



**INSURANCE POLICY**

# **Management Liability Portfolio**

Please read this document carefully.  
Should you have any questions, please contact your insurance agent.

# Policy Information

This Policy has been prepared in accordance with Your instructions. Please read it carefully to ensure that it meets Your requirements.

This Policy consists of

1. the introduction which explains the basis on which cover is provided;
2. the Schedule which shows details of the Policyholder Period of Insurance the Business being covered the Property or Events insured Limits of Liability and certain amounts You will be responsible for and details of which Sections are operative;
3. the Statement of Fact which is a record of the information that You provided to Your insurance agent about You and Your Business upon which Your insurance quotation is based;
4. Policy Definitions and Conditions;
5. the Sections of the Policy which give details of the cover;
6. General Exceptions to cover applying to the whole Policy;
7. Any Endorsements or Warranties which might apply to the Policy or individual Sections and which incorporate cover amendments extensions limitations and the like.

Immediate notice should be given to Us of any changes which may affect the insurance provided by this Policy.

Alterations in the cover required after the issue of the Policy will be confirmed by a separate Endorsement and/or Schedule and/or Statement of Fact which You should file with Your Policy. You should refer to the Schedule and Statement of Fact and Endorsement(s) and the Policy to ascertain precise details of cover currently in force.

## Our Promise to You

Our goal is to provide excellent customer service to all Our customers but we recognise that sometimes things may go wrong. We take complaints seriously and aim to resolve all of Our customers problems promptly.

If this cover does not meet with Your requirements please return all of Your documents and any Employers Liability Certificate(s) to Your insurance agent who has arranged the cover within 14 days of receipt. We will return any premium paid in full.

If You wish to terminate the cover at any other time please contact Your insurance agent who arranged it and any return premium will be at the discretion of Arista Insurance.

## Making a Claim

To report or make a claim follow the instructions provided in the General Conditions – Claims Procedure

### **To make a management liability claim**

For policyholders who have elected the Management Liability Section to register a claim You should email Hiscox Claims using [hisliability.claims@hiscox.com](mailto:hisliability.claims@hiscox.com) or phone them on 01206 773783 They provide Our claims service and are authorised to handle and settle claims on Our behalf

If You have a need to seek additional assistance please contact Your insurance agent

## How to Complain

If You have any enquiry or complaint arising from Your Policy please contact Your insurance agent who arranged the Policy for You or the local Arista Insurance office quoting the Policy number in all cases

If You are not satisfied with the way in which a complaint has been dealt with please write to

The Chief Executive

Arista Insurance Limited

40 Mitre Street, London EC3A 5BZ

After this action if You are still not satisfied with the way a complaint has been dealt with You should do the following

If Your Underwriter is at Lloyd's You may ask the Policyholder and Market Assistance department at Lloyd's to review Your case (this would not affect Your rights to take legal action if necessary) The address is

Policyholder and Market Assistance,

Market Services,

Lloyd's

Fidentia House

Waler Burke Way

Chatham Maritime

Kent ME4 4RN

Telephone: 020 7327 5693

Fax: 020 7327 5225

Email: [complaints@lloyds.com](mailto:complaints@lloyds.com)

Having followed this procedure for Lloyd's Underwriters or if Your Underwriter is not at Lloyd's Your complaint may also be referred to the Financial Ombudsman Service (FOS) The address is

Financial Ombudsman Service

Exchange Tower, London E14 9SR

[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

Telephone: 0800 023 4567/ 0300 123 9 123

Fax: 020 7964 1001

Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

Financial Services Compensation Scheme

The Underwriters are members of the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we are unable to meet our liabilities under this insurance. This depends on the type of business and the circumstances of the claim. Such claims are protected for 90% without any upper limit. For compulsory classes of insurance the claim will be met in full. Further information about the compensation scheme arrangements is available from FSCS. Information can be obtained on request, or by visiting the FSCS website at [www.fscs.org.uk](http://www.fscs.org.uk)

# Important Information

## Data Protection

We may use the details You have given to provide You with a quotation deal with Your Policy to search credit reference agencies who may keep a record of the search to support the development of Our business by including Your details in customer surveys and for market research and compliance business reviews

We share Your details with those companies who are underwriting Your Policy with approved organisations for fraud prevention purposes and with companies where We are legally obliged to do so

We may also share Your details with third parties so that we may tell You of products and services which we think may interest You by telephone email or post If You do not want to know about these products or services please write to Arista Insurance Limited 40 Mitre Street, London EC3A 5BZ

Under the Data Protection Act We can only discuss the details given with You If You would like anyone else to act on Your behalf please let Us know Your details will not be kept longer than is necessary

Under the terms of the Data Protection Act 1998 You are entitled to a copy of all information Arista Insurance holds about You

Your personal details may be transferred to countries outside the EEA They will at all times be held securely and handled with the utmost care in accordance with all principles of UK law

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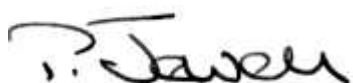
# The Contract of Insurance and the Underwriters

This Policy is underwritten by Hiscox Insurance Company Limited (FCA Register No 113849) authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (hereinafter called the 'Underwriters') and is administered by Arista Insurance Limited in accordance with the authority granted under binding authority agreement(s)

In consideration of payment of the premium the Underwriter under this contract agrees to indemnify You within the limits terms conditions and exceptions of this Policy against the events set out in the sections operative and occurring in connection with the Business during the Period of Insurance and any subsequent period for which You pay and the Underwriter agrees to accept a premium

Although reference is made at various points in this clause to "this contract" in the singular where circumstances so require this should be read as a reference to contracts in the plural

You have provided information to Us which includes but is not limited to the information detailed in the Statement of Fact You agree that all information provided to Us is true and is incorporated in and forms the basis of this Policy



Signed for and on behalf of the Underwriters

Paul Jewell - Chief Underwriting Officer

Arista Insurance is Registered in England and Wales No 5938669

Registered office: Towergate House, Eclipse Park, Sittingbourne Road, Maidstone, Kent ME14 3EN

**This Policy is a legal contract You must tell Us about any facts or changes which affect Your insurance which have occurred either since Your Policy started or since the last renewal date**  
**If You are not sure whether certain facts are relevant please ask Your insurance agent or the local Arista Insurance branch If You do not tell Us of relevant changes Your Policy may not be valid or the Policy may not cover You fully**  
**You should keep a written record (including copies of letters) of any information You give Us or Your insurance agent when You renew this Policy**

Arista Insurance Limited (FRN 459593) an appointed representative of Towergate Underwriting Group Limited FCA Register Number 313250, authorised and regulated by the Financial Conduct Authority.

You can check this information on the Financial Conduct Authority register by visiting the FCA's website [www.fca.org.uk/register](http://www.fca.org.uk/register) or by contacting the Financial Conduct Authority on 0800 111 6768. Information relating to the Prudential Regulation Authority can be found at [www.bankofengland.co.uk/pru](http://www.bankofengland.co.uk/pru)

# General Definitions

Each time We use one of the words or phrases listed below it will have the same meaning wherever it appears in Your Policy unless We state otherwise. A defined word or phrase will start with a capital letter each time it appears in the Policy except for headings and titles.

Each Section of the Policy contains definitions which apply to that particular Section and they must be read in conjunction with the following General Definitions.

## **We/Us/Our**

The Underwriters as set out in the section of the Policy headed The Contract of Insurance and the Underwriters.

## **You/Your/Policyholder**

The person(s) or Company shown in the Schedule as the Policyholder.

## **Asbestos risks**

1. The mining processing manufacturing use testing ownership sale or removal of asbestos asbestos fibres or material containing asbestos or
2. exposure to asbestos asbestos fibres or materials containing asbestos or
3. the provision of instructions recommendations notices warnings supervision or advice given or which should have been given in connection with asbestos asbestos fibres or structures or materials containing asbestos

## **Business**

Activities directly connected with the Business described in the Statement of Fact and specified in the Schedule.

## **Endorsement**

A change to the terms of the Policy.

## **Employee**

1. Any person under a contract of service with You
2. Any independent person seconded to You
3. Any applicant or candidate for employment with You

## **Excess**

The first amount of each and every claim for which you shall be responsible as shown in the Schedule and where applicable as more particularly defined in the relevant sub section of this Policy.

## **Geographical Limits**

The geographical area shown in the Schedule and Statement of Fact.

## **Period of Insurance**

The period shown in the Schedule for which We accept Your Premium.

## **Policy**

This Policy Schedule Statement of Fact Employers Liability Certificate and any Endorsements attached or issued.

## **Schedule**

The Schedule for the time being in force showing the cover which applies.



**Statement of Fact**

This is a record of the information that You provided to Your insurance agent upon which Your insurance quotation is based

## General Conditions

Each Section of the Policy contains conditions and must be read in conjunction with the following General Conditions which apply to all Sections unless otherwise stated

General Condition Reasonable Care and Premium Payment and the Claims Procedure Condition and the conditions shown in each section under the heading Your Obligations are all conditions precedent to Our liability. We will not make any payment under this Policy unless You comply with all the requirements of those conditions

**Aggregate Limit**

Where this Policy specifies an aggregate limit this means Our maximum payment for all relevant claims or losses covered under the Policy during the Period of Insurance

If the Period of Insurance is continuous the aggregate limit will apply to all relevant claims or losses covered under the Policy during the 12 months from the date the continuous cover starts. Each aggregate limit will be reinstated to the level shown in the Schedule at each anniversary

**Arbitration**

Any dispute arising out of or relating to this insurance including over its construction application or validity will be referred to a single arbitrator in accordance with the Arbitration Act then in force

**Basis of Insurance**

All information which You or anyone on Your behalf provided before We agreed to insure You is incorporated into and forms the basis of this Policy

All facts and matters that might be relevant to Our consideration of Your proposal must be disclosed and all material representations made to Us must be true otherwise We are entitled to treat this insurance as if it never existed

**Cancellation**

You may cancel the insurance by giving us 30 days' notice in writing of your intention to do so and paying the appropriate administration fee.

We may cancel the insurance by giving you 30 days' notice in writing of our intention to do so.

In both cases, we will return to you the amount of premium which relates to the unexpired period minus a reasonable administration charge provided that no claims have been notified under the insurance. If a claim or claims have been notified, then we will only return any premium if we (and not you) are cancelling the policy.

You or We may cancel the Policy by giving 30 days' written notice. We will refund a proportionate part of the premium paid for the unexpired period

If the premium has not been paid or if there has been a default under an instalment or linked credit agreement this insurance will cease immediately and We will not refund any instalment paid

**Change in Circumstances**

You must tell Us as soon as reasonably possible of any change in circumstances during the Period of Insurance which may materially affect this Policy (a material fact or circumstance is one which might affect Our decisions to provide insurance or the conditions of that insurance) We may then change the terms and conditions of this Policy

**Choice of Law and Jurisdiction**

In the absence of agreement to the contrary this Policy shall be governed by and construed in accordance with the laws of England and Wales Any dispute relating to limits terms conditions and exceptions or validity of this Policy shall be subject to the jurisdiction of the courts of England and Wales

**Claims Procedure**

If in relation to any claim You have failed to fulfil any of the following conditions You will lose Your right to indemnity or payment for that claim

We will not make any payment under this Policy unless You

1. give Us prompt notice of anything which is likely to give rise to a claim under this Policy in accordance with the terms of each section
2. give Us at Your expense any information which We may reasonably require and co-operate fully in the investigation of any claim under this Policy
3. make every effort to minimise any loss damage or liability and take appropriate emergency measures immediately if they are required to reduce any claim
4. give Us all assistance which We may reasonably require to pursue recovery of amounts We may become liable to pay under this Policy in Your name but at Our expense

**Contribution**

This Policy does not cover any loss or claim where you would be entitled to be paid under any other insurance if this policy did not exist

**Contracts (Rights of Third Parties) Act 1999**

A person or company who was not a party to this Policy has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Policy but this does not affect any right or remedy of a third party which exists or is available apart from that Act

**Fraud**

If a claim made by You or anyone acting on Your behalf to obtain a benefit under this Policy is in any respect fraudulent or uses fraudulent means or devices or intentionally exaggerates or a false declaration or statement is made in support of a claim all benefit under this Policy shall be forfeited

**Multiple Insureds**

The most We will pay is the relevant amount shown in the Schedule

If more than one insured is named in the Schedule the total We will pay will not exceed the amount We would be liable to pay to any one of You

You agree that the insured named in the Schedule or if there is more than one insured named in the Schedule the first of them is authorised to receive all notices and agree any amendments to the Policy

**Premium Payment**

We will not make any payment under this Policy unless You have paid the premium

**Reasonable Care**

You must ensure that You

1. take all reasonable care to prevent or minimise any circumstances or to cease any activity which may cause Damage accident or Injury
2. maintain the business premises machinery equipment and furnishings in a good state of repair
3. exercise care in the selection and supervision of Employees
4. comply with all relevant statutory requirements manufacturers recommendations and other regulations relating to the use inspection and safety of property and the safety of persons
5. make good or remedy any defect or danger which becomes apparent and take such additional precautions as the circumstances may require

**Sanction Limitation and Exclusion**

We shall not be liable to pay any claim or provide any benefit under any insurance cover or extension to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

# Directors and Officers' Liability Including Company Reimbursement Section

This Section is only operative if specified in the Schedule

## Special Definitions

The following Definitions apply to this Section and shall keep the same meaning wherever they appear in this Section they should also be read in conjunction with the General Definitions at the start of the Policy

### Bail Costs

Costs incurred with Our prior written agreement to pay for a bond or other financial instrument to guarantee an Insured Person's bail or equivalent in any other jurisdiction

### Claim

Any written demand or civil criminal regulatory or arbitration proceeding first made against an Insured Person during the Period of Insurance seeking monetary damages or other legal relief or penalty alleging a Wrongful Act

Any Extradition Proceeding made against an Insured Person during the Period of Insurance

### Defence Costs

Costs incurred with Our prior written agreement to investigate settle or defend any Claim made against an Insured Person or to fund an appeal including any premium paid for an appeal bond or similar bond obtained in relation to it arising from any judgment decision or award in relation to any Claim

### Employment Claim

Any Claim by any Employee for any actual or alleged wrongful unfair or constructive dismissal discharge or termination of employment breach of written or implied contract employment related misrepresentation wrongful deprivation of a career opportunity failure to grant tenure negligent employee evaluation harassment unlawful discrimination failure to provide adequate employee procedures and policies retaliation defamation invasion of privacy arising solely as a result of the employment or non-employment by You of any current former or prospective Employee

### Extradition Proceeding

Any proceeding commenced under the provisions of the United Kingdom Extradition Act 2003 or its equivalent in any other jurisdiction including any associated appeals

### Health and Safety/Manslaughter Claim

Any Claim against any Insured Person alleging involuntary constructive or gross negligence manslaughter or any Claim under the provisions of the Health & Safety at Work etc. Act 1974 or its equivalent in any other jurisdiction

### Insured Person

1. Any natural person who was is or during the Period of Insurance becomes a director partner member or officer of You
2. Any de facto director of You whilst acting in such capacity for You
3. Any shadow director as defined under Section 250 of the Companies Act 2006 or equivalent legislation in any other jurisdiction
4. Any Employee of You
5. The lawful spouse civil or unmarried partner of any person above solely because of their spousal civil or unmarried partner relationship following a Claim against that person
6. The estates heirs or legal representatives of any person above who has died or become incapacitated insolvent or bankrupt but only for a Claim against that person

**Investigation**

An official examination official enquiry or official investigation into Your business activities conducted by any Regulator Government Department or other body legally empowered

Investigation does not include routine regulatory supervision enquiry or compliance review any internal investigation or any investigation into the business activities of Your industry which is not solely related to Your or any Insured Person's conduct

**Legal Representation Costs**

Reasonable and necessary legal costs fees charges and expenses for which any Insured Person is legally liable incurred with Our prior written consent (not including remuneration of any Insured Person or other additional costs of Yours) for legal representation directly in relation to an investigation

**Loss**

In respect of a claim the amount any Insured Person becomes legally liable to pay for Defence Costs Legal Representation Costs awards of damages including punitive and exemplary damages where legally permissible awards of costs including claimants legal costs and expenses and settlements with Our prior written agreement

Loss does not include any civil regulatory or criminal fines or penalties taxes remuneration or employment related benefits punitive and exemplary damages in relation to an Employment Claim or the multiplied portion of any damages award unless awarded for defamation

**Outside Entity**

Any organisation other than You

1. that is tax exempt and not for profit or
2. in which You hold any issued share

other than:

- a. any company registered outside of the United Kingdom of Great Britain and Northern Ireland the Channel Islands the Isle of Man or the Republic of Ireland or
- b. any company traded on any recognised stock exchange or
- c. any bank investment company investment advisor or manager hedge or mutual fund private equity or venture capital company stock brokerage insurer or similar organisation

**Pollutant**

Any contaminant irritant or other substance including but not limited to asbestos lead smoke vapour water oil oil products dust fibres soot fumes acids alkalis chemicals waste (including materials that have been or are intended to be recycled reconditioned or reclaimed)

**Pollution**

Actual alleged or threatened discharge seepage treatment removal disposal dispersal emission release or escape of any Pollutant or any regulatory order direction or request to test for monitor remove contain treat detoxify or neutralise any Pollutant

**Prior and pending litigation date**

The date stated as the prior and pending litigation date in the Schedule

**Securities**

Any debt or equity interest in You

**Subsidiary**

Any entity in which You

1. own directly or through one or more of Your subsidiaries more than 50% of the share capital or a majority of the voting rights or have the right to appoint or remove a majority of the entity's board of directors or
2. control a majority of its voting rights under a written agreement with other shareholders or members

If an entity ceases to be a Subsidiary during the Period of Insurance cover will continue but only for a Claim against You or an Insured Person arising from a Wrongful Act committed before it ceased to be a Subsidiary

### **Wrongful Act**

Any actual or alleged act error or omission committed or attempted by an Insured Person arising from the performance of the Insured Person's duties solely in their capacity as Your director officer or Employee including

1. breach of any duty including fiduciary or statutory duty
2. breach of trust
3. negligence negligent misstatement misleading statement or negligent misrepresentation
4. defamation
5. wrongful trading under section 214 of the Insolvency Act 1986 (or equivalent legislation)
6. breach of warranty of authority
7. any other act error or omission attempted or allegedly committed or attempted by an Insured Person solely because of their status as a director officer or Employee of You

### **You/Your**

Also includes a Subsidiary and any Subsidiary created or acquired during the Period of Insurance provided that the newly created or acquired Subsidiary

1. is not domiciled in the United States of America
2. does not trade any of its Securities on any United States of America exchange

but only for a Claim against an Insured Person arising from a Wrongful Act committed after the date of creation or acquisition of such Subsidiary

If You require cover for any newly created or acquired Subsidiaries which do not fall within the above parameters We will consider providing cover subject to You providing all appropriate information We shall be entitled to amend the terms and conditions of this section during the Period of Insurance and may charge a reasonable additional premium

## **Cover**

### **Claims against an Insured Person**

We will pay on behalf of any Insured Person the Loss arising from a Claim against any Insured Person for any Wrongful Act within the Geographical Limits

### **Company Reimbursement**

We will pay on Your behalf the Loss which You are legally obliged or permitted to pay on behalf of an Insured Person arising from a Claim against an Insured Person for a Wrongful Act within the Geographical Limits You must pay the relevant Excess shown in the Schedule

If You are permitted or obliged to provide such payment but fail to do so for any reason other than Your insolvency We will pay the amount of the Claim less the relevant Excess regardless of whether You advanced payment or indemnified an Insured Person for such Loss

### **Health and Safety/Manslaughter**

We will pay on Your behalf Loss which you are legally obliged or permitted to pay on behalf of an Insured Person arising from a Health and Safety/Manslaughter Claim or equivalent legislation in any other jurisdiction against an Insured Person for a Wrongful Act within the Geographical Limits You must pay the relevant Excess shown in the Schedule

**Extradition Proceedings**

We will pay on Your behalf the loss arising from any Extradition Proceeding against any Insured Person during the Period of Insurance

**Employment**

We will pay on behalf of any Insured Person the Loss arising from an Employment Claim during the Period of Insurance brought by a current former or potential Employee of Yours

This cover does not apply if the Insured Person is covered under the Employment Practices Liability Section of this Policy

**Outside Entity Cover**

We will also indemnify the Insured Person against the sums that person has to pay as Loss for a Claim arising directly from any Wrongful Act the Insured Person commits in their capacity as a director or officer of an Outside Entity provided that the Insured Person acts in that capacity at Your specific written request and the Claim does not arise from a Wrongful Act committed after the Insured Person ceased to act in this capacity. However We will only pay in excess of any indemnity provided by the Outside Entity to its directors or officers and any other insurance available to its directors and officers

**Pension/Employee Benefit Schemes Claims**

We will pay on behalf of any Insured Person the Loss in respect of a Claim arising from an Insured Person's operation or administration of any pension or employee benefit scheme or trust fund of Yours

**Pollution Claims**

We will pay on behalf of any Insured Person the Loss in respect of a Claim arising from Pollution

**Representation Costs**

1. We will pay on behalf of any Insured Person the Legal Representation Costs arising from an Investigation first notified as being required during the Period of Insurance
2. We will pay on Your behalf the Legal Representation Costs arising from an Investigation against an Insured Person which You are legally obliged or permitted to pay on behalf of the Insured Person first notified as being required during the Period of Insurance

**Bail Costs**

We will pay on behalf of any Insured Person Bail Costs arising from a Claim against an Insured Person for a Wrongful Act within the Geographical Limits.

The limit provided under this cover shall be 10% of the total limit shown on the Schedule or £250,000 whichever is the lesser. This limit shall form part of the total aggregate limit for this Section shown in the Schedule

**Additional Defence Costs**

In the event that the limit of indemnity for this Section is exhausted We will pay for additional Defence Costs up to £250,000 in the aggregate provided that the Insured Person has previously not been the subject of a Claim for a Wrongful Act or series of Wrongful Acts that led to the exhaustion of the limit of indemnity for this Section.

This additional cover applies to the payment of Defence Costs only

## Exceptions

We will not make any payment for any Claim Loss or Investigation

**1 - Deliberate or dishonest acts**

Based upon attributable to or arising out of

- a. a dishonest or fraudulent act or omission or any intentional breach of any statute or regulation committed by any Insured Person
- b. an act intended to secure or which does secure a personal profit or advantage to which any Insured Person was not legally entitled
- c. an act intended to secure or which does secure a profit for any other company where an Insured Person is a director officer or employee of such company

This exception will only apply after a judgment or other final adjudication or an admission by an Insured Person that such act did occur. We may request that an opinion be obtained from a mutually agreed Queens Counsel or equivalent in a different jurisdiction as to the prospects of a court finding that such act did occur. This exception shall apply if Counsel is of the opinion that there are no reasonable prospects of the court finding that such act did not occur. Such opinion will be binding on Us and the Insured Person. The costs of such opinion shall be met by Us.

## **2 - Prior Claims Investigations and circumstances**

Based upon attributable to or arising out of any Claim Investigation or circumstance which You were aware of or that has been reported under any policy existing or expired prior to the start of the Period of Insurance.

## **3 - Prior litigation**

Based upon attributable to or arising out of any prior or pending litigation or proceedings including allegations deriving from the same or essentially the same facts involving an Insured Person You or an Outside Entity initiated prior to the date shown under the Prior and Pending Litigation Date in the Schedule.

## **4 - Defined Benefit Pension Schemes**

Based upon attributable to or arising out of an Insured Person's operation or administration of any defined benefit pension scheme or their breach of any legislation or regulation relating to these activities.

## **5 - RICO/SEC/ERISA**

Based upon attributable to or arising out of the following legislation in the United States of America:

- a. any breach of the Racketeer Influenced and Corrupt Organisations Act 18 USC Sections 1961 et seq any amendments to this Act or any rules or regulations made under it
- b. any breach of the Securities Act of 1933 or the Securities Exchange Act of 1934 both as amended the rules or regulations of the Securities Exchange Commission under either or both Acts similar securities laws or regulations of any state or any laws of any state relating to any transaction arising out of involving or relating to the sale of securities
- c. any breach of the Employment Retirement Income Security Act of 1974 as amended or any rules or regulations made under it or similar provisions of any federal state or local law

## **6 – Matters Insurable Elsewhere**

- a. For mental or emotional distress (except an Employment Claim) sickness disease bodily injury or death suffered by anyone or the loss damage or destruction of any tangible property including loss of use of such property.  
This exception shall not apply to any Health and Safety/Manslaughter Claim.
- b. Based upon attributable to or arising out of the use of any mechanically propelled vehicle for which compulsory insurance is required under any legislation.  
This exception does not apply to Legal Representation Costs or Defence Costs directly relating to any criminal or regulatory proceedings.

## **7 - Claims brought by a related party in the United States of America**

Based upon attributable to or arising out of any claim brought or maintained by You an Outside Entity or an Insured Person within or subject to the laws of the United States of America however this exception will not apply to

- 1. Defence Costs



2. any shareholder derivative proceedings in Your name without Your or any Insured Person's solicitation assistance or participation
3. any Claim brought by Your liquidator receiver or administrative receiver or similar body
4. any Employment Claim
5. any Claim made by a past Insured Person of You
6. any Claim seeking a contribution or indemnity if such claim is otherwise covered by this Section

### **8 - Breach of professional duty**

Based upon attributable to or arising out of any Claim relating to a breach of or failure to provide professional duties or services

This exception will not apply to a Claim by any of Your shareholders including any shareholder derivative proceedings in Your name without Your or any Insured Person's voluntary solicitation assistance or participation arising from any actual or alleged failure to supervise the performance of any professional services

### **9 - Shareholders**

Brought by or on behalf of anyone holding 15% or more of Your issued share capital

### **10 - Takeovers and mergers**

Based upon attributable to or arising out of any Claim for a Wrongful Act committed by an Insured Person after You merge or consolidate with another company or any party acquires more than 50% of your issued share capital

In the event of a Subsidiary ceasing during the Period of Insurance to be a Subsidiary cover under this Section shall be amended to apply solely to Loss arising out of any Claim for a Wrongful Act committed by an Insured Person prior to the effective date of sale or dissolution

### **11 - Share offerings**

Based upon attributable to or arising out of any Claim for a Wrongful Act committed by an Insured Person in relation to any actual public offering of Your share capital unless We have given Our prior written agreement and You have paid any additional premium and accepted any amendments We may require to the terms and conditions of this Section

### **12 – Financial Advantage**

Based upon attributable to or arising out of the gaining of any financial advantage to which the Insured Person was not entitled including the repayment of any wrongfully received monies

## Special Conditions

The General Definitions General Conditions and General Exceptions set out in this Policy all apply equally to each Insured Person and to You except General Condition – Premium Payment which applies only to You

General Condition Basis of Insurance paragraph 2 and Fraud Condition shall not apply to this Section Under this Section only We waive our right to rescind the Policy on the grounds of non-disclosure or misrepresentation or fraud

General Condition Cancellation will only apply to this Section at the end of the Period of Insurance or the anniversary date whichever comes first

You agree to act on behalf of all the Insured Persons as regards paying the premium and giving or receiving notice of all matters relevant to this Section

### Information provided by an Insured Person

All information which any Insured Person provided before We agreed to insure You will be considered as a separate application for each Insured Person and as such the knowledge of or any statement made by an Insured Person will not be imputed to any other Insured Person for the purposes of determining whether cover is available for any Claim against such other Insured Person

### Extended notification period

If We or You refuse to renew this Section of the Policy for any reason other than non-payment of premium administration liquidation or insolvency You or any Insured Person may purchase an extended notification period of 12 months upon payment of 50% of the full annual premium If You do so the first paragraph of item 1 under Your Obligations in this Section will then be amended to

We will not make any payment under this Section unless You notify Us promptly of the following within the Period of Insurance or at the latest within 12 months after it expires

This extended notification period is only available if

1. We receive written notice of purchase from You or an Insured Person and the premium within 30 days following the end of the Period of Insurance and
2. this Section of the Policy is not replaced or succeeded by any other policy providing directors' and officers' liability cover and
3. at the end of the Period of Insurance You have not merged or consolidated with another company nor has any party acquired 50% or more of Your issued share capital

If We offer renewal terms conditions limits of liability or premium different from those of the expiring Policy this does not constitute a refusal to renew

The entire premium for this Section is considered fully earned at the beginning of the extended notification period We will not refund any premium if You or any Insured Person cancels the extended notification period before it ends

The limit of indemnity for the extended notification period will be part of and not in addition to the limit of indemnity shown in the Schedule

You or any Insured Person will not have the right to purchase an extended notification period if

1. You merge or consolidate with another company or any party acquires more than 50% of Your issued share capital or
2. if cover under this Section is continued solely as a result of the Former directors Special Condition or
3. if this Section or the Policy is cancelled

### **Takeovers and mergers extended notification period**

In the event that You merge or consolidate with another company or any party acquires more than 50% of your issued share capital during the Period of Insurance You may on payment of an additional premium of 200% of the annual section premium request that this Section continue in force for a period of up to 72 months from the expiry date of the current Period of Insurance provided that such extension shall only apply to claims arising from any Wrongful Act committed or alleged prior to the date of such takeover or merger

The Extended notification period and Former directors Special Conditions shall not apply to any such extension

### **Management Buy-Out's**

If during the Period of Insurance the existing management conduct a management buy-out We agree to provide cover to the same level and terms of this Section for the new company for a period of 30 Days from the buy-out date for any Wrongful Act committed by an individual Insured Person subsequent to the buy-out

This cover will only apply excess of any other insurance and indemnification available from any other source

### **Former directors**

In the event that You do not renew or replace this Section of the Policy and only in respect of any Insured Person who ceases to be a director prior to the date of non-renewal for reasons other than disqualification or Your insolvency administration or liquidation from holding such a position this Section shall continue in force for a period of 120 months from the date of non renewal (the "Run-Off Period") provided that

1. this Section shall only apply to Claims arising from any Wrongful Act committed or alleged prior to the date of retirement of the Insured Person
2. the run-off period shall run concurrently with any extended notification period
3. no similar insurance is effected elsewhere
4. this Section or the Policy has not been cancelled

## **How much We will pay**

The most We will pay for the total of all Claims and their Defence Costs and all Legal Representation Costs is the limit of indemnity shown in the Schedule irrespective of the number of Claims made

The amount We will pay for Claims and their Defence Costs includes any amount We pay on an Insured Person's behalf as a director of an Outside Entity and on Your behalf and for Claims against an Insured Person's spouse civil or unmarried partner

Each Claim shall be treated as first made when We receive notice of the first Claim Legal Representation Costs shall be treated as first made when attendance of an Insured Person is first notified as being required at an Investigation

You must pay the relevant Excess shown in the Schedule

### **Paying out the limit of indemnity**

At any stage of a Claim We can pay the Insured Person the applicable limit of indemnity or what remains after any earlier payment from that limit We will then have no further liability for any Claim or Loss

## **Your obligations**

### **Notification**

We will not make any payment under this Section

1. unless You notify Us promptly of the following within the Period of Insurance or at the latest within 14 days after it expires for any problem You become aware of within the seven days before expiry
  - a. the Insured Person's first awareness of any Wrongful Act

- b. any claim or threatened claim against an Insured Person or the Insured Person's lawful spouse civil or unmarried partner
- c. any Investigation into You or an Insured Person
- d. the threat or commencement of any disqualification proceedings against any Insured Person
- e. the threat or commencement of proceedings against any Insured Person for pollution
- 2. if when dealing with a third party You or the Insured Person admit that You or the Insured Person are liable for what has happened or make any offer deal or payment without Our prior written agreement You must also not reveal the amount of cover available under this insurance
- 3. to any Insured Person who prior to the Period of Insurance had knowledge of a material misstatement in or omission from the information provided to us upon which We agreed to insure You

## Control of defence and payment of a claim

You and any Insured Person must give Us the information and co-operation which We may reasonably require and take all reasonable steps to defend any Claim. You and the Insured Person should not do anything which may prejudice Our position.

We have the right but not the obligation to take control of and conduct in Your name or the name of any Insured Person the investigation settlement or defence of any claim. If We think it necessary We will appoint an adjuster solicitor or any other appropriate person to deal with the Claim.

We shall have the right to participate fully in the defence of any Claim including negotiation of any settlement. We shall have the right to defend any Claim brought by You.

Where there is a dispute between Us and You and/or any Insured Person over cover proposed settlement or continuing the defence of a Claim You or We may request the obtainment of an opinion from a mutually agreed Queens Counsel or equivalent in a different jurisdiction. Such opinion shall be binding on Us and You and any Insured Person and will establish whether policy cover exists. Defence of said Claim will continue or settlement will be agreed. The costs of such opinion shall be met by Us.

We shall pay Defence Costs above any Excess and covered by this Section on an ongoing basis prior to the final resolution of any Claim. You and/or any Insured Person must reimburse Us for any Defence Costs paid where it is determined there is no entitlement under this Section.

If a Claim is made which is not wholly covered by this Section and/or is also made against You and any other person who is not You or an Insured Person We, You and the Insured Person shall use our best endeavours to agree a fair allocation between Loss that is covered and Loss not covered by this Section.

# Corporate Legal Liability

This Section is only operative if specified in the Schedule

## Special Definitions

The following Definitions apply to this Section and shall keep the same meaning wherever they appear in this Section they should also be read in conjunction with the General Definitions at the start of the Policy

### Claim

1. Any written demand or civil or arbitration proceeding seeking monetary damages first made against You during the Period of Insurance alleging a Wrongful Act
2. Any criminal or regulatory proceeding first made against You during the Period of Insurance alleging a Wrongful Act

### Defence Costs

Costs incurred with Our prior written agreement to investigate settle or defend any Claim made against You or to fund an appeal including any premium paid for an appeal bond or similar bond obtained in relation to it arising from any judgment decision or award in relation to any Claim

### Employment Claim

Any Claim by any Employee for any actual or alleged wrongful unfair or constructive dismissal discharge or termination of employment breach of written or implied contract employment related misrepresentation wrongful deprivation of a career opportunity failure to grant tenure negligent employee evaluation harassment unlawful discrimination failure to provide adequate employee procedures and policies retaliation defamation invasion of privacy or arising solely as a result of the employment or non-employment by You of any current former or prospective Employee

### Health and Safety/Corporate Manslaughter Claim

Any Claim under the provisions of the Corporate Manslaughter and Homicide Act 2007 or the Health & Safety at Work etc Act 1974 or its equivalent in any other jurisdiction

### Identity Crime

An agreement entered into by any third party representing themselves as You

### Insured Person

1. Any natural person who was is or during the Period of Insurance becomes a director partner member or officer of You
2. Any de facto director of You whilst acting in such capacity for You
3. Any shadow director as defined under Section 250 of the Companies Act 2006 or equivalent legislation in any other jurisdiction
4. Any Employee of You
5. The lawful spouse civil or unmarried partner of any person above solely because of their spousal civil or unmarried partner relationship following a Claim against that person
6. The estates heirs or legal representatives of any person above who has died or become incapacitated insolvent or bankrupt but only for a Claim against that person

### Investigation

An official examination official enquiry or official investigation first commenced during the Period of Insurance conducted by any regulator government department or other body legally empowered into Your business activities under the Health & Safety at Work etc Act 1974 or Corporate Manslaughter & Homicide Act 2007

It does not include routine regulatory supervision enquiry or compliance review any internal investigation or any investigation into the business activities of Your industry rather than Your conduct

**Legal Representation Costs**

Reasonable and necessary legal costs fees charges and expenses for which You are legally liable incurred with Our prior written consent (not including remuneration of any Insured Person or other additional costs of Yours) for legal representation directly in relation to an Investigation

**Loss**

In respect of a claim the amount You become legally liable to pay Defence Costs Legal Representation Costs awards of damages including punitive and exemplary damages where legally permissible awards of costs and settlements with Our prior written agreement

Loss does not include any civil regulatory or criminal fines or penalties taxes or the multiplied portion of any damages award

**Pollutant**

Any contaminant irritant or other substance including but not limited to asbestos lead smoke vapour water oil oil products dust fibres soot fumes acids alkalis chemicals waste (including materials that have been or are intended to be recycled reconditioned or reclaimed)

**Pollution**

Actual alleged or threatened discharge seepage treatment removal disposal dispersal emission release or escape of any Pollutant or any regulatory order direction or request to test for monitor remove contain treat detoxify or neutralise any Pollutant

**Prior and Pending Litigation Date**

The date stated as the prior and pending litigation date in the Schedule

**Securities**

Any debt or equity interest in You

**Subsidiary**

Any entity in which You:

1. own directly or through one or more of Your subsidiaries more than 50% of the share capital or a majority of the voting rights or have the right to appoint or remove a majority of the entity's board of directors or
2. control a majority of its voting rights under a written agreement with other shareholders or members

If an entity ceases to be a Subsidiary during the Period of Insurance cover will continue but only for a Claim against You or an Insured Person arising from a Wrongful Act committed before it ceased to be a Subsidiary

**Wrongful Act**

Any actual or alleged act error or omission committed or attempted by You including any breach of any duty including fiduciary or statutory duty breach of trust negligence negligent misstatement misleading statement or negligent misrepresentation breach of warranty of authority

**You/Your**

Also includes a Subsidiary and any Subsidiary created or acquired during the Period of Insurance provided that the newly created or acquired Subsidiary

1. is not domiciled in the United States of America
2. does not trade any of its Securities on any United States of America exchange

but only for a Claim against You arising from a Wrongful Act committed after the date of creation or acquisition of such Subsidiary

If You require cover for any newly created or acquired Subsidiary which does not fall within the above parameters We will consider providing cover subject to You providing all appropriate information We shall be entitled to amend the policy terms and conditions during the Period of Insurance including but not limited to the charging of a reasonable additional premium

## Cover

### **Claims by others**

We will pay on Your behalf the Loss arising from a Claim for any Wrongful Act within the Geographical Limits

### **Breach of Data Protection**

We will pay on Your behalf the Loss arising from a Claim arising from a breach of the Data Protection Act 1998 or its equivalent in any other jurisdiction and any successor or similar legislation

### **Health and Safety/Corporate Manslaughter Claims**

We will pay on Your behalf Loss arising from a Health and Safety/Corporate Manslaughter Claim (or equivalent legislation in any other jurisdiction) for a Wrongful Act within the Geographical Limits

### **Identity Crime**

We will pay on Your behalf the Loss from Identity Crime

### **Pension/Employee Benefit Schemes Claims**

We will pay on Your behalf Loss in respect of a Claim arising from Your operation or administration of any pension or employee benefit scheme or trust fund.

### **Pollution claims**

We will pay on Your behalf Loss in respect of a Claim arising from Pollution

The limit provided under this cover shall be £100,000 in the aggregate

This limit shall form part of the total aggregate limit for this Section shown in the Schedule

### **Shareholder pollution claims**

We will pay on Your behalf Loss in respect of a Claim arising from Pollution brought by any shareholder either directly or derivatively

### **Representation costs**

We will pay on Your behalf the Legal Representation Costs arising from an Investigation first made during the Period of Insurance

### **Taxation Claims**

We will pay on Your behalf Loss in respect of a Claim arising from Your failure to comply with taxation regulations

### **Your own losses - Dishonesty of Employees**

We will pay Your direct financial loss if during the Period of Insurance and in the performance of Your Business You discover a Loss from the dishonesty of an Employee where there was a clear intention to cause You financial loss or damage and to obtain a personal financial gain over and above salary bonus or commission

The limit provided under this cover shall be £100,000 in the aggregate

This limit shall form part of the total aggregate limit for this Section shown in the Schedule

## Exceptions

We will not make any payment for any Claim Loss or Investigation

### **1 - Deliberate or dishonest act**

Based upon attributable to or arising out of

- a. a dishonest or fraudulent act or omission or any intentional breach of any statute or regulation
- b. an act intended to secure or which does secure profit or advantage for which You are not legally entitled
- c. an act intended to secure or which does secure a profit for any other company where an Insured Person is a director officer or employee of such company

This exception shall only apply after a judgment or other final adjudication or an admission that such act did occur

We may request the obtainment of an opinion from a mutually agreed Queens Counsel or equivalent in a different jurisdiction as to the prospects of a court finding that such act did occur. This exception shall apply if counsel is of the opinion that there are no reasonable prospects of the court finding that such act did not occur. Such opinion will be binding on Us and You. The costs of such opinion shall be met by Us.

### **2 - Prior claims Investigations and Circumstances**

Based upon attributable to or arising out of any Claim Investigation or circumstance that has been reported under any policy existing or expired prior to the start of the Period of Insurance

### **3 - Prior litigation**

Based upon attributable to or arising out of any prior or pending litigation or proceedings (including allegations deriving from the same or essentially the same facts) involving an Insured Person You or an Outside Entity initiated prior to the Prior and Pending Litigation Date as stated in the Schedule

### **4 - Defined benefit pension schemes**

Based upon attributable to or arising out of Your operation or administration of any defined benefit pension scheme or their breach of any legislation or regulation relating to these activities

### **5 - Failure to fund pension and employee benefit schemes**

Based upon attributable to or arising out of Your failure to fund any pension employee benefit scheme or trust fund

### **6 - Claims brought In the United States of America**

Based upon attributable to or arising out of any Wrongful Act brought or maintained in the United States of America

### **7 - Matters insurable elsewhere**

- a. Based upon attributable to or arising out of any Employment Claim
- b. Based upon attributable to or arising out of the use of any mechanically propelled vehicle for which compulsory insurance is required under any legislation  
This exclusion does not apply to Legal Representation Costs or Defence Costs directly relating to any criminal or regulatory proceedings
- c. For mental or emotional distress sickness disease bodily injury or death suffered by anyone or the loss damage or destruction of any tangible property including loss of use of such property  
This exception shall not apply to any Health and Safety / Corporate Manslaughter Claims

### **8 - Products**

Based upon attributable to or arising out of the manufacture sale supply installation or maintenance of any product of Yours

### **9 - Breach of professional duty**

Based upon attributable to or arising out any Claim relating to a breach of or failure to provide professional services

### **10 - Infringement of patent and copyright**

Based upon attributable to or arising out of any Claim relating to the actual or alleged infringement of patent trade mark infringement of copyright intellectual property right registered design or any actual or alleged libel or slander



### **11 - Contractual liability**

Based upon attributable to or arising out of any Claim in respect of a breach of contract whether actual or implied written or oral which is greater than the liability You would have at law without the contract

### **12 - Shareholders**

Brought by or on behalf of any company owning 15% or more of Your issued share capital

### **13 - Takeovers and mergers**

Based upon attributable to or arising out of any Claim for a Wrongful Act committed by an Insured Person after You merge or consolidate with another company or any party acquires more than 50% of Your issued share capital

In the event of a Subsidiary ceasing during the Period of Insurance to be a Subsidiary cover under this Section shall be amended to apply solely to arising out of any Claim for a Wrongful Act committed by an Insured Person prior to the effective date of sale or dissolution

### **14 - Share offerings**

Based upon attributable to or arising out any Claim for a Wrongful Act committed by You in relation to any actual public offering of Your share capital unless We have given our prior written agreement and You have paid any additional premium and accepted and amendments to the terms and conditions of this Section as may be required

### **15 - Matters specific to your own losses**

Based upon attributable to or arising out of

- a. any accounting or arithmetical error or omission or unexplained shortage
- b. any default or non-payment of any loan or other credit arrangement
- c. Your or any Insured Person's expenses incurred in establishing the amount of any financial loss to You
- d. any loss of interest loss of profit or any consequential loss

### **16 - Financial Advantage**

Based upon attributable to or arising out of the gaining of any financial advantage to which You were not entitled including the repayment of any wrongfully received monies

## **Special Conditions**

### **General Terms**

The General Definitions General Conditions and General Claims Procedures set out in this Policy all apply equally to each Insured Person and to You except for General Condition Premium Payment which applies only to You

You agree to act on behalf of all the Insured Persons as regards paying the premium and giving or receiving notice of all matters relevant to this Section

### **Extended notification period**

If We or You refuse to renew this Section of the Policy for any reason other than non-payment of premium administration liquidation or insolvency You may purchase an extended notification period of 12 months upon payment of 50% of the full annual premium if You do so the first paragraph of Your obligations will then be amended to

We will not make any payment under this Section unless You notify Us promptly of the following within the Period of Insurance or at the latest within 12 months after it expires

This extended notification period is only available if

1. We receive Your written notice of purchase and Your premium within 30 days following the end of the Period of Insurance and
2. this Section of the Policy is not replaced or succeeded by any other policy providing corporate liability cover and

3. at the end of the Period of Insurance You have not merged or consolidated with another company nor has any party acquired 50% or more of Your issued share capital

If We offer renewal terms conditions limits of liability or premium different from those of the expiring Policy this does not constitute a refusal to renew

The entire premium for this Section is considered fully earned at the beginning of the extended notification period We will not refund any premium to You if You cancel the extended notification period before it ends

We will not make any payment for a Claim due to a Wrongful Act committed or alleged to have been committed after the end of the original Period of Insurance

The limit of indemnity for the extended notification period will be part of and not in addition to the limit of indemnity shown in the Schedule

You shall not have the right to purchase an extended notification period if

1. You merge or consolidate with another company or any party acquires more than 50% of Your issued share capital
2. this Section or the Policy is cancelled

#### **Management buy-outs**

If during the Period of Insurance the existing management conduct a management buy-out We agree to provide cover to the same level and terms of this Policy for the new company for a period of 30 days from the buy-out date for any Wrongful Act committed by any individual insured subsequent to the buy-out

This cover will only apply excess of any other insurance and indemnification available from any other source

## **How much will We pay**

The most We will pay for the total of all Claims and their Defence Costs and all Legal Representation Costs is the limit of indemnity shown in the Schedule irrespective of the number of Claims made

The amount We will pay for Claims and their Defence Costs includes any amount We pay on an Insured Person's behalf as a director of an Outside Entity and on Your behalf and for Claims against an Insured Person's spouse, civil or unmarried partner

You must pay the relevant Excess shown in the Schedule

Each Claim shall be treated as first made when We receive notice of the first Claim Legal Representation Costs shall be treated as first made when attendance of an Insured Person is first notified as being required at an Investigation

#### **Paying out the limit of indemnity**

At any stage of a Claim We can pay You the applicable limit of indemnity or what remains after any earlier payment from that limit We will then have no further liability for any Claim or Loss

## **Your obligations**

#### **Notification**

We will not make any payment under this Section:

1. unless You notify Us promptly of the following within the Period of Insurance or at the latest within 14 days after it expires for any problem You become aware of within the seven days before expiry
  - a. Your first awareness of any Wrongful Act
  - b. Any claim or threatened Claim against You

- c. Any Investigation into You
  - d. The threat or commencement of proceedings against You for pollution
2. If when dealing with a third party You admit that You are liable for what has happened or make any offer deal or payment without Our prior written agreement You must also not reveal the amount of cover available under this insurance
  3. If prior to the Period of Insurance You had knowledge of a material misstatement in or omission from the information provided to Us upon which We agreed to insure You

#### **Control of defence and payment of a claim**

You must give Us the information and co-operation which We may reasonably require and take all reasonable steps to defend any Claim You should not do anything which may prejudice Our position

We have the right but not the obligation to take control of and conduct in Your name or the name of any Insured Person the investigation settlement or defence of any Claim If We think it necessary We will appoint an adjuster solicitor or any other appropriate person to deal with the Claim

We shall have the right to participate fully in the defence of any Claim including negotiation of any settlement We shall have the right to defend any Claim brought by You

Where there is a dispute between Us and You and/or any Insured Person over cover proposed settlement or continuing the defence of a Claim You or We may request the obtainment of an opinion from a mutually agreed Queens Counsel or equivalent in a different jurisdiction Such opinion shall be binding on Us and You and any Insured Person and will establish whether policy cover exists defence of said Claim will continue or settlement will be agreed The costs of such opinion shall be met by Us

We shall pay Defence Costs above any Excess and covered by this Section on an ongoing basis prior to the final resolution of any Claim You must reimburse Us for any Defence Costs paid where it is determined there is no entitlement under this Section

If a Claim is made which is not wholly covered by this Section and/or is also made against You and any other person We and You shall use our best endeavours to agree a fair allocation between Loss that is covered and Loss not covered by this Section

# Employment Practices Liability

This Section is only operative if specified in the Schedule

## Special Definitions

The following Definitions apply to this Section and shall keep the same meaning wherever they appear in this Section they should also be read in conjunction with the General Definitions at the start of the Policy

### Benefits

Any compensation awarded to an Employee other than basic remuneration including but not limited to health benefits amounts due in respect of employee benefit or pension scheme share or stock options incentives or deferred compensation

### Claim

Any written demand or civil criminal regulatory or arbitration proceeding first made against You or an Insured Person during the Period of Insurance seeking monetary damages or other legal relief alleging an Employment Practice Wrongful Act

### Defence Costs

Costs incurred with Our prior written agreement to investigate settle or defend any Claim made against You or an Insured Person or to fund an appeal including any premium paid for an appeal bond or similar bond obtained in relation to it arising from any judgment decision or award in relation to any Claim

### Employee

1. Any person under a contract of service with You
2. Any independent person seconded to You
3. Any applicant or candidate for employment with You

### Employment Practice Wrongful Act

Any actual or alleged act error or omission committed or attempted by You or an Insured Person or by any third party where You are held vicariously liable relating to any actual or alleged wrongful unfair or constructive dismissal discharge or termination of employment breach of written or implied contract employment related misrepresentation wrongful deprivation of a career opportunity failure to grant tenure negligent employee evaluation harassment unlawful discrimination failure to provide employee procedures and policies retaliation defamation invasion of privacy arising solely as a result of the employment or non-employment by You of any current former or prospective employee

### Insured Person

1. Any natural person who was is or during the Period of Insurance becomes a director member partner or officer of You
2. Any de facto director of You whilst acting in such capacity for You
3. Any shadow director as defined under Section 250 of the Companies Act 2006 or equivalent legislation in any other jurisdiction
4. Any Employee of You
5. The lawful spouse civil or unmarried partner of any person above solely because of their spousal civil or unmarried relationship following a Claim against that person
6. The estates heirs or legal representatives of any person above who has died or become incapacitated insolvent or bankrupt but only for a Claim against that person

### Loss

In respect of a claim the amount You and/or any Insured Person becomes legally liable to pay for Defence Costs awards of damages including punitive and exemplary damages where legally permissible awards of costs and settlements with Our prior written agreement

Loss does not include any civil regulatory or criminal fines or penalties taxes remuneration or employment related benefits punitive and exemplary damages or the multiplied portion of any damages award unless awarded for defamation

### **Outside entity**

Any organisation other than You

1. that is tax exempt and not for profit
2. in which You hold any issued share other than
  - a. any company registered outside of the United Kingdom of Great Britain and Northern Ireland the Channel Islands the Isle of Man or the Republic of Ireland or
  - b. any company traded on any recognised stock exchange or
  - c. any bank investment company investment advisor or manager hedge or mutual fund private equity or venture capital company stock brokerage insurer or similar organisation

### **Prior and pending litigation date**

The date stated as the prior and pending litigation date in the Schedule

### **Retaliation**

Any Claim brought against an Employee relating to any actual or alleged action taken by such Employee exercising or attempting to exercise their rights under law

### **Subsidiary**

Any entity in which You

1. own directly or through one or more of Your subsidiaries more than 50% of the share capital or a majority of the voting rights or have the right to appoint or remove a majority of the entity's board of directors; or
2. control a majority of its voting rights under a written agreement with other shareholders or members

If an entity ceases to be a Subsidiary during the Period of Insurance cover will continue but only for a Claim against You or an Insured Person arising from an Employment Practice Wrongful Act committed before it ceased to be a Subsidiary

### **You / Your**

Also includes

1. any Subsidiary
2. any Subsidiary created or acquired during the Period of Insurance within the United Kingdom but only for a Claim against You or an Insured Person arising from an Employment Practice Wrongful Act committed after the date of acquisition.

If You require cover for any newly created or acquired Subsidiaries which do not fall within the above parameters We will consider providing cover subject to You providing all appropriate information We shall be entitled to amend the terms and conditions of this Section during the Period of Insurance and may charge a reasonable additional premium

## **Cover**

### **Claims by Employees**

We will pay on behalf of You or an Insured Person the Loss arising from a Claim by an Employee for an Employment Practice Wrongful Act

### **Claims by others**

We will pay on behalf of you or an Insured Person the Loss arising from a Claim by anyone other than an Employee for an Employment Practice Wrongful Act

**Outside entities**

We will pay on behalf of You or an Insured Person the Loss arising from a Claim in respect of an Employment Practice Wrongful Act committed by an Insured Person in their capacity as an Employee or an Outside Entity provided that the Insured Person acts in that capacity at Your specific written request and the Claim does not arise from an Employment Practice Wrongful Act committed after the Insured Person ceased to act in this capacity. However We will only pay in excess of any indemnity provided by the Outside Entity to its employees and any other insurance available to its employees.

## Exceptions

**A.** We will not make any payment for any Claim or Loss

**Specific activities**

1. Based upon attributable to or arising out of
  - a. membership or non-membership of any trade union or equivalent labour organisation or any involvement in trade union activities
  - b. Your failure to act in accordance with any collective bargaining agreementThe above shall not apply to any Claim for Retaliation
2. Based upon attributable to or arising out of any responsibility duty or obligation imposed by law in relation to health & safety unemployment social security retirement or disability benefits or any similar law whether statutory or common law  
The above shall not apply to Retaliation

**Prior Claims and Circumstances**

Based upon attributable to or arising out of any Claim or circumstance which You were aware of or that has been reported under any policy existing or expired prior to the start of the Period of Insurance

**Claims in the United States of America**

Based upon attributable to or arising out of any Employment Practice Wrongful Act brought or maintained in the United States of America

**Prior litigation**

Based upon attributable to or arising out of any prior or pending litigation or proceedings (including allegations deriving from the same or essentially the same facts) involving an Insured Person You or an Outside Entity initiated prior to the prior and pending litigation date shown in the Schedule

**Deliberate or dishonest acts**

based upon attributable to or arising out of

- a. a dishonest or fraudulent act or omission or any intentional breach of any statute or regulation committed by any Insured Person
- b. an act intended to secure or which does secure a personal profit or advantage to which any Insured Person was not legally entitled
- c. an act intended to secure or which does secure a profit for any other company where an Insured Person is a director officer or employee of such company

This exception will only apply after a judgment or other final adjudication or an admission by an Insured Person that such act did occur. We may request the obtainment of an opinion from a mutually agreed Queens Counsel or equivalent in a difference jurisdiction as to the prospects of a court finding that such act did occur. This exception shall apply if Counsel is of the opinion that there are no reasonable prospects of the court finding that such act did not occur. Such opinion will be binding on Us and the Insured Person. The costs of such opinion shall be met by Us.

**Matters insurable elsewhere**

For the death or any bodily or mental injury or emotional distress suffered by anyone or the loss damage or destruction of any tangible property other than emotional distress directly arising from any Employment Practice Wrongful Act

Based upon attributable to or arising out of the use of any mechanically propelled vehicle for which compulsory insurance is required under any legislation

**Takeovers and acquisitions**

Based upon attributable to or arising out of any Employment Practice Wrongful Act occurring after the date of

- a. Your acquisition by or Your merger or consolidation with another entity so that You are not the surviving entity;
- b. The acquisition at any time during the Period of Insurance of 50% more of Your share capital

Unless We have received prior written notice and We have agreed by written endorsement to provide cover and You have paid any additional premium

**B.** We will not make any payment other than Defence Costs

**Specific activities**

1. Based upon attributable to or arising out of Your failure to pay any amount You are contractually committed to pay to an Employee including but not limited to any payments for contractual or statutory notice periods or breach of any obligation pursuant to any minimum wage legislation or Benefits payable
2. Based upon attributable to or arising out of any amount relating to equal pay redundancy pay
3. Based upon attributable to or arising out of the loss of any right or benefit under any pension scheme private health insurance or other employee benefit scheme or the operation or administration of any pension or employee benefit scheme or trust fund or Your breach of any legislation or regulation related to these activities
4. Based upon attributable to or arising out of Your failure to pay taxes

**Non-compensatory payments**

1. Based upon attributable to or arising out of anyone else's liability which You are legally obliged to assume under any contract or agreement This does not apply to any Claim that would have resulted in the absence of such contract or agreement
2. Based upon attributable to or arising out any non-pecuniary or injunctive relief
3. Based upon attributable to or arising out of any amount in respect of the costs of complying or refusing to comply with a court or other order for the reinstatement of an Employee

## Special Conditions

The General Definitions-General Conditions and General Claims Procedures forming part of this Policy all apply equally to each Insured Person and to You except for General Condition Premium Payment which applies only to You.

General Condition Basis of Insurance paragraph 2 and General Condition Fraud shall only apply to You

You agree to act on behalf of all the Insured Persons as regards paying the premium and giving or receiving notice of all matters relevant to this Section

**Extended notification period**

If We or You refuse to renew this Section of the Policy for any reason other than non-payment of premium or insolvency You may purchase an extended notification period of 12 months upon payment of 50% of the full annual premium If You do so the first paragraph of item 1 under Your obligations in this Section will then be amended to

We will not make any payment under this Section unless You notify Us promptly of the following within the Period of Insurance or at the latest within 12 months after it expires

:

This extended notification period is only available if

- a. We receive Your written notice of purchase and Your premium within 30 days following the end of the Period of Insurance and
- b. this Section of the Policy is not replaced or succeeded by any other policy providing employment practices liability cover and
- c. at the end of the Period of Insurance You have not merged or consolidated with another company nor has any party acquired 50% or more of Your issued share capital

If We offer renewal terms conditions limits of liability or premium different from those of the expiring Policy this does not constitute a refusal to renew

The entire premium for this Section is considered fully earned at the beginning of the extended notification period. We will not refund any premium to You if You cancel the extended notification period before it ends

We will not make any payment for a Claim due to an Employment Practice Wrongful Act committed or alleged to have been committed after the end of the original Period of Insurance

The limit of indemnity for the extended notification period will be part of and not in addition to the limit of indemnity shown in the Schedule

You will not have the right to purchase an extended notification period if:

- 1. You merge or consolidate with another company or any party acquires more than 50% of Your issued share capital
- 2. this Section of the Policy is cancelled

#### **Management buy-outs**

If during the Period of Insurance Your existing management conduct a management buy-out We agree to provide cover to the same level and terms of this Policy for the new company for a period of 30 days from the buy-out date for any Employment Practice Wrongful Act committed by any individual Insured Person subsequent to the buy-out

This cover will only apply excess of any other insurance and indemnification available from any other source

## **How much will We pay**

The most We will pay for the total of all Claims and their Defence Costs is the limit of indemnity shown in the Schedule irrespective of the number of Claims made

The amount We will pay for Claims and their Defence Costs includes any amount We pay on an Insured Person's behalf as a director of an Outside Entity and on Your behalf and for Claims against an Insured Person's spouse civil or unmarried partner

Each claim shall be treated as first made when We receive notice of the first claim

You must pay the relevant Excess shown in the Schedule The Excess shall not apply to any Claim made solely against an Insured Person

#### **Paying out the limit of indemnity**

At any stage of a Claim We can pay the Insured Person the applicable limit of indemnity or what remains after any earlier payment from that limit. We will then have no further liability for any Claim or Loss

## **Your obligations**

#### **Notification**

We will not make any payment under this Section



1. unless You notify Us promptly of the following within the Period of Insurance or at the latest within 14 days after it expires for any problem You become aware of within the seven days before expiry
  - a. You or an Insured Person's first awareness of any Employment Practice Wrongful Act
  - b. any Claim or threatened Claim against You
2. if when dealing with an Employee or a third party You or the Insured Person admit that You or the Insured Person are liable for what has happened or make any offer deal or payment without Our prior written agreement You must also not reveal the amount of cover available under this insurance
3. if prior to the Period of Insurance You had knowledge of a material misstatement in or omission from the information provided to Us upon which We agreed to insure You

**Control of defence and payment of a claim**

You and any Insured Person must give Us the information and co-operation which We may reasonably require and take all reasonable steps to defend any Claim. You and the Insured Person should not do anything which may prejudice Our position.

We have the right but not the obligation to take control of and conduct in Your name or the name of any Insured Person the investigation settlement or defence of any Claim. If We think it necessary We will appoint an adjuster solicitor or any other appropriate person to deal with the claim

We shall have the right to participate fully in the defence of any Claim including negotiation of any settlement. We shall have the right to defend any Claim brought by You

Where there is a dispute between Us and You and/or any Insured Person over cover proposed settlement or continuing the defence of a Claim You or We may request the obtainment of an opinion from a mutually agreed Queens Counsel or equivalent in a different jurisdiction. Such opinion shall be binding on Us and You and any Insured Person and will establish whether policy cover exists. Defence of said claim will continue or settlement will be agreed. The costs of such opinion shall be met by Us

We shall pay Defence Costs above any Excess and covered by this Section on an ongoing basis prior to the final resolution of any Claim. You and/or any Insured Person must reimburse Us for any Defence Costs paid where it is determined there is no entitlement under this Section

If a Claim is made which is not wholly covered by this Section and/or is also made against You and any other person who is not You or an Insured Person We, You and the Insured Person shall use our best endeavours to agree a fair allocation between Loss that is covered and Loss not covered by this Section



**Arista Insurance Limited**

Registered in England and Wales No. 5938669

Registered address: Towergate House, Eclipse Park, Sittingbourne Road, Maidstone , Kent ME14 3EN  
Arista Insurance Limited (FRN 459593) an appointed representative of Towergate Underwriting Group Limited  
FCA Register Number 313250, authorised and regulated by the Financial Conduct Authority.

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