

# Zurich Directors, Officers and Company Liability insurance

Policy Document



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## The Contract of Insurance

The policy, schedule and any endorsements should be read as if they were one document. The policy details the extent of cover for each of the sections chosen by you, the **Insured** and the policy conditions and exclusions. The policy is the contract between you, the **Insured** and Zurich Insurance Europe AG.

The schedule, which is part of your policy, includes details such as the **Insured Persons**, the **Period of Insurance** and operative sections and clauses. We will insure you under those sections shown in the schedule during any **Period of Insurance** for which we, the **Insurer** have accepted your, the **Insured's** premium provided all the terms and conditions of the policy are kept.

Other than where expressly provided in this policy, compliance with all the terms provisions conditions and endorsements of the policy shall be a condition precedent to your right to recover under this policy.

For your own protection, you, the **Insured**, are recommended to read your policy and all its Conditions to ensure that it is in accordance with your intentions. We, Zurich Insurance Europe AG would draw your attention specifically to the Exclusions section of the policy.

We, Zurich Insurance Europe AG have agreed to provide policy cover, and have calculated the applicable premium, based on information provided by you, the **Insured**, or on the **Insured's** behalf including but not limited to:

- information provided in any proposal, or otherwise in response to specific questions asked by us, the **Insurer**;
- information provided and recorded in any Statement of Facts issued to you, the **Insured**;
- any declarations made by you, the **Insured** or on the **Insured's** behalf; and/or
- any additional information voluntarily provided

Under the relevant European and Irish Legal provisions, the parties to this contract of insurance, we, Zurich Insurance Europe AG and you, the **Insured**, are free to choose the law applicable to the contract. We propose that this contract is governed by Irish Law.

This is a legal document and should be kept in a safe place.

If these documents do not meet your needs, please return them to us or your broker or agent.

In consideration of the payment of the premium and subject to all the terms, conditions and limitations of this Policy the **Insurer** agrees with the **Insureds** and the **Company** as follows.

The coverage under this Policy is afforded solely for **Claims** first made against an **Insured** during the **Period of Insurance** or the **Extended Reporting Period** (if applicable) and notified to the **Insurer** as required by the Policy.

## Section 1: Insurance Cover

### 1.1 **Insured Person Cover**

The **Insurer** shall pay **Financial Loss** (including **Pre-Claim Costs**) of an **Insured Person** that arises from a **Claim** (including **Investigations Of Insured Persons**) made against such **Insured Person**, except to the extent that such **Insured** is indemnified by the **Company**.

### 1.2 **Company Reimbursement Cover**

The **Insurer** shall pay **Financial Loss** of a **Company** that arises from a **Claim** (including **Investigations Of Insured Persons**) made against an **Insured Person** (including an **Outside Entity Executive**), but only to the extent that such **Company** has indemnified such **Insured**.

### 1.3 **Securities Claims Against the Company Cover**

The **Insurer** shall pay **Financial Loss** of the **Company** that arises from a **Securities Claim** made against such **Company**.

### 1.4 **Outside Entity Executive Excess Cover**

The **Insurer** shall pay **Financial Loss** (including **Pre-Claim Costs**) of an **Outside Entity Executive** that arises from a **Claim** (including **Investigations Of Insured Persons**) made against such **Outside Entity Executive**.

### 1.5 **Investigation into the Affairs of the Company Cover**

The **Insurer** shall pay **Investigation Costs** of a **Director or Officer** that arises from an **Investigation Into The Affairs Of The Company**. Cover for **US Investigations Into The Affairs Of The Company** shall be subject to such cover's applicable **Sub-Limit of Liability**.

### 1.6 **Extradition Costs Cover**

The **Insurer** shall pay **Extradition Costs** of an **Insured Person** arising from an **Extradition Claim** made against such **Insured Person**.

### 1.7 **Insured Person Additional Protection Cover**

The **Insurer** shall pay the: (1) **Asset and Liberty Protection Costs**; (2) **Civil or Bail Bond Fee**; and (3) **Prosecution Costs**, of an **Insured Person**.

### 1.8 **Personal Reputation Restoration Expenses Cover**

The **Insurer** shall pay the **Personal Reputation Restoration Expenses** of an **Insured Person** (and of the **Company** to the extent the **Company** has indemnified such **Insured Person** for such **Financial Loss**); subject to and not to exceed this cover's additional limit of liability as stated in Item 3(iii) of the Schedule.

### 1.9 **Company Crisis Communication Cover**

The **Insurer** shall pay the **Crisis Communication Expenses** of the **Company**; subject to and not to exceed this cover's additional limit of liability as stated in Item 3(iv) of the Schedule.

### 1.10 **Additional Excess Limit of Liability for Non-Executive Directors Cover**

The **Insurer** shall pay under the **Excess Limit of Liability, Financial Loss** of a **Non-Executive Director** that arises from a **Claim** made against such **Insured Person**; subject to and not to exceed this cover's additional limit stated in Item 3(ii) of the Schedule.

### 1.11 **Derivative Demand Investigation Costs Cover**

The **Insurer** shall pay the **Derivative Demand Investigation Costs** of the **Company** resulting from a **Security Holder Derivative Demand**; subject to this Cover's applicable **Sub-Limit of Liability** for all such amounts combined.

## Section 2: Extensions to Cover

Cover as is provided under this Policy is extended as follows, subject to all the terms, conditions, exclusions and limitations of this Policy.

### 2.1 Environmental Mismanagement Claim

The **Insurer** shall pay **Financial Loss** of: (1) an **Insured Person** (including an **Outside Entity Executive**) under all covers; and (2) the **Company** under Cover 1.3, that arises from an **Environmental Mismanagement Claim** made against such **Insured**.

### 2.2 Indemnity Costs for Shareholder Derivative Claims

If the **Company** is ordered by a court to pay the costs of the claimant in pursuing a derivative action against an **Insured Person** (hereinafter called **Indemnity Costs For Shareholder Derivative Claims**) this Policy is extended to pay such costs provided that such derivative action constitutes a **Claim** otherwise covered under this Policy.

### 2.3 Emergency Costs

If the **Insurer's** required prior written consent cannot reasonably be obtained in a timely manner by the **Insureds** or the **Company** before **Defence Costs, Pre-Claim Costs, Investigation Costs, Extradition Costs** or **Asset and Liberty Protection Costs** are incurred with respect to a covered **Claim**, the **Insured** shall have the right to incur such amounts without such prior written consent, after which the **Insurer** will provide retroactive approval for such costs, subject to this Extension's applicable **Sub-Limit of Liability** for all such amounts combined, and subject to the Policy's terms, conditions and limitations. The **Insureds** and the **Company** shall take all reasonable steps to obtain the required prior written consent before such costs are incurred.

### 2.4 Civil Fines and Penalties

The **Insurer** shall pay **Civil Fines and Penalties** of a **Director or Officer** and an **Outside Entity Executive** that arise from a **Claim** made against such **Insured Person**, but only to the extent that such **Civil Fines and Penalties** are not **Indemnifiable Financial Loss**, and subject to this Extension's applicable **Sub-Limit of Liability**.

### 2.5 Extended Report Period (ERP)

#### 2.5.1 Cancellation or Non-Renewal

In the event of non-renewal of this Policy by either the **Insurer** or the **Policyholder**, the **Policyholder** shall be entitled to an **Extended Reporting Period**: (i) automatically for ninety (90) days at no additional premium; or (ii) for a time period stated in Item 8(i) of the Schedule, subject to the **Policyholder** making a written request for such **Extended Reporting Period** no later than thirty (30) days after the expiration of the **Period of Insurance** and paying the applicable required premium.

#### 2.5.2 Change of Control

In the event of a **Change of Control**, the **Policyholder** shall be entitled to an **Extended Reporting Period** for a time period stated in either Item 8(i) or 8(ii) of the Schedule, subject to the **Policyholder** making a written request for such **Extended Reporting Period** no later than thirty (30) days after the **Change of Control** and paying the applicable required premium (less any unearned premium for this Policy).

#### 2.5.3 Insured Person ERP Election

If the **Policyholder** is entitled to but does not exercise an **Extended Reporting Period** as described in 2.5.1 or 2.5.2, then any **Insured Person(s)** shall have the right to elect an **Extended Reporting Period** for the respective time period stated in Items 8(i) or 8(ii) of the Schedule, but only for such **Insured Person(s)** (combined). The **Extended Reporting Period** elected shall only apply to **Financial Loss** of the **Insured Person(s)** who elected such **Extended Reporting Period** arising from **Claims** against such **Insured Person(s)**, and shall not apply to: (i) any cover for the **Company**; (ii) any cover for any other **Insured**; or (iii) **Indemnifiable Financial Loss**. Only one **Extended Reporting Period** shall apply to all **Insured Persons** (combined) who elect the **Extended Reporting Period** under this Extension, in the aggregate.

The right of election under this Extension shall lapse unless written notice of such election is given by the **Insured Person** to the **Insurer** within thirty (30) days after the **Policyholder's** right to exercise the **Extended Reporting Period** has expired. This Extension of coverage for the **Insured Person** is conditioned upon the **Insured Person(s)** electing the Extension and paying the applicable additional premium as described in Item 8 of the Schedule for the **Extended Reporting Period** elected within fifteen (15) days after election.

#### 2.5.4 Lifetime ERP for Retired and Resigned Directors and Officers

The **Insurer** will provide an unlimited **Extended Reporting Period** under this Policy for any **Director or Officer** who has resigned or retired all of their position(s) as **Director and Officer** with the **Company** during: (i) the **Period of Insurance** of this Policy; or (ii) the **Period of Insurance** of any other directors and officers insurance policy issued by the **Insurer** to the **Policyholder** of which this policy is a continuous renewal, if this Policy is not renewed or replaced or where such renewal or replacement does not specifically provide cover for such **Directors and Officers**. This Extension will not apply to **Indemnifiable Financial Loss** or to any **Directors or Officers** who resigned or retired their positions with the **Company** by reason of, in connection with or after a **Change of Control**. There is no additional premium for this Extension.

#### 2.6 Kidnap response

The **Insurer** shall pay **Kidnap Response Costs** of an **Insured Person** (and of the **Company** to the extent the **Company** has indemnified such **Insured Person** for such **Financial Loss**) in case of a **Kidnapping Event**; subject to and not to exceed this cover's additional limit stated in Item 3(v) of the Schedule.

#### 2.7 Mitigation Costs

The **Insurer** shall indemnify the **Mitigation Costs** incurred by an **Insured Person** in taking **Mitigation Action**; subject to the Sub-Limit of Liability set forth in Item 3(vi) of the Schedule, and subject to the provisions of Sections 6.1 to 6.3 of this Policy.

## Section 3: Definitions

- 3.1 **Asset and Liberty Protection Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred with the prior written consent of the **Insurer** (such consent not to be unreasonably withheld or delayed) by an **Insured Person** in defending a **Deprivation of Asset and Liberty Proceeding** against such **Insured Person**.
- 3.2 **Bodily Injury** shall mean bodily injury, sickness, disease or death of any person including any consequential loss resulting directly therefrom and shall include mental or emotional distress.
- 3.3 **Bodily Injury Defence Costs** shall mean **Defence Costs** incurred by a **Director of Officer** with respect to a **Claim**, other than a **US Claim**, for **Bodily Injury** (including a **Corporate Manslaughter Proceeding**); provided that such **Defence Costs** are not **Indemnifiable Financial Loss**.
- 3.4 **Change of Control** shall mean and occur when any person, entity or group that: (i) acquires more than 50% of the **Policyholder's** share capital; (ii) acquires the majority of the voting rights in the **Policyholder**; (iii) assumes the right to appoint or remove the majority of the board of directors (or equivalent position) of the **Policyholder**; (iv) assumes control pursuant to written agreement with other shareholders over the majority of the voting rights in the **Policyholder**; or (v) merges with the **Policyholder**, such that the **Policyholder** is not the surviving entity.
- 3.5 **Civil or Bail Bond Fee** shall mean only the commercially reasonable and necessary fee arrangement (and only that which is available at reasonable commercial rates) to obtain a bond or other similar financial instrument in respect of an **Insured Person's** contingent obligations as to a specific security or collateral placed upon the **Insured Person** by a court in connection with any covered **Claim**; and excluding any form of actual security or collateral for funding for the bond or other guarantee, for the bond or other guarantee itself, or the equivalent to any of the same.
- 3.6 **Civil Fines and Penalties** shall mean: (1) civil money penalties directly assessed against a **Director or Officer** or an **Outside Entity Executive** pursuant to Section 2(g)(2)(B) of the United States (U.S.) Foreign Corrupt Practices Act, 15 U.S.C. §78dd-2(g)(2)(B) or any similar law of any other jurisdiction; and (2) civil, administrative or regulatory money penalties directly assessed against a **Director or Officer** or an **Outside Entity Executive** for a violation of any law, regulation or statute, not including punitive, exemplary or multiple damages; but only if: (i) such violations described in 3.6(1) and (2) are not knowing, wilful or criminal; and (ii) such penalties are insurable under the internal laws of the jurisdiction in which such penalties were assessed or levied.
- 3.7 **Claim** shall mean:
- 3.7.1 a written demand for monetary, non-monetary or injunctive relief from a **Third Party** alleging a **Wrongful Act**;
- 3.7.2 a civil, criminal, administrative, regulatory or arbitration/mediation proceeding (including any counter-claim) commenced by the service of: (i) a Claim Form (or similar pleading); (ii) return of an indictment, information or similar document (in the case of a criminal proceeding); or (iii) receipt or filing of a notice of charges, alleging a **Wrongful Act**;
- 3.7.3 an **Investigation Of Insured Persons**, solely with respect to Covers 1.1, 1.2 and 1.4; and
- 3.7.4 an **Investigation Into The Affairs Of The Company**, solely with respect to Cover 1.5.

The term **Claim** shall also include a written request to extend the operation of or waive any statute of limitations or contractual time-bar, in respect of a **Claim** defined in 3.7.1-4 that, if made, would be covered hereunder.

The term **Claim** shall include a **Securities Claim**, an **Employment Claim**, a **Corporate Manslaughter Proceeding**, a **Pre-Claim Event** (solely with respect to Cover 1.1 and 1.4), an **Extradition Claim** (solely with respect to Covers 1.2 and 1.6), a **Deprivation of Asset and Liberty Proceeding** (solely with respect to Covers 1.2 and 1.7), **Personal Reputation Crisis** (solely with respect to Cover 1.8), a **Crisis** (solely with respect to Cover 1.9), **Security Holder Derivative Demand** (solely with respect to Cover 1.11), an **Environmental Mismanagement Claim** (solely with respect to Extension 2.1) and a **Kidnapping Event** (solely with respect to Extension 2.6).

- 3.8 **Claim Costs** shall mean **Defence Costs, Pre-Claim Costs, Investigation Costs, Extradition Costs, Asset and Liberty Protection Costs, Civil or Bail Bond Fee, Prosecution Costs, Personal Reputation Restoration Expenses, Crisis Communication Expenses, Derivative Demand Investigation Costs, Indemnity Costs For Shareholder Derivative Claims and Kidnap Response Costs.**
- 3.9 **Clean Up Costs** shall mean expenses (including but not limited to legal and professional fees) incurred in testing for, monitoring, cleaning up, removing, containing, treating, neutralising, detoxifying or assessing the effects of **Pollutants** or **Greenhouse Gases.**
- 3.10 **Company** shall mean: (1) the **Policyholder**; (2) any **Subsidiary Company** of the **Policyholder**; (3) any charitable foundation or charitable trust solely controlled or sponsored by the **Company**; provided that this definition shall not include any pension or superannuation fund, trust or scheme; and (4) in the event a bankruptcy proceeding shall be instituted by or against any of the foregoing entities, the resulting debtor-in-possession (or equivalent status in any applicable jurisdiction), if any.
- 3.11 **Continuing Restrictive Condition** shall mean any condition in this policy, however expressed, that purports to require the **Insured** or the **Insured Person(s)** to do, or not to do, a particular act or acts, or requires the **Insured** or the **Insured Person(s)** to act, or not to act, in a particular manner (and any condition the effect of which is that a given set of circumstances is required to exist or to be maintained or not to exist shall be taken as falling within this definition).
- 3.12 **Corporate Manslaughter Proceeding** shall mean a **Claim** against a **Director** or **Officer** arising out of an incident giving rise to one or more fatalities in which the **Company** is implicated or alleged to have played some part.
- 3.13 **Crisis** shall mean: (1) a covered **Claim** being made against an **Insured** under this Policy that the General Counsel (or equivalent) of the **Policyholder** and the **Insurer** reasonably believe will exceed EUR5,000,000 in damages; or (2) the CEO, CFO or General Counsel (or equivalent) of the **Policyholder** becoming aware of a **Wrongful Act** that such General Counsel and the **Insurer** reasonably believe is likely to lead to a covered **Claim** being made against an **Insured** under this Policy resulting in damages in excess of EUR5,000,000. The **Crisis** must be "first made" against the **Insured** during the **Period of Insurance.**
- A **Crisis** shall be deemed to be "first made" against an **Insured** when such **Claim** is first made against an **Insured** or when such CEO, CFO or General Counsel (or equivalent) first becomes aware of such **Wrongful Act.** A **Crisis** shall conclude once the public relations/crisis management consultant advises the **Policyholder** that such **Crisis** no longer exists or when the additional limit of liability stated in Item 3(iv) of the Schedule has been exhausted.
- 3.14 **Crisis Communication Expenses** shall mean the reasonable and necessary fees, costs, charges and expenses incurred, with the **Insurer's** prior written consent (such consent not to unreasonably withheld or delayed), by an external public relations/crisis management consultant (who shall not be a law firm) retained by the **Policyholder** within thirty (30) days of a **Crisis** to specifically mitigate the adverse publicity or potential adverse publicity to the **Company** as a direct result of the **Crisis.**
- 3.15 **Defence Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred with the prior written consent of the **Insurer** (such consent not to be unreasonably withheld or delayed): (1) by or on behalf of an **Insured** in the investigation, defence, adjustment, settlement or appeal of any **Claim** made or brought against the **Insured**; (2) by any accredited expert retained through defence lawyers, approved in writing by the **Insurer**, on behalf of the **Insureds** to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in connection with the defence of a **Claim**; and (3) by an **Insured Person** for counsel within their country of domicile to interpret and apply advice received from counsel in a **Foreign Jurisdiction** in response to a covered **Claim** brought in such **Foreign Jurisdiction.** **Defence Costs** shall include **Bodily Injury Defence Costs.**

**Defence Costs** shall not include **Pre-Claim Costs, Investigation Costs, Extradition Costs, Asset and Liberty Protection Costs, Civil or Bail Bond Fee, Prosecution Costs, Personal Reputation Restoration Expenses, Crisis Communication Expenses, Derivative Demand Investigation Costs, Indemnity Costs For Shareholder Derivative Claims and Kidnap Response Costs.**

- 3.16 **Deprivation of Assets and Liberty Proceeding** shall mean any proceeding brought against an **Insured Person** by any **Official Body**, resulting directly from or as part of a covered **Claim**, seeking: (1) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of such **Insured Person**; (2) a charge over real property or personal assets of such **Insured Person**; (3) a temporary or permanent prohibition on such **Insured Person** from holding the office of or performing the function of a director or officer (or equivalent) of any entity; (4) restriction of such **Insured Person's** liberty to a specified domestic residence or an official detention; or (5) deportation of such **Insured Person** following revocation of otherwise proper, current and valid immigration status for any reason other than such **Insured Person's** conviction of a crime.
- 3.17 **Derivative Demand Investigation Costs** shall mean reasonable and necessary fees (including but not limited to attorney's fees and expert's fees), costs, charges and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the **Company**) incurred with the prior written consent of the **Insurer** (such consent not to be unreasonably withheld or delayed) by the **Company** (including its Board of Directors, any committee of its Board of Directors or Supervisory Board Members) in investigating or evaluating on behalf of the **Company** whether it is in the best interest of the **Company** to prosecute the **Wrongful Acts** or claims alleged in a **Security Holder Derivative Demand**.
- 3.18 **Director or Officer** shall mean any past, present or future: (1) natural person director, officer, management committee member, member of the board of managers, supervisory board member or management board member of the **Company** duly elected or appointed as such; (2) any **Employee** who is or was the risk manager or general/chief legal counsel (or equivalent position) of the **Company**; (3) member of the **Company's** internal audit committee, internal compensation committee, or any other internal board committee of and for the **Company**; (4) any **Employee** of the **Company** who is: (i) a de facto **Director or Officer**; (ii) to whom the Central Bank of Ireland has given its approval to perform one or more of controlled functions for a **Company** pursuant to Part 3 of the Central Bank Reform Act 2010 or (iii) deemed a shadow director as defined in section 221 of the Companies Act 2014 or any other similar statute, law, rule or regulation in any other jurisdiction; and (5) natural person named as a prospective director in the listing particulars or prospectus for a public offering of **Securities** issued by any **Company**; but, with regard to all of the foregoing, only when and to the extent that such **Director or Officer** is acting or has acted in such **Director or Officer** capacity.
- 3.19 **Employee** shall mean a natural person while acting in the regular service of the **Company** in the ordinary course of the **Company's** business and whom the **Company** compensates by salary, wages and/or commissions and has the right to govern, instruct and direct in the performance of such service. The definition of **Employee** shall not include independent contractors.
- 3.20 **Employment Claim** shall mean a **Claim** based on and alleging an **Employment Practices Violation**.
- 3.21 **Employment Practices Violation** shall mean any actual or alleged act, error or omission with respect to any employment or prospective employment of any past, present, future or prospective **Employee** or **Director** of the **Company**.
- 3.22 **Environmental Event** shall mean: (1) the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** or **Greenhouse Gases** into or on real or personal property, water or the atmosphere; or (2) any direction or request that the **Company** or the **Insured Persons** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants** or **Greenhouse Gases**, or any voluntary decision to do so, whether or not such **Greenhouse Gases** are **Pollutants**.
- 3.23 **Environmental Mismanagement Claim** shall mean any **Claim** based upon, arising out of or attributable to an **Environmental Event** if and to the extent such **Claim**: (1) is a **Securities Claim**, (2) is an **Employment Claim** against an **Insured Person**, including without limitation any such **Claim** for retaliatory treatment, (3) is against an **Insured Person** for **Wrongful Acts** in connection with misrepresenting or failing to disclose information related to **Greenhouse Gases** or actual or alleged global warming or climate changes, or (4) results in **Financial Loss** incurred by **Insured Persons**.
- 3.24 **Excess Limit of Liability** shall mean the amount stated in Item 3(ii) of the Schedule. The coverage provided under the **Excess Limit of Liability** shall be available specifically excess of, and shall not drop down to be primary insurance until the exhaustion of: (1) the **Limit of Liability** of this Policy; (2) the limit of liability of all other applicable directors and officers/management liability insurance policies written as specific excess over this Policy, or otherwise; and (3) all other indemnification for **Financial Loss** available to any **Non-Executive Director**. This cover shall not apply to **Indemnifiable Financial Loss**.
- 3.25 **Extended Reporting Period** shall mean the period of extended cover set forth in Extension 2.5. Such cover shall only apply to: (1) **Claims** for a **Wrongful Act** occurring prior to the expiration of the **Period of Insurance**; or (2) matters which occurred or arose prior to the expiration of the **Period of Insurance** in the case of a **Pre-Claim Event**, an **Investigation**, an **Extradition Claim**, a **Deprivation of Asset and Liberty Proceeding**, a **Personal Reputation Crisis**, a **Crisis** and a **Kidnapping Event**.

Any **Extended Reporting Period** shall terminate immediately upon the effective date of: (i) the renewal of this Policy by the **Insurer** or **Zurich**; or (ii) any directors and officers or management liability contract of insurance issued by the any other **Insurer** which effectively replaces or renews the coverage afforded by this Policy, either in whole or in part.

The additional premium for any **Extended Reporting Period** shall be deemed fully earned at the inception of the **Extended Reporting Period**.

- 3.26 **Extradition** shall mean any formal process by which an **Insured Person** located in any country is surrendered to any other country for trial or otherwise to answer any criminal accusation resulting directly from another **Claim** (other than an **Extradition Claim**) that is covered under this Policy.
- 3.27 **Extradition Claim** shall mean an official request for **Extradition**, or the execution of a warrant for arrest where such execution is an element of the **Extradition**.
- 3.28 **Extradition Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred, with the prior written consent of the **Insurer** (such consent not to be unreasonably withheld or delayed) resulting solely from:
- 3.28.1 an **Insured Person** lawfully: (i) opposing, challenging, resisting or defending any **Extradition Claim**; or (ii) appealing any order or other grant of **Extradition** of that **Insured Person**;
- 3.28.2 an accredited crisis counsellor and/or tax advisor and/or a public relations consultant retained by the **Insured Person** exclusively and directly in connection with the **Extradition** of that **Insured Person**, provided that the maximum aggregate limit of the **Insurer** for all such fees, costs, charges and expenses under this Policy for all **Insured Persons**, combined, shall be EUR250,000; or
- 3.28.3 overseas travelling costs (one round trip) and accommodation for the **Insured Person**, his/her lawful spouse or domestic partner and any children under the age of eighteen, directly in connection with the **Extradition** of such **Insured Person**. Provided, that the maximum aggregate limit of the **Insurer** for all such fees, costs, charges and expenses under this Policy for all **Insured Persons**, spouses/partners and children, combined, shall be EUR50,000.
- 3.29 **Financial Impairment** means the status of the **Company** resulting from: (1) the appointment by any governmental, provincial, federal or state official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Company**; or (2) the **Company** becoming a debtor in possession.
- 3.30 **Financial Institution** shall mean any bank, credit institution, financial institution, finance company, any type of investment fund or undertaking for collective investment in securities, investment firm, asset management company, fund manager, fund administrator, custodian, central securities depository, investment trust, savings and loan association, building society, credit union, stockbroker, insurance or reinsurance company (other than a captive owned by the **Policyholder**), investment exchange, clearing house, securities or insurance underwriter, or any entity established principally for the purpose of carrying on commodities, futures or foreign exchange trading or any other similar entity.
- 3.31 **Financial Loss** shall mean:
- 3.31.1 the total amount the **Insured** is legally liable to pay resulting from a **Claim** made against such **Insured** for which coverage applies, including, but not limited to, damages, judgments (and any award of pre-judgment and post-judgment interest on, and plaintiff's or claimant's legal fees awarded with respect to, covered damages), or settlements;
- 3.31.2 **Defence Costs**;
- 3.31.3 **Mitigation Costs**;
- 3.31.4 **Pre-Claim Costs**, solely with respect to Covers 1.1 and 1.4;
- 3.31.5 **Investigation Costs**, solely with respect to Covers 1.1, 1.2, 1.4 and 1.5;
- 3.31.6 **Extradition Costs**, solely with respect to Covers 1.2 and 1.6;
- 3.31.7 **Asset and Liberty Protection Costs**; **Civil or Bail Bond Fee**; and **Prosecution Costs** solely with respect to Covers 1.2 and 1.7;
- 3.31.8 **Personal Reputation Restoration Expenses**, solely with respect to Cover 1.8;
- 3.31.9 **Crisis Communication Expenses**, solely with respect to Cover 1.9;
- 3.31.10 **Derivative Demand Investigation Costs**, solely with respect to Cover 1.11;
- 3.31.11 **Indemnity Costs For Shareholder Derivative Claims**, solely with respect to Extension 2.2;
- 3.31.12 **Civil Fines and Penalties**, solely with respect to Extension 2.4; and
- 3.31.13 **Kidnap Response Costs**, solely with respect to Extension 2.6.
- Financial Loss** does not include any of the following: (i) any amount not indemnified by the **Company** for which the **Insureds** are absolved from payment by reason of any covenant, agreement or court order; (ii) taxes; (iii) social security contributions; (iv) employment related benefits; (v) fines or penalties

imposed by law (except as provided in Extension 2.4); (vi) any amount incurred by the **Company** that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid by a **Company** in connection with its purchase of any securities or assets; (vii) any sum payable pursuant to a financial support direction or contribution notice issued by a pension regulator; (viii) **Clean Up Costs**; (ix) remuneration payable to any **Insured**, cost of any **Insured's** time or costs or overhead of any **Company** or of any **Outside Entity**; (x) disgorgement; and (xi) damages that are uninsurable under the law pursuant to which this Policy shall be construed; provided **Financial Loss** shall include **Defence Costs** with respect to any of the foregoing.

Notwithstanding the foregoing, **Financial Loss** shall include: (1) corporate taxes owed by the **Company**; and (2) **Employee** (other than **Directors or Officers**) compensation (other than bonus) owed by the **Company**, to the extent that: (i) it is determined by law that the **Directors or Officers** are personally liable for such taxes and compensation; (ii) such **Financial Loss** is not **Indemnifiable Financial Loss**; (iii) the **Company** has become insolvent; and (iv) such taxes and compensation are not owed as the result of any intentional, criminal or wilful act to breach any statutory or contractual duty governing the payment of such taxes or compensation by such **Director or Officer**.

Notwithstanding the foregoing, **Financial Loss** shall include punitive, exemplary or multiple damages, with respect to any **Claim**, other than an **Employment Claim**, if and only to the extent that such damages are insurable under the internal laws of the applicable jurisdiction most favourable to the **Insureds**, including without limitation the jurisdiction in which the **Company**, the **Insured Persons**, the **Insurer**, this Policy or such **Claim** is located.

The **Insurer** shall not assert that any **Defence Costs** or settlements incurred by an **Insured** is uninsurable due to the **Insured's** actual or alleged violation of Section 11, 12 or 15 of the U.S. Securities Act of 1933 (as amended) or any similar law of any other jurisdiction unless precluded from doing so due to court order.

- 3.32 **Foreign Jurisdiction** shall mean any jurisdiction other than the country of the principal address of the **Policyholder** as stated in the Schedule.
- 3.33 **Foreign Policy** shall mean, in relation to a **Foreign Jurisdiction**, the most recently revised standard form of wording for a directors and officers policy of insurance issued by the **Insurer** or **Zurich** in such **Foreign Jurisdiction** and offered in the ordinary course of business to other insureds that provides substantially similar coverage to the coverage provided by this Policy and which is published on the **Insurer's Global Financial Lines and D&O Website**.
- 3.34 **Greenhouse Gases** means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF<sub>6</sub>), or any other emission or substance defined by applicable law as a Greenhouse Gas.
- 3.35 **Indemnifiable Financial Loss** shall mean **Financial Loss** of the **Insured Person** which the **Company** has indemnified or is permitted, required, entitled to indemnify or is not prohibited from indemnifying, unless the **Company** fails or refuses to indemnify the **Insured Person** due to **Financial Impairment**.
- 3.36 **Insured** shall mean any: (1) **Insured Person**; and (2) **Company** but only for **Securities Claims** and Cover 1.9.
- 3.37 **Insured Person(s)** shall mean any:
- 3.37.1 **Director or Officer**;
- 3.37.2 **Outside Entity Executive**;
- 3.37.3 **Employee** of the **Company** while acting in a managerial or supervisory capacity for the **Company**; and
- 3.37.4 **Employee** of the **Company**, other than a **Director or Officer**, in such capacity on behalf of the **Company** including while acting as a lawyer on behalf of the **Company**: (i) for any **Securities Claim** or **Employment Claim**; or (ii) for all other **Claims**, but with respect to (ii) only if and as long as such **Claim** is also made, and is continuously maintained, against a **Director or Officer**;
- but, with regard to all of the foregoing, only when and to the extent that such **Insured Person** is acting or has acted in such **Insured Person** capacity.
- Insured Person** is extended to include: (1) a spouse or civil partner (including same sex relationships) pursuant to the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; and (2) the administrator, heirs, legal representatives, or executor of a deceased, incompetent, insolvent or bankrupt estate, of an **Insured Person** referred to in 3.36.1-4, but solely in regard to **Wrongful Acts** by such **Insured Person**. Provided that this extension of cover will not cover any claim arising out of any act or omission of the individuals or estates listed in (1) or (2) of this paragraph. **Insured Persons** shall not include any consultant, external auditor, or liquidator, administrator, examiner or receiver (or the equivalent in any other jurisdiction) of the **Company**.
- 3.38 **Insurer** shall mean Zurich Insurance Europe AG
- 3.39 **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally connected facts, circumstances, situations, events, transactions or causes.

- 3.40 **Investigation** shall mean any: (i) **Investigation Of Insured Persons**; and (ii) **Investigation Into The Affairs Of The Company**. An **Investigation** shall be deemed to be “first made” when the **Insured Person** is first so required, so identified, so served or so arrested and detained.
- 3.41 **Investigation Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred with the prior written consent of the **Insurer**, (such consent not to be unreasonably withheld or delayed), by or on behalf of an **Insured Person** directly in connection with such **Insured Person** preparing for and attending an **Investigation**.
- Provided that **Investigation Costs** incurred in connection with an **Investigation Into The Affairs Of The Company** shall not include **Indemnifiable Financial Loss**.
- Investigation Costs** do not include remuneration payable to any **Insured Persons** or **Employee** of any **Company** or any **Outside Entity**, cost of their time, costs or overheads of any **Company** or **Outside Entity**, or any fines or penalties (or the equivalent) levied or imposed in connection with the **Investigation**.
- 3.42 **Investigation Into the Affairs Of The Company** shall mean a formal or official criminal, administrative or regulatory investigation, hearing, examination or inquiry into the affairs of the **Company** commenced or brought by an **Official Body**, once an **Insured Person** is required to attend, including any formal or official request, demand or subpoena from an **Official Body**: (1) to interview or depose an **Insured Person**; or (2) for the production of documents from an **Insured Person**, in connection with such investigation, hearing, examination or inquiry. For the purposes of this Definition, **Official Body** shall not include the U.S. Securities and Exchange Commission or similar U.S. state or local agency (“U.S. SEC”).
- An **Investigation Into the Affairs Of The Company** shall not include industry-wide or sector investigations, hearings, examinations or inquiries or any routine or regular regulatory audit, examination, inspection or review.
- 3.43 **Investigation Of Insured Persons** shall mean a formal or official criminal, administrative or regulatory investigation, hearing, examination or inquiry, commenced by or brought by:
- 3.43.1 an **Official Body** (except the U.S. SEC), once an **Insured Person** is identified in writing by an investigating **Official Body** as an individual against whom a **Claim** as defined in paragraph 3.7.2 may be commenced; or
- 3.43.2 by the U.S. SEC after the service of a subpoena or Wells Notice upon such **Insured Person**; or
- 3.43.3 commencement by the arrest and detainment or incarceration for more than twenty-four (24) hours of an **Insured Person** by any law enforcement authority in a **Foreign Jurisdiction**.
- 3.44 **Limit of Liability** shall mean the amount stated in Item 3(i) of the Schedule.
- 3.45 **Kidnap Response Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred with the prior written consent of the **Insurer**, (such consent not to be unreasonably withheld or delayed), by or on behalf of an **Insured Person** directly in response to a **Kidnapping Event** anywhere in the world.
- 3.46 **Kidnapping Event** shall mean any event or connected series of events of seizing, detaining or carrying away by force or fraud an **Insured Person**, while acting in the course of employment by a **Company**, but solely for the purpose of demanding ransom monies. A **Kidnapping Event** shall be deemed to be “first made” against an **Insured Person** when the **Insured Person** is first so seized, detained or carried away by force or fraud.
- 3.47 **Mitigation Action**, means the payment of **Mitigation Costs** by an **Insured** to minimise the risk of a **Claim** against an **Insured Person** provided that (i) notification of the relevant circumstances has been made to the **Insurer** in accordance with Section 10.1 Notification; and (ii) if the circumstance notified in (i) above were to give rise to a **Claim**, that **Claim** would result in a civil legal liability of the **Insured Person** to the potential claimant, but no such **Claim** has yet been made by the potential claimant.
- 3.48 **Mitigation Costs**, means reasonable and necessary payments made with the prior written consent of the **Insurer**, to a potential claimant, to reduce the ultimate civil legal liability of an **Insured Person** provided that all payments are reasonably and necessarily incurred by the **Insured Person**, and are paid directly or indirectly to a potential claimant for the principal purpose of avoiding a **Claim(s)** being made by the potential claimant for a specific **Wrongful Act**;
- In no event shall **Mitigation Costs** include (i) liability which would not otherwise be covered under this policy; (ii) payments arising out of, based upon or attributable to an **Investigation** or **Pre-Claim Event**; (iii) payments to a potential claimant to reduce the ultimate civil legal liability of a **Company**, whether incurred by the **Company** or by an **Insured Person** on behalf of the **Company**; (iv) the remuneration of any **Insured Person**, costs of their time or any other costs or overheads of any **Company**; or (v) any payment which exceeds the Insurers liability that would have existed under this policy if the **Claim** had been made against the **Insured Person** by the potential claimant.
- The burden of proving that any **Claim** would be covered under this policy shall rest with the **Insured**.

- 3.49 **Non-Executive Director** shall mean any natural person serving as a **Director** of the **Company** during the **Period of Insurance** who is not also an **Employee** of any **Company**.
- 3.50 **Official Body** shall mean any regulator, government body, government agency or official trade body (or the enforcement arm of such body) that is empowered by statute or statutory regulation to investigate the affairs of the **Company**, an **Outside Entity** or an **Insured Person**.
- 3.51 **Outside Entity** shall mean any: (1) not-for-profit entity; (2) for-profit entity, but excluding any: (i) **Company**; (ii) **Financial Institution**; (iii) entity if its securities are publicly traded in the U.S. or its territories or possessions.
- 3.52 **Outside Entity Executive** shall mean any **Director** or **Officer** or any **Employee** of the **Company** who: (1) did or will serve or act; or (2) during the **Period of Insurance** is serving or acting, in the capacity as a director or officer (or equivalent executive or management position) of an **Outside Entity** at the **Company's** specific direction and request.
- 3.53 **Period of Insurance** is the period as set out at Item 2 on the Schedule.
- 3.54 **Personal Reputation Crisis** shall mean any negative statement specifically regarding and mentioning an **Insured Person** made by any individual authorized to speak on behalf of an **Official Body** that is included in any press release or published in any print or electronic media outlet. The **Personal Reputation Crisis** must be first made against the **Insured Person** during the **Period of Insurance**. A **Personal Reputation Crisis** shall be deemed to be "first made" against an **Insured Person** when such press release or such publication was first released or syndicated to a **Third Party**.
- 3.55 **Personal Reputation Restoration Expenses** shall mean the reasonable and necessary fees, costs, charges and expenses incurred, with the **Insurer's** prior written consent (such consent not to unreasonably withheld or delayed) by a public relations/crisis management consultant (who shall not be a law firm) retained solely, and independently from the **Company**, by the **Insured Person** within thirty (30) days of the **Personal Reputation Crisis** of such **Insured Person** to specifically mitigate the adverse publicity to such **Insured Person's** professional reputation as a direct result of the **Personal Reputation Crisis**. A **Personal Reputation Crisis** shall conclude once the public relations/crisis management consultant advises the **Policyholder** or such **Insured Person** that such **Personal Reputation Crisis** no longer exists or when the additional limit stated in Item 3(iii) of the Schedule has been exhausted.
- 3.56 **Pollutants** shall mean any air emission, odour, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, silica, noise, fungus (including mould, mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi, but not any fungi intended by the **Insured** for consumption) and electric or magnetic or electromagnetic field. Such matters shall include, without limitation, solids, liquids, gaseous, thermal, biological, nuclear or radiological irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials.
- 3.57 **Policyholder** is the persons / company set out at Item 1 on the Schedule.
- 3.58 **Pre-Claim Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred, with the prior written consent of the **Insurer** (such consent not to be unreasonably withheld or delayed), by an **Insured Person** in retaining advisors separate from the **Company** or an **Outside Entity**: (1) to provide legal advice directly related to a **Pre-Claim Event**; or (2) to prepare a report (and any supplementary reports as necessary) to an **Official Body** in response to a **Pre-Claim Event**; provided that **Pre-Claim Costs** shall not include **Indemnifiable Financial Loss**.
- 3.59 **Pre-Claim Event** shall mean with respect to an **Insured Person** in his capacity as such: (1) a raid on, or on site visit to any **Company** or any **Outside Entity** by an **Official Body** that involves the production, review, copying or confiscation of documents or interviews of such **Insured Person**; or (2) any formal written notification to an **Official Body** by the **Company**, by the **Outside Entity** or by such **Insured Person** of a suspected material breach of such **Insured Person's** legal or regulatory duty; or (3) the receipt by such **Insured Person** of a formal notice from an **Official Body** which legally compels such **Insured Person** to produce documents to, or answer questions by, or attend interviews with, that **Official Body** directly as a result of a **Self Report**.
- Provided that such raid, visit, announcement, notification and receipt of notice must first take place or first occur during the **Period of Insurance**. A **Pre-Claim Event** shall be deemed to be "first made" against an **Insured** when such raid, visit, announcement, notification and receipt of notice first took place or occurred.
- A **Pre-Claim Event** shall not include industry-wide or sector investigations, hearings, examinations or inquiries or any routine or regular regulatory audit, examination, inspection or review.
- 3.60 **Property Damage** shall mean any damage to or destruction of any property or loss of use of such property, and any direct consequential loss resulting there from.
- 3.61 **Proposal** shall mean:
- (a) the information provided in any proposal form or otherwise in response to specific questions asked by the **Insurer**;

- (b) the information provided and recorded in any statement of fact issued to the **Company** or any **Insured Person**;
  - (c) the declarations made by the **Company** or any **Insured Person** or on behalf of the **Company** or any **Insured Person**;
- and / or
- (d) any additional information voluntarily provided
  - (e) any previous policy issued by the **Insurer** for which this policy is a replacement or renewal (including any attachments thereto, information included therewith or incorporated therein), and the financial statements and annual reports of the **Company**.

The information provided and declarations made in any **Proposal** will be relied upon by the **Insurer** in issuing any policy. Statements in the **Proposal** relating to the **Company** or any **Insured Person** shall be treated as if made by the **Company** or any **Insured Person** themselves.

- 3.62 **Prosecution Costs** shall mean reasonable and necessary fees, costs, charges and expenses incurred, with the prior written consent of the **Insurer** (such consent not to be unreasonably withheld or delayed), by an **Insured Person** in bringing a proceeding for a declaration and/or injunction to oppose any **Official Body** seeking a **Deprivation of Asset and Liberty Proceeding**.
- 3.63 **Retention** the amount stated in this Policy, the Schedule or any endorsement for which the Policyholder will be responsible and which will be deducted from any payment under this Policy after all other terms and conditions have been applied. The Retention will be applicable to **Defence costs**.
- 3.64 **Securities** shall mean any bond, debenture, share, stock, American Depository Receipts (ADR) or other equity or security for debt, and will include any certificate of interest or participation in, receipt for, warrant or other right to subscribe to or to purchase, voting trust certificate relating to, or other interest in any of the foregoing items.
- 3.65 **Securities Claim** shall mean a **Claim** that alleges a violation of any laws (statutory or common), rules or regulations regulating **Securities**, the purchase or sale or offer or solicitation of an offer to purchase or sell **Securities**, or any registration relating to such **Securities**:
  - 3.65.1 brought by any person, entity or **Official Body** arising out of, based upon or attributable to the purchase or sale, or offer or solicitation of an offer to purchase or sell any **Securities** of and issued by the **Company**; or
  - 3.65.2 brought by a **Securities** holder of a **Company** in his, her or its capacity as a **Security** holder of such **Company** and with respect to his, her or its interest in **Securities** of and issued by the **Company**; or
  - 3.65.3 brought derivatively on behalf of or in the name of a **Company** by a **Securities** holder of that **Company**.

For the purposes of this Definition, **Claim** shall not include an administrative or regulatory proceeding commenced or brought against, or an investigation of, the **Company**; provided, however, the term **Claim** shall include a formal administrative or regulatory proceeding commenced or brought against the **Company** if such proceeding is also made, and is continuously maintained, against a **Director or Officer**.

**Securities Claim** shall not include a **Claim** brought by or on behalf of any director, officer or employee of a **Company** alleging, arising out of, based upon or attributable to the loss of, or the failure to receive or obtain, the benefit of any **Securities** (including warrants or options).

- 3.66 **Security Holder Derivative Demand** shall mean: (1) any written demand by a **Security** holder of a **Company** upon the board of directors, board of managers or supervisory board members of such **Company** to bring a civil proceeding in a court of law against an **Insured Person** for a **Wrongful Act**; or (2) any lawsuit by a **Security** holder of a **Company**, brought derivatively on behalf of such **Company**, against an **Insured Person** for a **Wrongful Act** without first making a demand as described in subparagraph (1) above. A **Security Holder Derivative Demand** shall be deemed to be "first made" against an **Insured** when such written demand was first received by the **Company** or such lawsuit was first brought. The **Security Holder Derivative Demand** must be first received by the **Company** during the **Period of Insurance**, or the **Extended Reporting Period**, if applicable, for or alleging a **Wrongful Act** taking place before or during the **Period of Insurance**.
- 3.67 **Self Report** shall mean a written report or notification to an **Official Body** by the **Company**, an **Outside Entity** or an **Insured Person** pursuant to a legal obligation to inform such **Official Body** of matters giving rise to an actual or potential regulatory issue where failure to provide such a report or delay in reporting can itself give rise to enforcement consequences to the **Company** or an **Insured Person** from such **Official Body**.
- 3.68 **Sub-Limit of Liability** shall mean a limit of **Insurer's** liability under this Policy for certain covers and extensions and which is within and forms part of, and is not in addition to, the **Limit of Liability**. The amount of the **Sub-Limit of Liability** for each respective cover and extension is the aggregate stated in Item 4 of the Schedule.

- 3.69 **Subsidiary Company** shall mean any entity in which the **Policyholder** directly or indirectly:
- 3.69.1 holds more than 50% of the voting rights; or
  - 3.69.2 holds more than 50% of the issued share capital or equity; or
  - 3.69.3 has the right, pursuant to a written agreement with other shareholders, to appoint a majority of the board of directors (or equivalent in any other country);
- (i) on or before the inception date of this Policy; or (ii) for the purpose of Section 5 for New Subsidiary Companies, during the **Period of Insurance**; but, in all events, only with respect to: (i) **Wrongful Acts** committed; or (ii) in the case of an a **Pre-Claim Event**, a **Self Report**, an **Investigation**, an **Extradition Claim**, a **Deprivation of Asset and Liberty Proceeding**, a **Personal Reputation Crisis**, a **Crisis**, or a **Kidnapping Event**, matters, acts or **Investigations** which occurred, commenced or arose, subsequent to the date that such entity first became a **Subsidiary Company** and prior to the date such entity ceased to be a **Subsidiary Company**.
- 3.70 **Third Party** shall mean any person or entity other than the **Company**, an **Outside Entity** or an **Insured Person**.
- 3.71 **US Claim** shall mean any **Claim** brought or commenced, in whole or in part: (1) within the jurisdiction of; or (2) pursuant to the laws of, the U.S. or its territories or possessions.
- 3.72 **US Investigation Costs Into The Affairs of the Company** shall mean **Investigation Costs** incurred in connection with an **Investigation Into The Affairs Of The Company** commenced or brought by any regulator, government body, government agency or official trade body of the U.S. or its territories or possessions that is empowered by statute or regulation to investigate the affairs of the **Company** or an **Insured Person**.
- 3.73 **US Securities Claim** shall mean any **Securities Claim** brought or commenced, in whole or in part: (1) within the jurisdiction of; or (2) pursuant to the laws of, the U.S. or its territories or possessions.
- 3.74 **Wrongful Act** shall mean actual, alleged or attempted (or with respect to a shareholder derivative action, any proposed) breach of duty, breach of statutory duty, breach of trust, breach of warranty of authority, neglect, error, misstatement, misleading statement, libel, slander or defamation or any other wrongful acts or omissions: (1) any **Insured Person** in her or her insured capacity as such, or any matter claimed against such **Insured Person** solely by reason of his/her status as such; or (2) the **Company**, but solely with respect to a **Securities Claim**. The term **Wrongful Act** shall also include an **Employment Practices Violation**.
- 3.75 **ZURICH** shall mean the **Insurer** and any other member of Zurich Financial Services Ltd. and/or any partners of Zurich Financial Services Ltd. designated by Zurich Financial Services Ltd. to issue any International Program Policy.

## Section 4: Defence, Settlement and Allocation

### 4.1 **Duty to Defend**

It shall be the duty of the **Insured(s)** to take all reasonable steps to defend and contest any **Claim** and not to do anything to prejudice the position of the **Insurer**. The **Insurer** does not assume any duty to defend or investigate any **Claim**.

### 4.2 **Advancement**

Once the **Insurer** has received written notice of a **Claim** under this Policy, it shall advance, in excess of any applicable **Retention**, covered **Claim Costs**, as they are incurred no later than ninety (90) days after the receipt, review and acceptance of such **Claim Costs**. In the event that a determination as to the amount of **Claim Costs** to be advanced under this Policy cannot be agreed to between the **Insureds** and the **Insurer**, then the **Insurer** shall advance such **Claim Costs** which the **Insurer** states to be fair and proper until a different amount shall be agreed upon or determined pursuant to the provisions of this Policy and applicable law.

### 4.3 **Claims Participation and Cooperation**

With respect to any **Claim** that may potentially be covered by this Policy: (i) the **Insurer** shall be provided with all information concerning such **Claim** as the **Insurer** shall reasonably require; (ii) the **Insurer** shall be kept fully informed as to all matters relating to or concerning the investigation, defence, prosecution, negotiation, settlement or appeal of any such **Claim** and shall have the right to receive copies of all relevant documentation relating thereto; and (iii) the **Insurer** shall have the right to associate effectively with the **Insureds** and the **Company** in the investigation, defence, prosecution, negotiation, settlement and appeal of any **Claim**.

#### 4.4 Consent

The **Insureds** shall not admit or assume any liability, offer to settle, enter into any settlement agreement, consent to any judgement, or incur any **Claim or Mitigation Costs** without the prior written consent of the **Insurer**, (such consent not to be unreasonably withheld or delayed) except as provided in Extension 2.3. A **Self Report** shall not be deemed, in and of itself, to be a breach of the **Insured's** obligations as stated in the foregoing sentence. If, within thirty (30) days of an **Insured** submitting a **Claim** to the **Insurer**, there is a dispute solely regarding whether there are sufficient legal grounds to dispute said **Claim**, the **Insured** or the **Insurer** may refer said dispute to a lawyer (agreed to by both the **Insured** and **Insurer**) with not less than ten (10) years legal experience. If such lawyer cannot be agreed to by the **Insured** and **Insurer**, then either the **Insured** or the **Insurer** may use the alternative dispute resolution proceeding detailed in Section 10.13 to resolve such dispute regarding whether there are sufficient legal grounds to dispute said **Claim**.

#### 4.5 Full Settlement within the Retention/Consent of Insurer Waived

If all **Insured** defendants dispose of all **Claims** which are subject to one **Retention** (inclusive of all **Claim Costs**) for an amount not exceeding the applicable **Retention**, then the **Insurer's** consent shall not be required for such disposition.

#### 4.6 Allocation

The **Insurer** will be liable only for **Financial Loss** derived exclusively from a covered **Claim**. If a **Claim** involves both covered and uncovered matters or persons under this Policy, then the **Company**, the **Insured** and the **Insurer** shall use reasonable efforts to determine a fair and equitable allocation of **Financial Loss** covered under this Policy taking into account the legal and financial exposures, and the relative benefits obtained by the relevant party(ies). If the **Insurer**, the **Company** and the **Insured** cannot agree on allocation in accordance with this Section 4.6, then all such parties hereby agree to refer to the determination of the Alternative Dispute Resolution proceeding/procedure stated in this Policy. To the extent that any person or entity was paid **Financial Loss** under this Policy to which they were not entitled, any such payments shall be repaid, on written demand, to the **Insurer** by the person or entity to whom or on whose behalf such payments have been made.

## Section 5: New Subsidiary Companies and Cessation of Subsidiary Company

#### 5.1 New Subsidiary Companies

The Definition of **Subsidiary Company** shall also include any entity whether created or acquired, that becomes a **Subsidiary Company** during the **Period of Insurance** of this Policy.

5.2 Any such newly acquired **Subsidiary Company** described in 5.1: (1) whose total consolidated assets are greater than twenty-five (25) percent of the total consolidated assets of the **Policyholder** (determined as of the date of the acquisition); or (2) whose **Securities** are publicly traded in the U.S.; or (3) that is a **Financial Institution**; shall not be included within the Definition of **Company** or **Insured**; provided, however, solely with regard to a newly acquired **Subsidiary Company** described in 5.2(1), or 5.2(2) this Policy shall provide coverage for a period of ninety (90) days from the date such entity first became a **Subsidiary Company** or until the expiry date of the **Period of Insurance**, (whichever period expires first), provided that the **Policyholder** shall report such **Subsidiary Company** to the **Insurer**, in writing, at renewal of this Policy.

5.3 The **Insurer** may, at its sole discretion, extend coverage under this Policy to such **Subsidiary Company** described in 5.2 and any **Insured Person** thereof, (for a **Subsidiary Company** described in 5.2(1) or 5.2(2), beyond such automatic coverage period) if, within ninety (90) days of such acquisition the **Policyholder** shall: (1) notify the **Insurer** in writing of the acquisition of such entity; (2) provide the **Insurer** with full underwriting information as the **Insurer** may require; and (3) agree to any additional premium and/or amendment of the provisions of this Policy required by the **Insurer** relating to such **Subsidiary Company**.

5.4 This Policy shall not cover any entity described in 5.2 that became a **Subsidiary Company** during the **Period of Insurance** of a policy issued by the **Insurer** of which this Policy is a continuous renewal unless prior to the inception of this Policy the **Policyholder** reported such new **Subsidiary Company** to the **Insurer** in writing and the **Insurer** agreed to provide cover for such new **Subsidiary Company**.

#### 5.5 Cessation of Subsidiary Companies

If before or during the **Period of Insurance** an entity ceases to be a **Subsidiary Company**, coverage as is provided under this Policy with respect to such **Subsidiary Company** and its **Insured Persons** shall continue until termination of this policy (or any continuous renewal of this Policy by the **Insurer**) but only with respect to: (i) **Wrongful Acts** committed; or (ii) in the case of a **Pre-Claim Event**, a **Self Report**, an **Investigation**, an **Extradition Claim**, a **Deprivation of Asset and Liberty Proceeding**, a **Personal Reputation Crisis**, a **Crisis** and a **Kidnapping Event**, matters, acts or **Investigations** which occurred, commenced or arose, subsequent to the date that such entity first became a **Subsidiary Company** and prior to the date such entity ceased to be a **Subsidiary Company**.

## Section 6: Limit of Liability, Retention and Single Claims

### 6.1 Aggregate Limit of Liability

The **Limit of Liability** shall be the **Insurer's** maximum liability, in the aggregate, payable under this Policy for all amounts and all **Financial Loss** arising from all **Claims** made against all **Insureds**, combined. The **Limit of Liability** shall apply only in excess of the applicable **Retention**. The **Limit of Liability** for any **Extended Reporting Period** shall be part of, and not in addition to the **Limit of Liability** for the **Period of Insurance**.

The amounts stated in Item 3(ii), (iii), (iv) and (v) of the Schedule for: (i) **Excess Limit of Liability**; (ii) **Personal Reputation Restoration Expenses**; (iii) **Crisis Communication Expenses**; and (iv) **Kidnap Response Costs**, shall be in addition to the **Limit of Liability**.

### 6.2 Excess Limit of Liability for Non-Executive Directors

The additional **Excess Limit of Liability** as stated in Item 3(ii) of the Schedule shall be the **Insurer's** maximum liability per **Non-Executive Director**, in the aggregate, payable under this Policy for all **Financial Loss** arising from all **Claims** made against such **Non-Executive Director**, subject to the aggregate additional **Excess Limit of Liability** as stated in Item 3(ii) of the Schedule for all **Claims** against all **Non-Executive Directors**, combined.

### 6.3 Additional Limits of Liability

The additional limit for **Personal Reputation Restoration Expenses** as stated in Item 3(iii) of the Schedule shall be the **Insurer's** maximum liability per **Insured Person**, in the aggregate, for all **Personal Reputation Crisis** payable to any such **Insured Person** under this Policy, subject to the aggregate limit as stated in Item 3(iii) of the Schedule for all **Personal Reputation Crisis** of all **Insured Persons**, combined.

The additional limit for **Crisis Communication Expenses** as stated in Item 3(iv) of the Schedule shall be the **Insurer's** maximum liability for all **Crisis Communication Expenses** of the **Company** payable under this Policy for all **Crises**, combined. The additional limit for **Kidnap Response Costs** as stated in Item 3(v) of the Schedule shall be the **Insurer's** maximum liability for all **Kidnap Response Costs** for all **Insured Persons** combined.

### 6.4 Application of Retention

The **Insurer** will only pay that amount of **Financial Loss** in respect of each **Claim** that is in excess of the applicable **Retention** set forth in the Schedule. The **Retentions** shall apply to **Insured Persons** for **Indemnifiable Financial Loss** and the **Company** for all **Financial Loss**. **Retentions** shall not apply to **Personal Reputation Restoration Expenses**, **Crisis Communication Expenses**, **Derivative Demand Investigation Costs** or **Kidnap Response Costs**.

The **Retention** is not part of the **Insurer's Limit of Liability**. The **Retention** is to be borne by the **Company** and shall remain uninsured, other than if insured by a **Subsidiary Company**. If more than one **Retention** is applicable to a single **Claim**, then the applicable **Retentions** will be applied separately to each part of such **Claim**, but the maximum total **Retention** applicable to such **Claim** shall not exceed the largest applicable **Retention**.

### 6.5 First Settlement Offer

If the **Policyholder** consents to the first settlement offer by the claimant that is supported and recommended by the **Insurer** with regard to a **Claim** which results in a settlement of the **Claim**, then the applicable Retention amount shall be retroactively reduced by fifteen (15%) percent provided that the **Policyholder** agrees to such settlement offer within thirty (30) days of the settlement offer first being recommended by the **Insurer**.

### 6.6 Single Claims

All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** of **Insureds** shall be deemed one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made against any **Insured**, regardless of whether such date is before or during the **Period of Insurance**.

## Section 7: Change of Control

If during the **Period of Insurance** the **Policyholder** undergoes a **Change of Control** then the cover provided by this Policy shall only apply in respect of **Wrongful Acts** occurring prior to the effective date of such **Change of Control**. The **Policyholder** shall give written notice to the **Insurer** of such **Change of Control** as soon as reasonably practicable.

## Section 8: Public Offering of Equity Securities in the U.S. During the Period of Insurance

If during the **Period of Insurance** the **Policyholder** or any **Subsidiary Company** announces its intent of, or undergoes, a public offering(s) of its equity **Securities** on a U.S. market or exchange where the total value of such offering(s) is, or is intended to be, more than 10% of the total market capitalization of the **Company** in the U.S. (determined as of the inception date of this Policy), then the **Insurer** shall not be liable to make any payment for **Financial Loss** in connection with a **Claim** alleging, arising from, based upon, attributable to or as a consequence of the purchase or sale or offer or solicitation of an offer to purchase or sell such **Securities**, or any registration relating to such **Securities**, unless the **Company** agrees to any amendments to this Policy and pays any additional premium required by the **Insurer** related to such offering. The **Policyholder** shall make a written request for such coverage within 30 days following the public announcement of such offering.

## Section 9: Exclusions

The **Insurer** shall not be liable under this Policy to make any payment for **Financial Loss** in connection with any **Claim** made against any **Insured**:

### 9.1 Conduct

arising from, based upon, attributable to or as a consequence of:

- 9.1.1 any **Insured** having gained any profit or advantage to which he, she or it had or has no legal entitlement; or
- 9.1.2 any intentionally dishonest or intentionally fraudulent act or omission committed by an **Insured**; in the event that either of 9.1.1 or 9.1.2 is determined or established by: (i) a written admission by the **Insured**; or (ii) a judgement or other final, non-appealable adjudication or proceeding adverse to the **Insured**; until such determination, **Defence Costs** shall be advanced by the **Insurer** pursuant to Section 4 of the Policy;

Notwithstanding anything stated in this exclusion, exclusion 9.1.1 shall not apply in a **Securities Claim** alleging violations of Section 11, 12 or 15 of the U.S. Securities Act of 1933 (or any similar law of any other jurisdiction) to the portion of any **Financial Loss** attributable to such violations.

### 9.2 Pending and Prior Claims

arising from, based upon, attributable to or as a consequence of:

- 9.2.1 any civil, criminal, administrative, regulatory, arbitration, mediation proceeding or **Claim** initiated or commencing prior to or pending at the applicable date stated in Item 6 of the Schedule; or alleging or deriving from the same or essentially the same facts as alleged in such actions;
- 9.2.2 facts alleged or the same or related **Wrongful Act(s)** alleged or contained in any claim or circumstance that has been reported or notified under any directors and officers or management liability policy or employment practices insurance policy of which this Policy is a renewal, replacement or which it may succeed in time; unless such prior policy was issued by the **Insurer** and the **Insurer** did not cover or accept such claim or circumstance under such prior policy;

### 9.3 Property Damage and Bodily Injury

for **Property Damage** or **Bodily Injury**; provided, that the exclusion shall not apply to: (a) **Bodily Injury Defence Costs**; (b) a **Securities Claim**; or (c) mental or emotional distress in connection with an **Employment Claim**;

### 9.4 Pension Trustee

for the infringement of or violation of any responsibilities, obligations or duties imposed by any statute regulation, rule, law or provisions: (i) concerning pension, profit sharing or employee benefit programmes or social compensation plans (whether in part or in whole); or (ii) while acting in the capacity of trustee or fiduciary of any pension or superannuation trust, plan or scheme;

### 9.5 Company/Outside Entity v Insured – for US Claims Only

when such **Claim** is a **US Claim** and is brought by, or on behalf of, or at the instigation of the **Company** or an **Outside Entity**; provided, however, this exclusion shall not apply to:

- 9.5.1 a **Claim** brought or maintained by a liquidator, receiver, bankruptcy trustee or administrative receiver, (or the equivalent in any other country), either directly or derivatively on behalf of the **Company** or the **Outside Entity** without the solicitation, voluntary assistance or active participation of any director or officer (or equivalent in any other country) of the **Company** or the **Outside Entity**; or

- 9.5.2 a **Claim** in the form of a derivative action brought in the name of the **Company** or the **Outside Entity** by one or more persons who are not directors or officers (or equivalent in any other country) of the **Company** or the **Outside Entity** and who bring and maintain the **Claim** without the solicitation, voluntary assistance or active participation of any **Director or Officer** (or equivalent in any other country) of the **Company** or the **Outside Entity**; or
- 9.5.3 **Defence Costs** incurred by the **Insured Person**.

No **Wrongful Act** of an **Insured** shall be imputed to any other **Insured Persons** for the purpose of determining the applicability of the foregoing exclusions in Section 9, other than exclusion 9.2. Only those **Wrongful Acts** committed by any past, present or future Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, General Counsel or Chief Legal Counsel (or equivalent) of the **Company** shall be imputed to that **Company**, and the **Wrongful Acts** of the same officers of the **Policyholder** shall be imputed to all **Companies**, for purposes of determining the applicability of the foregoing exclusions in Section 9.

## Section 10: General Conditions

### 10.1 Claims Procedures

- a) The **Company** or **Insured Person(s)** Responsibilities

It is agreed that

- (i) on the happening of any circumstance which could reasonably be expected to give rise to a **Claim** or on receiving verbal or written notice of any **Claim**, the **Company**, or Risk Management Department, Office of Company Secretary, or General Counsel's Office, or the **Insured Persons** will:
- as soon as reasonably possible give notice to the **Insurer** in writing; and in all events no later than 60 days after expiry of the **Period of Insurance**.
  - as soon as reasonably possible forward to the **Insurer** any notice of prosecution, inquest or fatal inquiry and every letter, **Claim**, writ or summons issued against the **Company** or **Insured Persons**; and
  - take action to minimise the loss or damage and to avoid interruption or interference with the business and to prevent further damage or injury; and
  - at the **Company** or **Insured Persons'** own expense and as soon as reasonably possible supply full details of the **Claim** in writing to the **Insurer** together with any evidence and information that may be reasonably required by the **Insurer** for the purpose of investigating or verifying the **Claim**, (including by responding to reasonable requests for information in an honest and careful manner). Written notice shall include but not be limited to a description of the **Claim**, the nature of the alleged or potential damage, the names of the actual or potential claimants and the date and manner in which the **Company** or **Insured Persons**, as the case may be, first became aware of the **Claim**.
- (ii) no settlement, admission of liability, payment or promise of payment will be made to a third party without the **Insurer's** written consent.

- (b) the **Insurer** Rights

The **Insurer** will:

- (i) be entitled to take over the defence or settlement including the appointment of legal counsel for any **Claim** made against the **Company** or **Insured Person** or any person entitled to indemnity under this policy and the **Company** or **Insured Persons** will give all assistance as may be reasonably required by the **Insurer**; and
- (ii) have the right to make the final determination in relation to coverage or handling of the whole or part of any **Claim**, however, the **Insurer** will engage with the **Company** or **Insured Persons** during the **Insurer's** investigation of the **Claim** and give the **Company** or **Insured Persons** the opportunity to submit to the **Insurer** any relevant evidence which could inform the **Insurer's** determination as regards the **Claim**; and
- (iii) subject to Condition 10.5 of this policy, be entitled to take the benefit of any of the **Company** or **Insured Persons'** rights against any other party before or after the **Company** or **Insured Persons** have received indemnification under this policy and the **Insured** will give all assistance as may be reasonably required by the **Insurer**; and
- (iv) treat any circumstances which might give rise to a **Claim** notified during the **Period of Insurance** which subsequently gives rise to a **Claim** after the expiry date as a **Claim** first made during the **Period of Insurance**.

## 10.2 Reporting of Claims and Circumstances

### Failure to Report Pre-Claim Events

For the avoidance of doubt, failing to report a **Pre-Claim Event** under this Policy, or any prior policy of which this Policy is a continuous renewal, shall not constitute a contravention or breach of this Section 10.1 for the purposes of any subsequent **Claim** (other than such **Pre-Claim Event**) made against an **Insured** during the **Period of Insurance** or the **Extended Reporting Period** (if applicable) alleging, arising out of, based upon or attributable to such **Pre-Claim Event**.

### Notice of Circumstances

If during the **Period of Insurance** or the **Extended Reporting Period** a **Company** or an **Insured** shall become aware of any circumstances which may reasonably be expected to give rise to a **Claim** being made against an **Insured** then the **Company** and such **Insured** shall have the right to give written notice to the **Insurer** of those circumstances (such notice to comprise the **Wrongful Act** allegations anticipated and the reasons for anticipating such a **Claim**, with full particulars as to dates, persons and entities involved).

### Related Claims or Circumstances

If notice of a **Claim** or circumstance is given as required by this Policy, and accepted by the **Insurer**, then any subsequent **Claim** which is made against an **Insured** alleging, arising out of, based upon or attributable to that **Claim** or notice of circumstances, shall be deemed to have been first made at the same time as that first **Claim** or notice of circumstances was first made, and reported to the **Insurer** on the date the required notices were first provided to the **Insurer**. Such related **Claim** shall also be part of the same one aggregate **Limit of Liability** or **Excess Limit of Liability** applicable to that first **Claim** or notice of circumstances.

**Written notice hereunder shall be given in writing to the Insurer named in the Schedule at the address indicated in the Schedule, and be effective from the date of receipt by the Insurer at the above address.**

## 10.3 Cancellation of the Policy

This Policy may not be cancelled by the **Insurer**, except for non-payment of premium.

This Policy may be cancelled by the **Policyholder** on behalf of all **Insureds** at any time during the **Period of Insurance** if the **Policyholder** provides the **Insurer** with sixty (60) days written notice prior to the effective date of such cancellation of the **Policyholder's** intent to cancel this Policy. If this Policy shall be cancelled by the **Policyholder**, the **Insurer** shall retain the pro rata portion of the earned premium plus ten percent (10%) of the total premium for the Policy. In the event there are any notified, reserved or paid circumstances or claims under this Policy, the **Policyholder** shall have the right to cancel this Policy but without the right to a return of premium, and the entire premium shall be deemed fully earned, unless the **Policyholder** withdraws such circumstances or claims and reimburses the **Insurer** for any payments made under this Policy. Any return of premium shall also be subject to a written full release of liability from the **Policyholder**.

This Policy may not be cancelled by the **Policyholder**: (i) during the **Extended Reporting Period**, once elected; (ii) after the **Policyholder** suffers **Financial Impairment**; or (iii) after the **Policyholder** undergoes a **Change of Control**.

## 10.4 Failure of the Company to Indemnify Insured Persons

If the **Company** is permitted, required or entitled to indemnify or is not prohibited from indemnifying the **Insured Persons** for **Financial Loss**, but fails to indemnify such **Insured Persons** for any reason within thirty (30) days of a written demand from the **Insured Person** to so indemnify, then the **Insurer** will pay such **Financial Loss** to or on behalf of the **Insured Persons** as if such **Financial Loss** was not **Indemnifiable Financial Loss** and without prior deduction of any applicable **Retention**. In such event, however, the **Insurer** shall be entitled to obtain immediate reimbursement from the **Company** for all payments made by the **Insurer** that would not have been made or covered under this Policy had the indemnity been provided by the **Company** in respect of such **Financial Loss** or such **Retention**, unless the **Company** fails or failed to indemnify the **Insured Persons** due to **Financial Impairment**.

## 10.5 Subrogation

For the purpose of this clause only, the expression "**Insured Person**" shall mean the **Insured** (as stated on the Schedule ) and any other person entitled to indemnity under this policy.

This clause applies where the **Insurer** has the right to be subrogated to the **Insured Person's** rights against some other person but the **Insured Person** has not exercised those rights and might reasonably be expected not to exercise those rights because the **Insured Person** and the other person are members of the same family (to be construed in accordance with the Employment Equality Act 1998), or are cohabitants (to be construed in accordance with the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010).

Where in the above circumstances the other person is not insured in respect of their liability to the **Insured Person**, the **Insurer** does not have the right to be subrogated to the **Insured Person's** rights against that other person.

Where the other person is so insured, the **Insurer** may not recover from the other person an amount greater than the amount that that person may recover under their insurance policy.

This clause does not apply where the conduct of the other person that gave rise to the loss involved serious or wilful misconduct.

If the **Insured Person** is an employer, the **Insurer** will not exercise the **Insurer's** right of subrogation against an **Employee** except where the loss was caused by an **Employee** intentionally or recklessly and with knowledge that the loss would probably result.

## 10.6 Pre-Contractual Representations

### (1) Pre-Contractual Representations

The **Insured** or the **Insured Person(s)** acknowledge and accept the following:

- (a) the **Insured** or the **Insured Person(s)** have a legal duty prior to entering into the policy and/or prior to the renewal of this policy to provide responses to questions the **Insurer** asks in relation to the risk(s) to be insured.
- (b) a matter about which the **Insurer** asks a specific question is material to the risk undertaken by the **Insurer** or the calculation of the premium by the **Insurer**, or both.
- (c) the **Insured** or the **Insured Person(s)** have a legal duty to answer all questions asked by the **Insurer** honestly and with reasonable care.
- (d) while the **Insurer** acknowledges that the **Insured** or the **Insured Person(s)** have no legal duty of voluntary disclosure, the **Insured** or the **Insured Person(s)** shall ensure that information which is voluntarily provided by the **Insured** or the **Insured Person(s)** or on the **Insured's** or the **Insured Person(s)** behalf is provided honestly and with reasonable care.

### (2) Remedies for Misrepresentation

- (a) The term "negligent misrepresentation" means a representation made without reasonable care but which was not fraudulent. Where a **Claim** is made under the policy but an answer which was provided, or information which was volunteered, by the **Insured** or the **Insured Person(s)** on the **Insured** or the **Insured Person(s)** behalf involves a negligent misrepresentation, the remedy available to the **Insurer** shall reflect what the **Insurer** would have done had the **Insurer** been aware of the full facts and shall be based on a compensatory and proportionate test, as follows:
  - (i) if we, the **Insurer** would not have entered into the policy on any terms, the **Insurer** may avoid the policy from inception or renewal (as the case may be) and refuse all **Claims**, but shall return the premium paid;
  - (ii) if we, the **Insurer** would have entered into the policy, but on different terms, the policy is to be treated as if it had been entered into on those different terms if the **Insurer** so require;
  - (iii) if we, the **Insurer** would have entered into the policy, but would have charged a higher premium, the **Insurer** may reduce proportionately the amount to be paid on the relevant **Claim**.
- (b) Where an answer which was provided, or information which was volunteered, involves a negligent misrepresentation which is identified at a time prior to there being any **Claim** under the policy, the **Insurer** may either:
  - (i) give the **Insured** or the **Insured Person(s)** notice that in the event of a **Claim** the **Insurer** will exercise the remedies in paragraphs (a)(i)-(iii) above as appropriate; and/or
  - (ii) terminate the policy by giving reasonable notice.
- (c) Where a **Claim** is made under the policy but an answer which was provided, or information which was volunteered, by the **Insured** or the **Insured Person(s)** involves a fraudulent misrepresentation, or where the **Insured's** or the **Insured Person(s)** conduct (relative to the policy or the steps leading to its formation) involves fraud of any other kind, the **Insurer** shall be entitled to avoid the policy from the date of commencement or renewal (as the case may be) without return of premium.
- (d) Nothing in this clause shall permit the **Insurer** to avoid the policy based on an innocent misrepresentation provided that the **Insured** or the **Insured Person(s)** have discharged their duty to answer questions asked by the **Insurer** honestly and with reasonable care. In this clause, the term "innocent misrepresentation" means a misrepresentation which was neither a negligent misrepresentation nor fraudulent misrepresentation.

#### 10.7 Severability of the Proposal Form and Non-Rescission of the Policy

Subject to General Condition 10.6 of this policy, the **Proposal** will be construed as a separate **Proposal** for coverage by each **Insured**. Knowledge possessed by the **Company** will not be imputed to any other **Director or Officer** for the purpose of determining if coverage is available with respect to any **Claim** under this policy.

#### 10.8 Other Insurance and Outside Entity Executive Cover

This Policy shall always apply as excess over any other valid and collectable insurance or indemnification (other than from the **Company**) available to the **Insured**. When any other **Insurer** has acknowledged a duty to defend any **Claim** that would otherwise be subject to coverage under this Policy, this Policy shall not respond or contribute to such **Defence Costs** to the extent of that other insurer's duty to defend.

##### Outside Entity Executive Cover

In the event of a **Claim** made against an **Outside Entity Executive**, coverage as is afforded by this policy shall be specifically excess of: (1) any indemnification provided by an **Outside Entity**; and (2) any insurance coverage afforded to an **Outside Entity** or its directors or officers (or equivalent executive or management position). In the event such other directors and officers or management liability insurance coverage afforded to the **Outside Entity** or any of its directors or officers is provided by the **Insurer** or **ZURICH** (or would be provided but for the application of the retention amount, exhaustion of the limit of liability or failure to submit a notice of a claim as required), then the **Insurer's** maximum aggregate **Limit of Liability** for all **Financial Loss** under this policy, as respects such cover, shall be reduced by the amount of the limit of liability (as set forth on the Schedule) of the other **ZURICH** insurance provided to such **Outside Entity**.

#### 10.9 Order of Payments

In the event of **Financial Loss** arising from a **Claim** for which payment is due under the provisions of this Policy, then the **Insurer** shall in all events: (1) first, pay **Financial Loss** of the **Insured Person** for which the **Company** has not indemnified; then only after this payment; (2) with respect to whatever remaining amount of the **Limit of Liability** is available, pay such other **Financial Loss** for which coverage is provided under the remaining covers under this Policy.

#### 10.10 Late Arising Extensions

If during the **Period of Insurance** the **Insurer** develops a standard endorsement providing enhancements of coverage to its base Directors and Officers Liability Insurance policy in the country of principle address of the **Policyholder** (as indicated in the Schedule) and such endorsement is to be made available to the **Insurer's** customers in such country for no additional premium, then the **Policyholder** shall have the right to the benefit of such new coverage enhancement endorsement, subject to all satisfactory underwriting information or particulars as we may require, from the date of such satisfactory underwriting information is approved by the **Insurer**.

#### 10.11 Authorisation Clause

By acceptance of this Policy, the **Policyholder** agrees to act on behalf of the **Insureds** with respect to giving and receiving notices of **Claim** or circumstances, paying premiums and receiving any return premiums that may become due under this Policy, agreeing to endorsements, cancellation of this Policy, giving or receiving notices provided for in this Policy and exercising of the **Extended Reporting Period** (except exercising of the **Extended Reporting Period** described in 2.5.3 and 2.5.4), and the **Insureds** agree that the **Policyholder** shall act on their behalf.

#### 10.12 Bankruptcy

Bankruptcy or insolvency of any **Insured** or of the estate of any **Insured** shall not relieve the **Insurer** of its obligations or deprive the **Insurer** of its rights or defences under this Policy.

#### 10.13 Assignment

Neither this Policy nor any rights hereunder may be assigned without the prior written consent of the **Insurer**.

#### 10.14 Applicable Law

The interpretation of this Policy is governed by and shall be construed in accordance with the laws of the Republic of Ireland.

#### 10.15 Alternative Dispute Resolution Proceeding

The **Insured** and the **Insurer** shall submit any dispute arising out of or relating to this Policy to a binding arbitration proceeding as described in this Section (hereinafter "ADR Proceeding"). The seat of the ADR Proceeding shall be in Dublin, Ireland. Either the **Insureds** or the **Insurer** may initiate the ADR Proceeding process by sending written notice to the other party.

Unless otherwise agreed by the parties, any such binding arbitration shall be governed by the Arbitration Act 2010. The cost shall be borne equally between the **Insured** and the **Insurer**.

#### 10.16 Currency

If judgment is rendered, settlement is denominated or another element of **Financial Loss** under this Policy is stated in a currency other than the currency stated in the Schedule for the **Limit of Liability**, payment of covered **Financial Loss** due under this Policy will be made either in such other currency at the option of the **Insurer** and if agreeable to the **Policyholder**, or in the currency indicated and shown on the Schedule for the **Limit of Liability**, at the rate of exchange published in The Irish Times on the date the final judgment is reached, the amount of the settlement is agreed upon or other element of **Financial Loss** is due respectively (or if not published on such date the next publication date of The Irish Times).

#### 10.17 Plurals and Titles

The **Proposal**, this Policy, its Schedule and any endorsements are one contract in which, unless the context otherwise requires: (a) headings are descriptive only, not an aid to interpretation; (b) singular includes the plural, and vice versa; (c) the male includes the female and neuter; (d) all references to specific legislation include amendments to and re-enactments of such legislation; and (e) references to positions, offices or titles shall include their equivalents in any jurisdiction in which a **Claim** is made.

#### 10.18 Fraudulent Claims

If a **Claim** contains information that is false or misleading in any material respect and the **Insured** or the **Insured Person(s)** either know that it is false or misleading or consciously disregards whether it is false or misleading, or a **Claim** is otherwise fraudulent in any respect, (**Fraudulent Claim**) the **Insurer** shall be entitled to:

- (a) refuse to pay the **Claim**; and
- (b) terminate the policy by written notice in which case cover under the policy shall be treated as having terminated with effect from the date on which the **Fraudulent Claim** was submitted.

In such circumstances of termination the **Insurer** shall refuse all liability to the **Insured** or the **Insured Person(s)** under the policy in respect of any **Claim** made after the date of submission of the **Fraudulent Claim** (but not in respect of any **Claim(s)** made before submission of the **Fraudulent Claim**) and the **Insurer** need not return any of the premiums paid under the policy.

#### 10.19 Alteration of Risk

The **Insured** or the **Insured Person(s)** must tell the **Insurer** immediately of any changes to the following provided by the **Insured** or the **Insured Person(s)** to the **Insurer** prior to the commencement or renewal of this policy:

- (a) the information provided in any **Proposal Form** or otherwise in response to specific questions asked by the **Insurer**;
- (b) the information provided and recorded in any Statement of Fact issued to the **Insured** or the **Insured Person(s)**;
- (c) the declarations made by the **Insured** or the **Insured Person(s)** or on the **Insured** or the **Insured Person(s)** behalf; and / or
- (d) any additional information voluntarily provided.

When the **Insured** or the **Insured Person(s)** notify the **Insurer** about a change as above, or if the **Insured** or the **Insured Person(s)** otherwise becomes aware of any such change, as referenced above, the **Insurer** may reassess the premium chargeable and policy cover more generally.

The **Insurer** may refuse a **Claim** made by the **Insured** or the **Insured Person(s)** where there has been a change in the subject matter of the policy which results in a new risk which the **Insurer** did not agree to cover and which was beyond the **Insurer's** and the **Insured** or the **Insured Person(s)** reasonable contemplation when the policy was entered into. Failure to disclose any such change may result in difficulty obtaining insurance in the future.

#### 10.20 Duty to Comply with Policy Conditions

- (a) The **Insured** or the **Insured Person(s)** must comply with the terms, limitations, Exclusions, Conditions and Endorsements of this policy so far as they relate to anything to be done or complied with by the **Insured** or the **Insured Person(s)** to include the **Insured** or the **Insured Person(s)** cooperating with the **Insurer** in the investigation of insured events, including by responding to reasonable requests for information in an honest and reasonably careful manner.
- (b) Other than where expressly provided in this policy, the **Insured's** or the **Insured Person(s)** compliance with the terms, limitations, Exclusions, Conditions and Endorsements of this policy shall be a condition precedent to any liability on the **Insurer's** behalf to make any payment under the policy.
- (c) Breach of any notification-related term or Condition will entitle the **Insurer** to refuse payment of a **Claim** where the **Insurer** were prejudiced by the breach of the notification-related term or Condition in question.

#### 10.21 Effect of Continuing Restrictive Conditions

In this policy, any term that imposes a **Continuing Restrictive Condition**, including one that is intended to reduce the risk of a particular type of loss, or reduce the risk of loss occurring at a particular time or in a particular location, shall be treated as a suspensive condition. This means that if:

- (a) the **Insured** or the **Insured Person(s)** breach any such term; and
- (b) during the period of breach the **Insured** or the **Insured Person(s)** suffer a relevant loss; and
- (c) such breach increased, in the circumstances concerned, the risk of the loss suffered by the **Insured** or the **Insured Person(s)**,

The **Insurer** will have no liability for the loss.

## Section 11: Worldwide Coverage and Global Liberalization

#### 11.1 Worldwide Cover

Coverage under this Policy shall apply to **Financial Loss** incurred, resulting from **Claims** made and **Wrongful Acts** committed anywhere in the world.

#### 11.2 Global Liberalisation

With respect to **Financial Loss** arising from a covered **Claim** made against an **Insured Person** that is brought in a **Foreign Jurisdiction**, the **Insurer** shall apply those terms and conditions of the **Foreign Policy** commonly offered to other insureds of a similar nature or size to the **Policyholder** in such **Foreign Jurisdiction** in the ordinary course of business, that are more favourable to the **Insured Person** than the terms and conditions of this Policy if permitted by law; notwithstanding the foregoing, this Global Liberalisation Clause shall not apply to any provision of this Policy or any other policy addressing, the Definitions of **Insured**, **Insured Person**, and **Financial Loss**; Insurance Covers and Extensions; limits of liability (primary, excess; or sub-limits); retentions; cancellation or non-renewal procedures; claim made; retentions; other insurance; duty to defend; taxes; the premium; extended reporting or discovery periods, and any endorsement added to this Policy. It is further agreed that any specific endorsement added to this Policy shall be applied to the terms, conditions, exclusions and limitations of the **Foreign Policy**. If there is a sub-limit of liability within the cover of the **Foreign Policy** such sub-limit of liability shall be no more than EUR1,000,000 for the purposes of this subsection.

## Section 12: Complaints Procedure

At Zurich, we care about our customers and believe in building long-term relationships by providing quality products combined with a high standard of service. If it should happen that you have cause for complaint, either in relation to your policy, claim or any aspect regarding the standard of our service, please see the steps outlined below.

- If you have arranged your policy with Zurich through a Broker, you should firstly direct your complaint to the Broker with whom you arranged your policy. If your complaint is not resolved by your broker, you can get in touch with us directly by contacting the Customer Services Co-ordinator, Zurich Insurance Europe AG, PO Box 78, Wexford. Telephone (01) 667 0666. Email [customersupport@zurich.ie](mailto:customersupport@zurich.ie).
- If you deal with us directly, you should contact: Customer Services Co-ordinator, Zurich Insurance Europe AG, PO Box 78, Wexford. Telephone (01) 667 0666. Email [customersupport@zurich.ie](mailto:customersupport@zurich.ie).

If your complaint is not resolved to your satisfaction, you may avail of your right to refer the matter to the Financial Services and Pensions Ombudsman:

- **Financial Services and Pensions Ombudsman:** Lincoln House, Lincoln Place, Dublin 2, D02 VH29. Phone: (01) 567 7000. Email: [info@fspoi.ie](mailto:info@fspoi.ie). Website: [www.fspoi.ie](http://www.fspoi.ie).

Your right to take legal action is not affected by following any of the above procedures.

## Section 13: Data Protection

Zurich Insurance Europe AG ('Zurich', 'we', 'our', 'us') is a member of the Zurich Insurance Group ('the Group'). Zurich is the data controller for this contract under data protection legislation.

For the purpose of this section, 'you' or 'your' shall mean, you, the policyholder, or any other person entitled to indemnity under this policy of insurance.

### About this section

Everyone has rights with regard to the way in which their personal data is handled. During the course of our business activities, we will collect, store and process personal data about you. The purpose of this section is to give you some information about the collection and processing of your personal data. Further information can be obtained in our Privacy Policy which is available at [www.zurich.ie/privacy-policy](http://www.zurich.ie/privacy-policy).

### The Data we collect

Where appropriate, we may collect the following personal data ('Data') from and/or about you:

- **Contact and identifying information** such as title, name, address, email address, telephone number, date and place of birth, gender, marital status, PPS number, VAT number, country of residence, and photographic identification.
- **Financial information** such as bank account details, credit/debit card details and income details.
- **Employment and qualification details** such as occupation, job position, employment and education history.
- **Medical and health details** including information related to personal habits (such as smoking or consumption of alcohol), medical history, details of any disability, injuries sustained and prognosis for recovery.
- **Other sensitive information** such as details of any criminal convictions and offences (including penalty points), civil litigation history as well as pending prosecutions. We may also, in certain cases, receive sensitive information from which it may be possible to infer your trade union membership, religious or political beliefs (for example, if you are a member of a group scheme through a professional, trade, religious, community or political organisation).
- **Information pertaining to the risk insured** such as description of the risk, value of the risk, location of the risk and claims history.
- **Claims data** such as details of the circumstances of any incident giving rise to a claim under this policy, details of activities carried out following any such incident, details of any other claims that you have made, as well as financial, medical, health and other lawfully obtained information relevant to your claim including social welfare information.

The above list covers the main data types collected by Zurich. For further information please see our Privacy Policy at [www.zurich.ie/privacy-policy](http://www.zurich.ie/privacy-policy).

We require this Data in order to manage and administer our relationship with you, evaluate the risk and assess the premium to be paid, validate and settle any claims, bring and/or defend legal proceedings, prevent, detect and investigate fraud, and in order to generally take any steps required to fulfil our contract with you/comply with our legal obligations.

**Note:** If you provide us with Data relating to another person you must first: (a) inform that person about the content of our Privacy Policy and (b) obtain any legally required consent from that person to the sharing of their Data in this manner.

#### **Data collected from third parties**

We may collect Data from third parties if you engage with us through a third party, for example through a broker or, in the case of a group scheme, through your employer. We may also obtain Data from other third parties such as financial institutions, claims service providers (including private investigators) and insurance industry and government bodies for the purposes described above.

#### **What we do with your Data**

We may use, process and store the Data for the following purposes:

- Assessing which insurance products are appropriate for you, risk evaluation, premium setting, policy quotation, premium collection, policy administration, policy renewal, claims assessment, claims processing, claims payment, bringing and/or defending legal proceedings, recovering debt, marketing, survey purposes, statistical analysis, preventing, detecting and investigating fraud, as well as generally taking any steps in order to fulfil our contract with you and comply with our legal obligations.

In order to prevent and detect fraud as well as the non-disclosure of relevant information, Zurich may at any time:

- Share information about you with companies within the Group as well as other organisations outside the Group including, where appropriate, private investigators and law enforcement agencies.
- Check your details with fraud prevention agencies, as well as against databases and other sources of information. Below is a sample of the databases/sources used:
  - the insurance industry claims database known as InsuranceLink maintained by Insurance Ireland (for more information see [www.inslink.ie](http://www.inslink.ie))
  - the Integrated Information Data Service ('IIDS') which allows members of Insurance Ireland to verify information including penalty points and no-claims discount information provided by their customers
  - the National Vehicle and Driver File, maintained and supported by the Department of Transport, Tourism and Sport, containing details of all registered vehicles in the State
  - Motor Insurance Anti-Fraud and Theft Register (MIAFTR) operated by the Association of British Insurers in the UK to log all insurance claims relating to written-off and stolen vehicles in the UK
  - the Companies Registration Office

The above list is not intended to be exhaustive (please see our Privacy Policy for more information).

In addition, we may check the Data you have provided against international/economic or financial sanctions laws or regulated listings to comply with legal obligations or otherwise to protect our legitimate business interests and/or the legitimate interests of others.

#### **Sharing of Data**

We may share your Data (where appropriate/applicable) as follows:

- With business partners, suppliers, sub-contractors and agents with whom we work and/or engage (including, but not limited to, tied agents, managing general agents, auditors, legal firms, medical professionals, cloud service providers, private investigators, third-party claim administrators and outsourced service providers) to assist us in carrying out business activities which are in our legitimate business interests and where such interests are not overridden by your interests.
- With other companies in the Group, partners of the Group, coinsurance and reinsurance companies located in Ireland and abroad, including outside the European Economic Area ('EEA'). Where transfers take place outside the EEA, we ensure that they are undertaken lawfully and pursuant to appropriate safeguards.
- With other insurers and/or their agents.
- With any intermediary or third party acting for you.
- In order to comply with our legal obligations, a Court Order or to cooperate with State and regulatory bodies (such as the Revenue Commissioners or the Central Bank of Ireland), as well as with relevant government departments and agencies (including law enforcement agencies).
- On the sale, transfer or reorganisation of our or our Group's business (or any part of it).

For further information regarding the third parties that we may share Data with, please see our Privacy Policy at [www.zurich.ie/privacy-policy](http://www.zurich.ie/privacy-policy).

In addition, information about claims (whether by our customers or third-parties) is collected by us when a claim is made under a policy and placed on InsuranceLink. This information may be shared with other insurance companies, self-insurers or statutory authorities.

The purpose of InsuranceLink is to help us identify incorrect information and fraudulent claims and, therefore, to protect customers. Under data protection legislation you have a right to know what information about you and your previous claims is held on InsuranceLink. If you wish to exercise this right then please contact us at the address below.

Finally, where you have consented to our doing so, we may share information that you provide to companies within the Group and with other companies that we establish commercial links with so we and they may contact you (by email, SMS, telephone or other appropriate means) in order to tell you about carefully selected products, services or offers that we believe will be of interest to you.

#### **Data Retention**

The time periods for which we retain your Data depend on the purposes for which we use it. We will keep your Data for no longer than is required or legally permitted. Please see our Data Retention Policy at [www.zurich.ie/privacy-policy](http://www.zurich.ie/privacy-policy).

#### **Automated Decision Making and Profiling**

You have a right not to be subjected to decisions based solely on automated processing, including profiling, which produce legal effects concerning you or similarly significantly affects you other than where the decision is:

1. Necessary for entering into a contract, or for performing a contract with you (e.g. your policy of insurance);
2. Based on your explicit consent – which you may withdraw at any time; or
3. Is authorized by EU or Member State law.

Where we base a decision on solely automated decision-making, you will always be entitled to have a person review the decision so that you can contest it and put your point of view and circumstances forward.

#### **Data subject rights**

You have the following rights in relation to your Data which is held by us:

1. To ask for details of your Data held by us.
2. To ask for a copy of your Data.
3. To have any inaccurate or misleading Data rectified.
4. To have your Data erased.
5. To restrict the processing of your Data in certain circumstances.
6. To object to the processing of your Data.
7. To transfer your Data to a third party.
8. A right not to be subject to automated decision making.
9. The right to receive notification of a Data breach.
10. Where processing is based on consent, the right to withdraw such consent.
11. The right to lodge a complaint to the Data Protection Commission.

However, these rights may not be exercised in certain circumstances, such as when the processing of your Data is necessary to comply with a legal obligation or for the exercise or defence of legal claims. If you wish to exercise any of your rights in this regard a request must be submitted in writing to our Data Protection Officer (see contact details below). In order to protect your privacy, you may be asked to provide suitable proof of identification before we can process your request.

#### **Privacy Policy**

Please note that this Data Protection section is not a standalone section. It contains a brief description of the information you need to understand how your Data is used by us and should be reviewed in conjunction with our Privacy Policy which is available online at [www.zurich.ie/privacy-policy](http://www.zurich.ie/privacy-policy).

If you have any questions about your Data, you can contact our Data Protection Officer, using the contact details below.

- **Zurich Customer Services on 053 915 7775**
- **[dataprotectionofficer@zurich.ie](mailto:dataprotectionofficer@zurich.ie)**
- **Data Protection Officer, Zurich Insurance Europe AG, FREEPOST, PO Box 78, Wexford, Ireland.**

**Zurich Insurance Europe AG**

PO Box 78, Wexford, Ireland.

Telephone: 01 667 0666 Fax: 01 667 0644

Website: [www.zurich.ie](http://www.zurich.ie)

Zurich Insurance Europe AG is authorised by the Federal Financial Supervisory Authority (BaFin) in Germany and is regulated by the Central Bank of Ireland for consumer protection rules.

Zurich Insurance Europe AG is registered in Frankfurt, Germany (registration number 133359) with its registered seat at Platz der Einheit 2, 60327, Frankfurt A.M.

Registered in Ireland as a branch (registration number 910127) with registered branch office at Zurich House, Frascati Road, Blackrock, Co. Dublin, A94X9Y3.