimile to + 44 020 8680 7321.

or by email to Claims.Privateedge@aig.com

## **5.2. Related claims and circumstances**

If notice of a *claim*, or circumstance is given as required by this policy, then any subsequent *claim*, alleging, arising out of, based upon or attributable to the facts or acts, errors or omissions alleged in that *claim* or described in that circumstance, shall be deemed to have first been made at the same time as that *claim* was first made, and reported to the *insurer* on the date the required notices were first provided.

Any *claim* arising out of, based upon or attributable to any *claim* or series of *claims* arising out of, based upon or attributable to continuous, repeated or related acts, errors or omissions, whether or not committed by more than one *insured* and whether directed to or affecting one or more person or entity, shall be considered a single *claim* for the purposes of this policy.

## **5.3. Defence and settlement**

The *insured* shall have the obligation to defend and contest any *claim* made against them. The *insurer* shall be entitled to participate fully in the defence and in the negotiation of any settlement that involves or appears reasonably likely to involve the *insurer*. In the event of any *claim*, each *insured* shall take reasonable steps to reduce or diminish any *loss*.

Notwithstanding the foregoing, the *insured* shall have the right to tender the defence of the *claim* to the *insurer*, which right shall be exercised in writing by the *policyholder* solely on behalf of all *insureds*. This right shall terminate if not exercised within 30 days of the date the *claim* is first made against an *insured*. The *insurer* shall confirm the assumption of the defence of such *claim* to the *policyholder* in writing. Pending such acceptance by the *insurer*, the *insureds* shall take no action, or fail to take any required action, that prejudices the rights of any *insured* or *insurer* with respect to such *claim*. The *insurer* shall be obligated to assume the defence of such *claim* provided the *insureds* have complied with the foregoing. The *insurer* shall have no obligation to continue to defend such *claim* once the *limit of liability* has been exhausted.

All *insureds* shall at their own cost, render all reasonable assistance to and cooperate with the *insurer* in the investigation, defence, settlement or appeal of a *claim* or circumstance, and provide the *insurer* with all relevant information pertaining to any *claim* or circumstance, as the *insurer* may reasonably require. The *insurer* will accept as necessary the retention of separate legal representation to the extent required by a material conflict of interest between any *insureds*.

If a *claim* is made against an *insured person* by the *company* or *outside entity*, the *insurer* shall have no duty or obligation to communicate with any other *insured person* or the *company* in relation to that *claim*.

Only those settlements, judgments, and covered costs and expenses which have been consented to by the *insurer* (which shall not be unreasonably withheld) shall be payable as *loss* under this policy.

The applicable *insured* or *policyholder* shall reimburse the *insurer* for any payments which are ultimately determined not to be covered by this policy.

#### **5.4. Allocation**

The *insurer* will be liable only for *loss* derived exclusively from a covered *claim*. If a *claim* involves both covered and uncovered matters or persons under this policy, then the *insured entity* or *insured person*, and the *insurer* shall determine a fair and equitable allocation of *loss* covered under this policy on the basis of established judicial allocation principles which take into account the legal and financial exposures, and the relative benefits obtained by the relevant parties.

If the *insurer* and the *insured entity* or *insured person* cannot agree on allocation in accordance with this clause within 14 days, then they agree to refer the determination to a *Senior Counsel*, whose decision shall be final and binding on all parties. The relevant *insured* and the *insurer* shall be entitled to make written submissions to *Senior Counsel*.

#### **5.5. Payment of costs**

Where the *insurer* has not assumed the defence of a *claim* in accordance with Condition 5.3-Defence and Settlement, the *insurer* shall advance all *defence costs* and all other covered costs and expenses, within 21 days after sufficiently detailed invoices for those costs are received and accepted for payment by the *insurer*.

#### **5.6. Subrogation**

In the event of any payment under this policy, the *insurer* shall be subrogated to the extent of such payment to all of the *insureds'* rights of recovery, contribution and indemnity and the *insured* will provide all reasonable assistance and will do nothing to prejudice such rights. The *insurer* will not exercise its rights of subrogation against an *insured person* in connection with a *claim*, unless it can establish that Exclusion 4.1 - Conduct, applies to that *claim* and that *insured person*. With respect to Extension 2.4-Legal expenses policy, the *insurer* shall be entitled to the relevant *insured's* rights of recovery under the *legal expenses policy* against the *legal expenses policy* insurer immediately upon any payment under this policy, and shall provide and execute all documentation requested by the *insurer*.

## **6. Limit & Retention**

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### **6.1. Limit of liability**

There shall be a separate aggregate *limit of liability* applying under this policy to each of the Insurance Covers specified in the schedule respectively which are purchased. Each *limit of liability* is the aggregate limit of the *insurer's* liability with respect to all *loss* arising under such Insurance Cover, other than with respect to Insurance Cover 1.1 (iii) – *Reinstatement Limit*, which is excess of the *limit of liability* for Insurance Cover 1.1 for any *claim* that is not a related *claim* or circumstance as specified in Condition 5.2 - Related Claims and circumstances. The *insurer* shall have no further liability in excess of all such limits, irrespective of the number of *insureds* or amount of any *loss*, including with respect to any *claim* specified in Section 5.2- Related *claims* and circumstances.

Extensions of Cover only apply to *loss* covered under the Insurance Covers purchased. Cover shall not be available to any *insured entity* under any Insurance Cover or Extension where only Insurance Cover 1.1 *Management Liability Cover*, is purchased. Where a sub-limit of liability applies to any Insurance Cover or Extension, then such sub-limit is the most the *insurer* will pay in the aggregate under this policy as *loss* irrespective of the number of Insurance Covers purchased.

## 6.2. Retention

No *retention* shall be borne by an *insured person*. The *insurer* shall only pay the amount of any *loss* which is in excess of any applicable *retention* shown on the Schedule.

A single *retention* shall apply to all *loss* arising from any *claim, pre-investigation* or *investigation* specified in Section 5.2- Related *claims* and circumstances.

Where a *retention* applies, if any *insured entity* is legally permitted or required to indemnify an *insured person* but fails to do so within 30 days, for reasons other than insolvency, then the *insurer* shall advance to such *insured person* all *loss* within the *retention* which will be repaid by the *company* to the *insurer* as soon as reasonably practicable.

In the event that an *insured person* becomes legally obligated to repay to an *insured entity* monies advanced by the *insured entity* on account of any *claim*, by reason of sections 234(3) and 205 of the UK Companies Act 2006, the *insurer* agrees to pay such amount to the *insured entity* on behalf of the *insured person* promptly upon notification by the *policyholder* to the *insurer* of such *insured person's* obligation to repay.

*Retention waiver*: Where a *retention* is payable with respect to any *claim* under any Insurance Cover purchased under this policy, the *insurer* shall waive payment of such *retention*, or shall refund any *retention* monies paid, where, with respect to such *claim*, there is:

- (i) final adjudication by a judicial or arbitral tribunal of no liability in favour of all *insureds* against whom such *claim* is made; or
- (ii) a complete and final settlement exonerating all *insureds* from liability,

and which does not impose the payment of any monies or any other obligations on any such *insured*.

## 7. General Provisions

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### 7.1. Non-avoidance

This policy is not avoidable or rescindable in whole or in part with respect to any *insured person*, and the *insurer* shall have no other remedy, with respect to any pre-inception misrepresentation or pre-inception non-disclosure by any *insured person* in connection with this policy, except with respect to any fraudulent misrepresentation or fraudulent non-disclosure, where established by final adjudication of a judicial or arbitral tribunal, or any formal written admission by or on behalf of any *insured person*.

### 7.2. Cancellation

This policy may not be cancelled except for non-payment of the premium by the *policyholder*.

### 7.3. Severable nature of the policy

This policy is a severable policy covering each *insured* for their own individual interest.

With respect to Exclusion 4.1- Conduct, and the contents of any proposal form or declaration submitted, or statements, warranties and representations made to the *insurer* in connection with this policy, or any policy of which this policy is a renewal or replacement :

- (i) with respect to any *insured person*: no statements made by or on behalf of an *insured person*, or information or knowledge possessed by an *insured person*; nor any act, error or omission of an *insured person*, shall be imputed to any other *insured person*, for the purpose of determining whether any *insured person* is covered under this policy;
- (ii) with respect to any *insured entity*: only the statements and knowledge of any Chief Executive Officer, Chief Operating Officer, Chief Financial Officer or Chief Legal Officer/General Counsel of the *policyholder*, or any person who signed the declaration or proposal form in connection with this policy or any policy of which this policy is a renewal or replacement; will be imputed to all *insured entities*.

#### **7.4. Other insurance and indemnification**

This policy shall always apply excess over any other valid and collectible insurance available to the *insured*, except with respect Extension 2.4- *Legal expenses policy*.

With respect to *outside entities*, insurance provided by this policy applies excess over (i) any indemnification provided by an *outside entity*, and (ii) any other collectible insurance issued to an *outside entity* for the benefit of its directors, officers, or employees

#### **7.5. Changes in Risk**

The *insurer* shall not be liable for *loss* arising out of, based upon or attributable to any act, error or omission committed after the effective date of a *transaction*.

Cover shall only apply to an *insured* for any covered acts, errors or omissions occurring after that date on which such *insured* became a covered *insured*. Cover for any *plan* that was transferred, spun-off or terminated prior to or during the *policy period* shall only apply to covered acts, errors or omissions occurring prior to the date such *plan* was transferred, spun-off or terminated.

#### **7.6. Disputes**

Except as otherwise specifically provided in this policy, any dispute regarding any aspect of this policy or any matter relating to cover thereunder which cannot be resolved by agreement within 30 days, may be referred, to binding arbitration by either party, upon giving 7 days notice to the other, in the London Court of International Arbitration (LCIA), whose rules shall be deemed incorporated by reference to this clause, and the cost shall be borne equally between the parties.

#### **7.7. Notice and authority**

The *policyholder* shall act on behalf of its *subsidiaries* and each and every *insured* with respect to the giving of notice of *claim*, the payment of premiums and the receiving of any return premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy and the exercising or declining of any right to a *discovery period*.

#### **7.8. Assignment**

This policy nor any right hereunder may be assigned without the prior written consent of the *insurer*.

## **7.9. Governing law**

Any interpretation of this policy or issue relating to its construction, validity or operation shall be determined by the laws of England and Wales.

## **7.10. Contracts (Rights of Third Parties) Act 1999**

Nothing in this policy is intended to confer a directly enforceable benefit on any third party other than a *company* or *insured person*, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

## **7.11. Headings and Titles and Other References**

The descriptions in the headings and titles of this policy are solely for reference and convenience and do not lend any meaning to this policy. Words and expressions in the singular shall include the plural and vice versa. In this policy, wordings in italics typeface shall have special meaning and are defined. Words that are not specifically defined in this policy have the meaning normally attributed to them. References to legislation shall be those of England and Wales, unless otherwise specified, and shall include any subsequent amendments or re-enactments thereof and the equivalent legislation in other jurisdictions. All references to titles and positions shall mean the equivalent in other jurisdictions. A reference herein to "this policy" shall mean a reference only to those Insurance Covers stated herein which are shown on the schedule as purchased.

## **7.12. Complaints**

Every effort is made to ensure you receive a high standard of service. If you are not satisfied with the service you have received, you should contact:-

Customer Relations Manager  
AIG UK Limited  
2-8 Altyre Road  
Croydon  
CR9 2LG

e-mail: [uk.customer.relations@aig.com](mailto:uk.customer.relations@aig.com)

To help us to deal with your comments quickly, please quote your policy or *claim* number and name of the *policyholder*.

We will do our best to resolve any difficulty directly with you, but if we are unable to do this to your satisfaction you may be entitled to refer the dispute to the Financial Ombudsman Service who will review your case and who may be contacted at:

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London  
E14 9SR

e-mail: <mailto:complaint.info@financial-ombudsman.org.uk>, [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk), or telephone 0845 080 1800.