

Directors & Officers Section

Definitions

Claim

- a) Any written demand or written allegation of a **Wrongful Act** against any **Insured Person**; or
- b) any civil or criminal suits or proceedings against an **Insured Person**; or
- c) any regulatory or administrative proceedings or any other official investigation into the conduct of an **Insured Person**.
- d) Any regulatory or administrative proceedings into the conduct of the **Company** only in so far as it relates to an alleged **Wrongful Act** by an **Insured Person**.

It is understood that any number of **Claims** against the **Insured Person** which arise out of or are attributable to or connected in any way with a single **Wrongful Act** or a series of the same, related or continuous **Wrongful Acts** which arise from a common set of facts shall constitute a single **Claim** for the purposes of this Section.

Company

The organisation named as **The Insured** in the **Schedule**, including any **Not-For-Profit** organisation associated with the **Company**.

Defence Costs

- a) All legal expenses, including disbursements, reasonably incurred by or on behalf of an **Insured Person** with the prior written consent of the **Insurer**, which shall not be unreasonably withheld, in the investigation, defence and settlement of **Claims** and or appeals therefrom.
- b) External consultants' costs incurred in the mitigation of any potential **Claim** which may arise out of allegations of a **Wrongful Act**, subject to the prior written consent of the **Insurer**.

Defence Costs shall not include overhead or benefit expenses associated with salaries, wages and fees of an **Insured Person**.

Insured Person

Any natural person who was, is or who becomes during the **Period of Insurance**:

- a) a director or officer of the **Company** (or the equivalent in any other jurisdiction);
- b) a shadow director of the **Company** as defined in S.741(2) of the Companies Act 1985 (or the equivalent legislation in any other jurisdiction except the United States of America, its territories or possessions and any state or political subdivision thereof);
- c) a director of an **Outside Entity** who has been specifically asked to become a director of that entity by the **Company**;
- d) the lawful spouse (which will include same sex relationships which are recognised by law in the parties' country of domicile) of any **Insured Person** where recovery is sought solely because joint property is held or owned by or on behalf of the spouse. There is no cover for any **Claim** that alleges a **Wrongful Act** by the spouse;
- e) the legal representatives, heirs, assigns or estates of the above mentioned in the event of their death, incapacity, insolvency or bankruptcy;
- f) an employee of the **Company** who carries out a managerial or supervisory function for the **Company**;
- g) an employee of the **Company** who is joined as a party to any action against any person defined in a) to f) above;

For the avoidance of any doubt **Insured Person** shall not include external auditors appointed in accordance with S.384 of the Companies Act 1985 or any similar or applicable legislation in any other jurisdiction.

Employment Practice Liability

Any actual or alleged:

- a) Unfair or wrongful dismissal, termination or discharge of employment, either actual or constructive;
 - b) harassment;
 - c) discrimination;
 - d) retaliation, including lockouts;
 - e) employment related misrepresentations to an employee or applicant for employment;
 - f) employment related humiliation, defamation or invasion of privacy;
 - g) wrongful failure to employ or promote;
 - h) wrongful deprivation of career opportunity;
 - i) any other **Claim** pursuant to the Employment Rights Act 1996 relating to any past, present or prospective employee.
- solely relating to employees of or applicants for employment with the **Company**.

Limit of Liability

The amount stated as the Limit of Liability in the **Schedule**.

Loss

Any sums which an **Insured Person** is legally liable to pay for a **Wrongful Act**.

Loss includes **Defence Costs**.

Loss shall not include fines, penalties, punitive or exemplary damages or any damages constituting the multiplication of a lesser damages sum or, taxes or any matters which are or may be deemed uninsurable under English Law provided that **Loss** shall include any exemplary damages which an **Insured Person** may be legally liable to pay in respect of that part of any **Wrongful Act** which consists of any defamatory publication.

Notification

Written notice of any **Claim** or circumstances which may give rise to a **Claim** given to the **Insurer** within the **Period of Insurance** or during the **Extended Discovery Period** by an **Insured Person**, to the address specified in Section Conditions 1. Claims Reporting Condition Precedent.

Not-For-Profit

An organisation, whether incorporated or not, which is formed solely for charitable, social, community or industry purposes and not for the purpose of making profits or gain to its individual members or constituent parts.

Outside Entity

Any organisation, association, or entity during any time in which the **Company** owns, on or after the inception date of the **Period of Insurance**, between 10% and 50% of the issued and outstanding shares representing the right to vote for the election of such **Outside Entity's** directors, PROVIDED THAT the **Outside Entity** shall not include:

- a) any organisation, association or entity incorporated, domiciled, resident or is listed or traded on an exchange in the United States of America or Canada; or
- b) any financial institution (including any bank, depository institution, investment company, securities broker, dealer or underwriter, asset manager or insurance company)

other than such organisation, association, entity or financial institution which has with the express written consent of the **Insurer** been listed by **Clause** to this Section.

Pollutants

Any substance, solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals, air emissions, odour, waste water, oil, oil products, medical waste, asbestos or asbestos products, fungus, mycota or by-products, lead or lead containing products and waste materials. Waste materials include but are not limited to recycled, reconditioned or reclaimed materials.

Securities

Any of the following issued by the **Company**:

- a) Bonds, debentures, evidence of indebtedness, notes, shares, stocks or other equity or debt security: and
- b) Certificates of interest or participation in, receipts for, warrants or other rights to subscribe to or purchase, voting trust certificates relating to, certificates of deposits for, or other documentary evidence of interest in any of the securities referred to (a) above.

Subsidiary

Any company as defined by Section 736 of the Companies Act 1985 or any re-enactment thereof, or the equivalent legislation in any other jurisdiction.

Wrongful Act

Any actual or alleged misrepresentation, misstatement, misleading statement, defamation, negligence, breach of warranty of authority or breach of duty or any other act by an **Insured Person** acting solely in their capacity as such. **Wrongful Act** includes actual or alleged **Employment Practice Liability**.

Cover

A Directors & Officers Coverage

The **Insurer** will pay on behalf of any **Insured Person** any **Loss** arising from any **Claim** first made against them during the **Period of Insurance** for any **Wrongful Act** committed by them in their capacity as an **Insured Person** except to the extent the **Company** has indemnified any such **Insured Person** in respect of such **Loss**.

B Company Reimbursement Coverage

The **Insurer** will pay on behalf of the **Company** any **Loss** arising from any **Claim** first made against any **Insured Person** during the **Period of Insurance** for any **Wrongful Act** committed by such **Insured Person** in their capacity as an **Insured Person** to the extent the **Company** has indemnified the individual concerned in respect of such **Loss**.

C Pollution Defence Costs

The **Insurer** will pay **Defence Costs** only in respect of claims arising from or attributable to

- i) the actual, alleged or threatened discharge, disposal, release or escape of **Pollutants** into or upon land, the atmosphere or any water course or body of water, whether such discharge, dispersal, release or escape is intentional or accidental or
- ii) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralise **Pollutants**

PROVIDED THAT:

- a) the incident(s) giving rise to the **Claim** occurred outside the territorial jurisdiction of Canada or the United States of America, its territories and possessions and any state or political subdivision thereof and
- b) the proceedings in respect of the **Claim** are brought or maintained entirely outside of Canada or the United States of America, its territories and possessions and any state or political subdivision thereof.

Limit of Liability

The **Limit of Liability** of the **Insurer** shall mean the total aggregate limit of the **Insurer's** liability in respect of all **Loss** and any other sums payable hereunder.

The **Limit of Liability** that the **Insurer** shall be liable to pay in respect of **Defence Costs** in relation to **Cover C Pollution Defence Costs** is limited to the amount stated as the **Pollution Defence Costs Limit** stated in the **Schedule**. This amount shall be part of and not in addition to the aggregate **Limit of Liability** of the **Insurer**.

The **Limit of Liability** of the **Insured Person** shall mean the amount of **Loss** after deduction of the **Excess** applicable.

Exclusions

The **Insurer** shall not be liable for **Loss** on account of any:

1. **Claims** arising from, based on, related or attributable to, associated with or alleging the same facts as any **Wrongful Acts** which are the subject of:-
 - a) any **Claims** or circumstances notified to any policy which incepted prior to the inception of this Section; or
 - b) any proceedings which existed or were pending at the **Prior/Pending Litigation Date** or the **Pollution Defence Prior/Pending Litigation Date** stated in the **Schedule**.
2. **Claims** arising from or attributable to any actual or alleged violation of the responsibilities, obligations or duties imposed by any retirement or pension legislation anywhere in the world, including but not limited to the UK Pensions Act 1995 and the Employee Retirement Income Security Act of 1974 (USA) and any amendments thereto or any act or omission in the capacity of a trustee or administrator of any trust fund, pension scheme, profit sharing scheme or employee benefit scheme or any deficiency in the assets of any such trust fund or scheme or any failure to comply with any requirement imposed by any regulator in relation to such a trust fund or scheme or any warranty, statement or representation made in relation to any such trust fund or scheme.
3. **Claims** arising from or attributable to:
 - a) any act or omission committed with the knowledge that it was in breach of any statute, contract, duty or other legal obligation; or recklessness as to whether it was in such breach or
 - b) an **Insured Person** gaining any personal profit, remuneration or advantage to which they were not legally entitled.

This exclusion shall only apply if the act, omission profit, remuneration or advantage is established by a court, tribunal, or by admission.
4. **Claims** for bodily injury, sickness, mental anguish or emotional distress or disturbance, disease or death of any person howsoever caused or damage to or destruction of any tangible property, including loss of use thereof except for and to the extent that in relation to **Employment Practice Liability** only this exclusion shall not apply to **Claims** for or in respect of mental anguish or emotional distress or disturbance.
5. **Claims** arising from or attributable to bodily injury, sickness, disease, death, damage to or destruction of any tangible property, including loss of use arising therefrom resulting from the hazardous properties of radioactive or nuclear material or of any radioactive or nuclear facility.
6. **Claims** arising from or attributable to:
 - a) the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any water course or body of water, whether such discharge, dispersal, release or escape is intentional or accidental; or
 - b) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**.

Other than in respect of **Defence Costs** only as provided for by **Cover C Pollution Defence Costs**.

7. **Claims** which are made by or on behalf of or at the instigation of the **Company** or by or on behalf of or at the instigation of any **Insured Person** except:-
 - a) any **Claim** by an **Insured Person** alleging an **Employment Practice Liability**
 - b) any **Claim** brought or maintained by a liquidator, receiver, administrative receiver or the equivalent in any other jurisdiction, either directly or on behalf of the **Company**, without the instigation, assistance or participation of any **Insured Person** or the **Company**;
 - c) any **Claim** brought or maintained by an **Insured Person** for contribution or indemnity if the **Claim** directly results from another **Claim** covered under this Section;
 - d) any shareholder derivative action brought by or maintained on behalf of the **Company** by any legally empowered entity or person, which is brought without the solicitation, assistance or participation or co-operation of any **Insured Person**.

8. **Claims** which are made by or on behalf of or at the instigation of the **Outside Entity** except:-
 - a) any **Claim** for contribution or indemnity if the **Claim** directly results from another **Claim** covered under this Section;
 - b) any shareholder derivative action brought by and maintained independently of and without the solicitation, assistance or participation of any **Company**, **Insured Person** or **Outside Entity**.

9. **Claims** arising from or attributable to or in consequence of or in any way involving the sale or offer for sale or allocation of **Securities** or any shares of any private company or corporation including, but not limited to, an initial public offering, secondary offering or a private placement PROVIDED THAT this exclusion shall not apply to any such sale or offer for sale which the **Insurer** may in writing agree in advance.

10. **Claims** alleging, arising out of, based upon or attributable to the **Company** or an **Insured Person's** performance of or failure to perform professional services for others, or any act, error, or omission relating thereto.
PROVIDED however that the foregoing exclusion shall not be applicable to any derivative or shareholder class action against the **Insured Person** alleging failure to supervise those who performed or failed to perform such professional services.

Extensions

1. Extended Discovery Period

If either the **Company** or the **Insurer** fail to renew this Section, for whatever reason other than non-payment of premium or following the provisions of Section Conditions 7. Termination / Cancellation the **Company** shall have the right to purchase an extended discovery period of 12 months PROVIDED THAT:

- a) written notice of the required extended discovery period option is given to the **Insurer** within 30 days of the expiry of the **Period of Insurance**;
- b) the cover granted by the extended discovery period shall only afford protection in respect of **Wrongful Acts** committed or alleged to have been committed prior to the expiry of the **Period of Insurance**;
- c) this Section is not replaced or succeeded by any other policy affording directors and officers liability cover;
- d) any **Claim** made during the extended discovery period shall be considered made during the **Period of Insurance**.

The offer by the **Insurer** of renewal terms, conditions, limits of liability or premium different from those of the expiring Section shall not constitute a refusal to renew.

The additional premium for a 12 months extended discovery period is 95% of the annual Section premium.

Section Conditions

1. Claim Reporting Condition Precedent

An **Insured Person** shall, as a condition precedent to the **Insurer's** liability under this Section, provide **Notification** as soon as practicable and in any event within 30 days after the date a **Claim** was first made against an **Insured Person** and within the **Period of Insurance** or Extended Discovery Period (if applicable).

2. Claim Defence and Settlement

- a) In respect of any **Claim** under this Section the **Insurer** will pay **Defence Costs** on behalf of the **Insured Person** on an as incurred basis prior to final disposition or adjudication. If at any time a **Claim** is withdrawn or deemed not to be covered under this Section or is found to be excluded under this Section then all such **Defence Costs** must be returned to the **Insurer** on demand.
- b) It shall be the duty of the **Insured Person** to defend **Claims**.
- c) Any lawyers or other advisers from whom advice is to be taken shall be approved by the **Insurer** prior to their appointment. Such approval shall not be unreasonably withheld.
- d) The **Insured Person** shall not admit liability for or settle any **Claim** without the written consent of the **Insurer**, such consent not to be unreasonably withheld. The **Insurer** will not be liable for any settlement, agreement or assumed obligation to which it has not consented in writing.
- e) The **Insured Person** shall assert all appropriate defences and cross claims for contribution, indemnity or damages and shall co-operate fully with the **Insurer** and/or its legal representative in the conduct of the defence.
- f) The **Insured Person** shall at their own cost and in a timely fashion provide all information and assistance reasonably required to allow any **Claim** to be effectively investigated, defended and/or resolved.

3. Automatic Acquisition

If during the **Period of Insurance** the **Company** acquires, directly or indirectly through any **Subsidiary**, a controlling interest in another company and that other company:

- a) has total assets that exceed 40% of the value of the **Company's** consolidated assets immediately prior to the date of acquisition, or
- b) has any of its securities listed on any exchange in the United States of America its territories and possessions and any state or political subdivision, or
- c) has revenues or assets exceeding US\$5,000,000 in the USA or Canada

then the **Company** shall provide the **Insurer** with full information in respect of the said company and agree to any additional premium and/or amendment to the provisions requested by the **Insurer** to obtain cover under this Section for said company.

4. Subsidiary Cover

Coverage with respect to **Claims** made against an **Insured Person** shall only apply to **Wrongful Acts** committed or allegedly committed after the effective date that a **Subsidiary** became a **Subsidiary** and prior to the date such **Subsidiary** ceased to be a **Subsidiary**.

5. Allocation

If an **Insured Person** incurs **Loss** in respect of a **Claim** which includes both covered and non covered matters or which is made against both covered and non covered parties then the **Insured Person** and the **Insurer** shall use their best efforts to agree upon a fair and proper allocation of the proportion of the **Loss** covered hereunder, having regard to the relative legal and financial exposures. Only **Loss** incurred by an **Insured Person** and in the case of **Defence Costs** directly attributable to the defence of an **Insured Person** is covered hereunder. **Loss** incurred by or attributable to the defence of the **Company** itself is not covered.

If an allocation cannot be agreed between the **Insured Person** and the **Insurer**, then the parties agree that such allocation shall be determined, having regard to the relative legal and financial exposures, by a Queens Counsel to be mutually agreed upon, or in default of agreement, to be nominated by the then Chairperson of the Bar Council. Such QC shall act as an expert and not an arbitrator and his or her determination shall be based upon the written submissions of the parties and will be final and binding on the parties. There shall be no obligation on the QC to provide reasons unless specifically requested by the **Insured Person** and the **Insurer**.

The costs of any reference to expert determination under this clause shall be borne equally by both the **Insured Person** seeking the determination and the **Insurer**.

6. **Merger / Acquisition Clause**

It is agreed that if the **Company** is merged, consolidated with or acquired by another entity, or entities acting in concert, who have ownership or controlling interest of 50% or more of the share capital or outstanding securities representing the right to vote for the election of board members this Section shall only apply to **Wrongful Acts** committed prior to the effective date of such transaction.

7. **Termination / Cancellation**

- a) Provided there has been no **Notification** under this Section, the **Insured** may cancel this Section by giving notice in writing to the **Insurer** at any time.
- b) In the event of non-payment of premium the **Insurer** may cancel this Section by giving 30 days written notice to the **Insured**.
- c) This Section shall terminate at the expiration of the **Period of Insurance**.
- d) This Section may be cancelled in writing by mutual agreement of the **Insured** and the **Insurer**.

8. **Liability Exoneration Clause**

If an **Insured Person** refuses to consent to any settlement recommendation by the **Insurer** and elects to contest the **Claim**, then the **Insurer's** liability for the **Claim** shall not exceed the amount for which the **Claim** could have been settled, including **Defence Costs** up to the date of the **Insured Person's** refusal to consent.

9. **Other Insurance**

This Section shall apply only in excess of any other valid insurance, other than insurance written as specific excess insurance over the **Limit of Liability** provided in this Section. In the event that such other insurance is provided by the **Insurer** or any other member of the ALLIANZ-AG Group (or would be provided but for the application of a deductible or excess or the exhaustion of the **Limit of Liability** or the failure to submit notification or otherwise comply with the terms and conditions of such other insurance), the **Limit of Liability** shall be reduced by the limit of liability specified in the schedule of such other insurance.

10. **Assignment of Policy**

This Section and any rights hereunder cannot be assigned without the written consent of the **Insurer**.

11. **Severability of Exclusions**

For the purposes of determining the application of the **Exclusions**, no fact pertaining to or knowledge possessed by one **Insured Person** shall be imputed to any other **Insured Person**.

12. **Severability of Proposal**

The Proposal for this insurance shall be construed as a separate Proposal by each **Insured Person**. With respect to the declarations and statements contained in the Proposal, no statement in the Proposal or knowledge possessed by any one **Insured Person** shall be imputed to any other **Insured Person** for the purpose of determining the availability of coverage with respect to **Claims** against that other **Insured Person**.

13. **Subrogation and Assignment of Rights**

In the event of payment under this Section, the **Insurer** shall be subrogated to all of the **Insured Person's** rights of recovery in respect of such payment. In addition, the **Insured Person** shall execute all and any documentation and do any other things as may be necessary to enable the **Insurer** to bring an action or suit in the name of the **Insurer** or the **Insured Person**. Any recovery received shall first be applied against any payment made by the **Insurer** with any balance remaining thereafter being remitted to the **Insured Person**.

14. Singular and Plural / Masculine and Feminine

Any reference to the singular shall include the plural and vice versa.

Any reference to the masculine shall include the feminine and vice versa.

15. Authorisation of the Company

The **Company** shall act as agent on behalf of the **Insured Person** in respect of all matters of any nature relating to or affecting this Section. The **Insurer** shall be entitled to treat the **Company** as having such authority for all purposes connected with this Section.

16. Contracts (Rights of Third Parties) Act 1999

Notwithstanding the provision of the Contracts (Rights of Third Parties) Act 1999, and for the avoidance of doubt:-

- a) This insurance is not intended to and accordingly does not confer any enforceable rights upon any third party, whether or not an interest of such third party or parties is acknowledged by the **Insurer**.
- b) The parties to this insurance shall be entitled to rescind or vary such without the consent of any third party, whether or not an interest of such third party or parties is acknowledged by the **Insurer**.
- c) In the event of proceedings by a third party against the **Insurer** for an enforcement of a term of this insurance the **Insurer** shall have available to it the option of any defence or set off which would have been available if the proceedings had been brought by an **Insured Person**.

17. Declarations

It is understood and agreed that the statements and declarations made by the **Insured Person(s)** and the **Company** to the **Insurer** have been relied upon by the **Insurer** and are the basis of this Section and shall be deemed to be incorporated into and constitute part of this Section.