

**TERRORISM LIABILITY INSURANCE POLICY  
(CLAIMS MADE AND NOTIFIED)**

**SCHEDULE TO THE POLICY**

- POLICY NUMBER:** {response}
- 1. INSURED:** {response}
- INSURED'S ADDRESS:** {response}
- 2. PERIOD OF INSURANCE:** From commencement {response} to expiry {response} both dates at {response – insert time} at the INSURED's address.
- 3. RETROACTIVE DATE:** {response}
- 4. PER CLAIM LIMIT OF INDEMNITY:** {response} each and every CLAIM including claimants' costs and DEFENCE COSTS
- 5. AGGREGATE LIMIT OF INDEMNITY:** {response} in the aggregate including claimants' costs and DEFENCE COSTS
- 6. DEDUCTIBLE:** {response} each and every CLAIM including claimants' costs and DEFENCE COSTS
- 7. TERRITORIAL LIMITS:** {response}
- 8. PREMIUM:** {response} payable by the commencement of the PERIOD OF INSURANCE
- 9. NOTIFICATION OF CLAIMS AND CIRCUMSTANCES TO:** {response}
- in accordance with the Claims Conditions in the POLICY
- 10. CHOICE OF LAW:** Any dispute concerning the interpretation or validity of the POLICY will be determined in accordance with the law of {response – territory, Country or State}.
- 11. ARBITRATION:**
- |                          |                            |
|--------------------------|----------------------------|
| Rules of Arbitration:    | {LCIA Rules}               |
| Seat of Arbitration:     | {London}                   |
| Language of Arbitration: | {English}                  |
| Governing Law:           | {Law of England and Wales} |
- 12. JURISDICTION:** Subject to the parties' agreement to arbitrate, the INSURED and UNDERWRITERS submit to the jurisdiction of any court of competent jurisdiction within {response – territory, Country or State}.
- 13. NOMINEE FOR SERVICE OF SUIT:** {response}

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**TERRORISM LIABILITY INSURANCE POLICY  
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*Words and phrases which appear in this POLICY in all capital letters have the meanings set out in the Definitions section. The titles of the paragraphs of this POLICY are inserted solely for convenience or reference and shall not limit or affect the provisions to which they relate. Unless the context requires otherwise, words denoting the singular shall include the plural and vice-versa.*

**NOTICE TO THE INSURED**

1. This POLICY covers only CLAIMS first made against the INSURED during the PERIOD OF INSURANCE and notified to UNDERWRITERS in accordance with the terms and conditions of the POLICY.
2. The burden of proving that any loss, damage or expense is recoverable under this POLICY shall fall upon the INSURED as detailed in General Condition F.9.
3. This POLICY is non-cancellable except as detailed in General Condition F.1.
4. **The INSURED must disclose to UNDERWRITERS every circumstance that is material to the risk.**
  - a. A circumstance is material if it would influence the judgement of a prudent underwriter in determining whether to take the risk and, if so, on what terms.
  - b. The INSURED has a duty to disclose all material circumstances (a) it knows or (b) that would have reasonably been revealed by a reasonable search of the information available to the INSURED by the INSURED's senior management and/or those responsible for the INSURED's insurance.
  - c. Disclosure of material information to UNDERWRITERS must be made in a clear and accessible manner.
  - d. By accepting the risk under this POLICY, and in setting the terms and premium, the UNDERWRITERS have relied on the information the INSURED has provided.
  - e. If the INSURED becomes aware that material information provided to UNDERWRITERS is inaccurate or has changed, then the INSURED must inform UNDERWRITERS as soon as possible.
  - f. If the INSURED fails to:
    - (i) disclose every matter and circumstance that is material to the risk; or
    - (ii) notify UNDERWRITERS that information the INSURED has provided is inaccurate; or
    - (iii) notify UNDERWRITERS of any changes to the information provided,

then the insurance under this POLICY may become invalid and/or the POLICY may be voidable, with the consequence that UNDERWRITERS may not be liable to indemnify the INSURED and/or UNDERWRITERS' liability to indemnify the INSURED may be reduced.

## **A. INSURING CLAUSE**

1. In consideration of the INSURED paying the premium UNDERWRITERS will indemnify the INSURED against:

- a. the INSURED's legal liability to pay damages; and
- b. the INSURED's liability to pay claimants' costs and DEFENCE COSTS,

where these arise from any CLAIM:

- (i) first made against the INSURED during the PERIOD OF INSURANCE; and
- (ii) notified to UNDERWRITERS in accordance with the Notice of Claim clause in Claims Condition E.6; and
- (iii) which solely and directly arise out of BODILY INJURY and/or PROPERTY DAMAGE, where the BODILY INJURY and/or PROPERTY DAMAGE is the sole and direct result of an ACT OF TERRORISM which takes place:

- (1) within the TERRITORIAL LIMITS; and
- (2) on or after the RETROACTIVE DATE.

2. Cover under Insuring Clause 1 above is subject to the proviso that, where the CLAIM is made against a JOINT VENTURE declared to and accepted by UNDERWRITERS in writing as covered hereunder, the indemnity UNDERWRITERS provide is limited to a percentage of the damages, costs and DEFENCE COSTS incurred, being the lower of: (A) the percentage of the JOINT VENTURE's share capital owned by the party(ies) named as the "Insured" in the Schedule; or (B) the percentage of the voting control of the JOINT VENTURE exercised by the party(ies) named as the "Insured" in the Schedule. Such percentage shall not be increased by the failure of other parties participating, associated or interested in the JOINT VENTURE to meet their liabilities through financial difficulty, insolvency or any other reason.

**B. LIMIT OF INDEMNITY AND DEDUCTIBLE**

1. UNDERWRITERS' maximum liability for damages, claimants' costs and DEFENCE COSTS resulting from any one CLAIM covered by this POLICY shall be the LIMIT OF INDEMNITY.
2. All CLAIMS covered by this POLICY arising from:
  - a. an ACT OF TERRORISM; or
  - b. a series of ACTS OF TERRORISM arising out of or in connection with the same political, religious or ideological purpose,

will be deemed to be, and treated as:

- (i) one CLAIM for the purposes of applying the LIMIT OF INDEMNITY regardless of the number of claimants, INSUREDS or proceedings involved; and
  - (ii) first made on the date on which the earliest CLAIM was made or CIRCUMSTANCE was first validly notified to UNDERWRITERS in accordance with Claims Condition E.6.
3. UNDERWRITERS' maximum liability for all damages, claimants' costs and DEFENCE COSTS indemnifiable under this POLICY is the AGGREGATE LIMIT OF INDEMNITY.
4. The LIMIT OF INDEMNITY is payable in excess of the applicable DEDUCTIBLE.

The DEDUCTIBLE applies to each and every CLAIM (and any associated DEFENCE COSTS and any claimants' costs) covered by this POLICY. The INSURED shall promptly reimburse UNDERWRITERS for any amounts UNDERWRITERS may pay within the DEDUCTIBLE in respect of any CLAIM.

Any DEDUCTIBLE payable by the INSURED shall not erode the LIMIT OF INDEMNITY or the AGGREGATE LIMIT OF INDEMNITY.

5. Where this POLICY covers more than one INSURED it applies separately to each such INSURED as if UNDERWRITERS had issued a separate policy to each INSURED and UNDERWRITERS waive all rights of subrogation against any of these parties, provided that (regardless of the number of parties insured) in all cases UNDERWRITERS' maximum liability:
  - a. in respect of a single CLAIM covered by this POLICY does not exceed the LIMIT OF INDEMNITY; and
  - b. in respect of all CLAIMS covered by this POLICY shall not exceed the AGGREGATE LIMIT OF INDEMNITY.

## C. DEFINITIONS

The following Definitions apply to this POLICY:

1. **ACT OF TERRORISM**  
means an act, including the use of force or violence, by any person or group(s) of persons (whether acting alone or on behalf of or in connection with any organisation(s)) committed (a) for political, religious or ideological purposes including without limitation the intention to influence any government and/or (b) to put the public in fear for such purposes.
2. **AGGREGATE LIMIT OF INDEMNITY**  
means the Aggregate Limit of Indemnity stated in the Schedule, to include claimants' costs and DEFENCE COSTS.
3. **BODILY INJURY**  
means objective physical or psychiatric harm suffered by a person, including physical trauma or disease.
4. **CIRCUMSTANCE**  
means an incident, occurrence, fact, matter, act or omission which may give rise to a CLAIM.
5. **CLAIM or CLAIMS**  
mean any demand(s) for compensation and/or damages from the INSURED, to include any civil or arbitration proceeding(s).
6. **COMMUNICABLE DISEASE**  
means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - a. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not; and
  - b. the method of transmission, whether direct or indirect, includes but is not limited to airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms; and
  - c. the disease, substance or agent can cause or threaten BODILY INJURY, illness, emotional distress, damage to human health, human welfare or PROPERTY DAMAGE.
7. **COMPUTER SYSTEM**  
means any computer, hardware, software, information technology and communications system or electronic device, including any similar system or any configuration of the aforementioned and including any associated input, output or electronic data storage device, networking equipment or back up facility.
8. **COURT ATTENDANCE COMPENSATION**  
means compensation payable to the INSURED, with UNDERWRITERS' prior written consent, in the event any director, partner or EMPLOYEE of the INSURED is required to attend legal proceedings in connection with a CLAIM against the INSURED which is covered under this POLICY, at the rate of GBP 200 or currency equivalent per person per day or part thereof. The maximum such compensation the UNDERWRITERS will pay under this POLICY regardless of the number of persons or days' attendance is GBP 50,000 or currency equivalent.
9. **CYBER INCIDENT**  
means:
  - a. an unauthorised or malicious act or series of related unauthorised or malicious acts, regardless of time and place; and/or
  - b. a threat or hoax or connected series of threats or hoaxes; and/or
  - c. a failure to act, any error or omission or accident or series of related failures to act, errors or omissions or accidents; and/or
  - d. a breach of duty, statutory duty or regulatory duty or trust or series of related breaches of duty, statutory duty or regulatory duty or trust,

involving access to, processing of, use of or operation of any COMPUTER SYSTEM or any electronic data by any person or group of persons.

10. **CYBER LOSS**  
means any and all actual or alleged loss, damage, liability, injury, compensation, sickness, disease, death, medical payment, CLAIM, cost, fee, expense or any other amount incurred by the INSURED, accruing to the INSURED, or for which the INSURED may be liable, including but not limited to any mitigation cost or statutory fine or penalty, directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any CYBER INCIDENT.
11. **DEDUCTIBLE**  
means the amount stated in the Schedule which the INSURED is liable to pay in respect of each and every CLAIM (including associated DEFENCE COSTS and/or claimants' costs) before UNDERWRITERS shall be liable to make any payment under this POLICY.
12. **DEFENCE COSTS**  
means costs, fees and expenses in connection with the investigation, adjustment, appraisal, defence or settlement of any CLAIM (including COURT ATTENDANCE COMPENSATION) which are:
- a. reasonably incurred by or on behalf of the INSURED; and
  - b. in respect of matters which form the subject of indemnity provided by this POLICY; and
  - c. incurred with the prior written consent of UNDERWRITERS (which consent shall not be unreasonably withheld).
- In no circumstances shall the salaries, expenses, management costs and/or administrative costs of the INSURED or its directors, partners or EMPLOYEES besides COURT ATTENDANCE COMPENSATION be included within the meaning of DEFENCE COSTS.
13. **EMPLOYEE**  
means:
- a. a person or persons under a contract of employment or contract of service or apprenticeship with the INSURED; or
  - b. a person or persons deemed to be an employee of the INSURED under a workers' compensation, disability benefits or unemployment or employment compensation law or any similar law; or
  - c. a person or persons undertaking study or work experience, voluntary work or youth training scheme with the INSURED; or
  - d. any person judged to be an employee under local law.
14. **FINANCIAL LOSS**  
means a pecuniary or economic loss or expense sustained by a third party not directly consequent upon BODILY INJURY or PROPERTY DAMAGE.
15. **INSURED**  
means:
- a. the party(ies) stated in the Schedule as the "Insured"; and
  - b. any director or EMPLOYEE of a party named in the Schedule as the "Insured" or of the INSURED'S subsidiary, owned or controlled companies which have been declared to and accepted in writing by UNDERWRITERS, but only for acts within the scope of their employment; and
  - c. the INSURED'S subsidiary, owned or controlled companies which are not JOINT VENTURES and which have been declared to and accepted in writing by UNDERWRITERS; and
  - d. any JOINT VENTURE.
16. **JOINT VENTURE**  
means a company or other legal entity:
- a. created for the purpose of a joint venture or joint project; and
  - b. in which the party(ies) named in the Schedule as the INSURED own or owns a proportion of the share capital or has a proportion of the voting control; and
  - c. for which such information has been declared to and accepted in writing by UNDERWRITERS.

17. **LIMIT OF INDEMNITY**  
means the Per Claim Limit of Indemnity stated in the Schedule, to include claimants' costs and DEFENCE COSTS.
18. **PERIOD OF INSURANCE**  
means the period of time from the commencement date stated in the Schedule to the expiry date stated in the Schedule, unless this POLICY is cancelled in accordance with the provisions of General Condition F.1. of this POLICY.
19. **POLICY**  
means this document, the Schedule (including any schedules issued in substitution) and any endorsements issued by UNDERWRITERS to amend this document or the Schedule.
20. **POLLUTANT**  
means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, dust, fumes, acids, alkalis, chemicals or waste (waste is deemed to include materials to be recycled, reconditioned or reclaimed).
21. **PROPERTY DAMAGE**  
means physical loss of, physical damage to or physical destruction of tangible property, including loss of use of the tangible property and/or removal of debris from third party property.
- For the purposes of this POLICY, electronic data is not tangible property.
22. **RETROACTIVE DATE**  
means the date set out in the Schedule.
23. **TERRITORIAL LIMITS**  
means the territory or location stated in the Schedule.
24. **UNDERWRITER or UNDERWRITERS**  
means the insurer and/or insurers subscribing to this POLICY.

## **D. GENERAL EXCLUSIONS**

The following General Exclusions apply to this POLICY unless specifically amended by endorsement.

This POLICY does not provide cover in respect of any CLAIM, legal liability, damages, DEFENCE COSTS, claimants' costs or any other costs, fees or expenses of whatsoever nature directly or indirectly caused by or arising out of:

### **1. AIRCRAFT OR WATERCRAFT**

the ownership, possession, maintenance or use by or on behalf of the INSURED of any aircraft, drone, unmanned aerial vehicle or any other aerial device, or satellite, spacecraft, watercraft or hovercraft;

### **2. ASBESTOS**

the existence of or any exposure to or fear of a consequence of exposure to asbestos and/or any asbestos containing materials in whatever form or quantity;

### **3. BODILY INJURY TO A PERPETRATOR**

BODILY INJURY to a perpetrator of an ACT OF TERRORISM, or any associate or accomplice of such perpetrator;

### **4. CLAIMS FROM ASSOCIATED PARTIES AND/OR JOINT VENTURE**

any CLAIM made by a party to, or a party connected or associated with, any association or JOINT VENTURE to which an INSURED is also a party, or with which an INSURED is associated or connected, unless such CLAIM emanates from a wholly independent third party;

### **5. COMMUNICABLE DISEASE**

the transmission or alleged transmission of a COMMUNICABLE DISEASE or the fear or threat (whether actual or perceived) of a COMMUNICABLE DISEASE.

In no event will this POLICY insure against any liability, loss, cost or expense to identify, clean up, detoxify, remove, monitor, or test for a COMMUNICABLE DISEASE;

### **6. CONTRACTUAL LIABILITY**

the assumption of liability by the INSURED in a contract or agreement, save where the INSURED would have incurred the liability in the absence of the contract or agreement;

### **7. CRIMINAL OR DISHONEST ACTS**

a criminal act or dishonest act committed by or at the direction of the INSURED, or its directors, officers or other EMPLOYEES, whether acting alone or in collusion with others;

### **8. CYBER LOSS**

any CYBER LOSS;

**9. DISCRIMINATION OR HUMILIATION**

actual or alleged discrimination, humiliation, harassment, or misconduct by the INSURED on the basis of race, creed, colour, age, gender, sex, sexual preference or orientation, national origin, religion, disability, handicap, marital status, or any other class protected under federal, state, local or other law;

**10. EMPLOYERS' LIABILITY**

- a. BODILY INJURY to any EMPLOYEE of the INSURED arising in the course of their employment; and/or
- b. any obligation of the INSURED under a workers' compensation, disability benefits or unemployment or employment compensation law or any similar law;

**11. FAILURE TO SUPPLY**

the INSURED'S failure to supply or the cessation, fluctuation, variation in, or insufficiency of, the supply of any oil, gas, electricity, chemicals, products, telecommunications, water, steam, materials or other utilities or services;

**12. FINANCIAL LOSS**

any FINANCIAL LOSS;

**13. FINES AND PENALTIES, PUNITIVE OR EXEMPLARY DAMAGES**

any awards or damages of a penal, punitive, restitutionary, non-compensatory or exemplary nature whether in the form of fines, penalties, multiplication of compensation awards or damages, aggravated damages or in any other form whatsoever;

**14. LIQUIDATED DAMAGES**

any liquidated damages clauses, penalty clauses, guarantees or performance warranties to which the INSURED is or is alleged to be a party, unless it is proven that liability would have attached in the absence of such clauses, guarantees or warranties;

**15. PAIN OR SUFFERING WHERE NO BODILY INJURY HAS OCCURRED**

any form of pain or suffering unless a direct result of BODILY INJURY;

**16. MOTOR VEHICLES**

the ownership, possession, maintenance or use of any motor vehicle or trailer by or on behalf of the INSURED;

**17. MOULD**

the existence of mould and/or fungi or its spores, bacteria, yeasts, mildew, algae, mycotoxins or any other metabolic products, enzymes or protein secreted by the above whether toxic or otherwise;

**18. NORTH AMERICA CLAIMS**

any CLAIM, proceedings, threat of proceedings, judgment, award, payment or settlement:

- a. made or arising in the United States of America, Canada or any country or territory operating under the laws of the United States of America or Canada; or
- b. made against any INSURED domiciled or registered in the United States, Canada or any country or territory operating under the laws of the United States of America or Canada.

This exclusion also applies to any order made anywhere in the world enforcing or seeking to enforce any such CLAIM, proceedings, threat of proceedings, judgment, award, payment or settlement;

**19. NUCLEAR, CHEMICAL, BIOLOGICAL, RADIOACTIVE CONTAMINATION**

- a. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; and/or
- b. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; and/or
- c. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; and/or
- d. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. This exclusion does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; and/or
- e. any chemical, biological, bio-chemical, or electromagnetic weapon;

**20. OWN PROPERTY**

damage to property owned, leased or hired by or under hire purchase or on loan to the INSURED or otherwise in the INSURED'S care, custody or control;

**21. POLLUTION**

- a. the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape, of any POLLUTANT at any time, and pollution or contamination of the atmosphere or of any water, land or other physical property; and/or
- b. the cost or expense of any resulting clean up, abatement, removal, containment, treatment, decontamination, detoxification, stabilization, neutralisation or remediation; and/or
- c. cost or expense for any testing, monitoring, evaluating or assessing of an actual, alleged, potential, or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of any POLLUTANT;

**22. PRIOR KNOWN CIRCUMSTANCES**

any CIRCUMSTANCE, loss or CLAIM known to the INSURED, or of which the INSURED ought reasonably to have been aware, prior to the commencement of the PERIOD OF INSURANCE which could give rise to:

- a. liability on the part of the INSURED; and/or
- b. a CLAIM by the INSURED for an indemnity under this POLICY;

**23. PREVIOUSLY NOTIFIED CLAIM OR CIRCUMSTANCE**

any CIRCUMSTANCE, loss or CLAIM which the INSURED:

- a. has, or ought to have, notified to any other insurance prior to the commencement of the PERIOD OF INSURANCE; or

- b. notified to any other insurance, and such notice has been treated as received, prior to the commencement of the PERIOD OF INSURANCE;

#### **24. PRODUCTS**

any design, manufacture, assembly, sale, trade, distribution or promotion of any product;

#### **25. PROFESSIONAL SERVICES**

the rendering of or failure to render professional services;

#### **26. REGULATORY COSTS**

expenses incurred by or on behalf of the INSURED in connection with (including expenses arising out of representation at):

- a. any inquest, investigation, inquiry or any request to:
  - (i) appear at a meeting or interview; or
  - (ii) provide a written response; or
  - (iii) provide documents, records or information (whether electronic or hard copy) undertaken or made by any regulator, government body, government agency, parliamentary commission, trade body or similar body having legal authority in connection with the affairs of the INSURED; or
- b. any criminal investigation or the defence of any proceedings in a criminal court;

#### **27. RELATED COMPANIES**

any CLAIM brought by or on behalf of:

- a. the INSURED; or
- b. any parent or subsidiary of the INSURED; or
- c. any person having an executive, financial or controlling interest in the INSURED; or
- d. any person or entity having a greater than 5% financial ownership of the INSURED; or
- e. any entity where the INSURED has, or has accepted, a financial interest;

#### **28. THREAT OR HOAX**

a threat or hoax of any kind, including where made in connection with, or due to, an ACT OF TERRORISM;

#### **29. WAR, WARLIKE ACTS & POLITICAL PERILS**

- a. war, invasion or warlike operations (whether war be declared or not), hostile acts of sovereign or government entities, civil war, rebellion, revolution, insurrection, mutiny, coup d'état, military or usurped power or martial law; and/or
- b. confiscation, expropriation, nationalisation, seizure, requisition, detention, legal occupation, embargo, quarantine, or any result of any order of public or government authority which deprives the INSURED or a claimant of the use or value of its property; and/or
- c. deliberate destruction or damage to property by or by order of any public or government authority; and/or
- d. illegal occupation, acts involving contraband, illegal transportation, or illegal trade; and/or
- e. riot, strike, protest, lockout, civil commotion, civil disturbance, vandalism or malicious mischief.

## **E. CLAIMS CONDITIONS**

The following Claims Conditions apply to this POLICY unless specifically amended by endorsement.

**The INSURED must comply with these Claims Conditions. If the INSURED fails to do so, UNDERWRITERS are not obliged to provide an indemnity under this POLICY.**

### **1. ALLOCATION**

Whenever any written demand received by the INSURED for damages is finally resolved by the INSURED making a payment that is only partially covered by this POLICY, then the percentage of any DEFENCE COSTS and/or claimants' costs recoverable under this POLICY (subject to the LIMIT OF INDEMNITY and the AGGREGATE LIMIT OF INDEMNITY) shall be calculated by dividing that part of such payment which is covered by this POLICY by the total amount payable by the INSURED.

### **2. ASSUMPTION OF LIABILITY**

The INSURED shall not:

- a. make any payment; or
- b. assume any obligation; or
- c. incur any expense; or
- d. make any admission; or
- e. make any settlement

in relation to any CLAIM or CIRCUMSTANCE without first obtaining UNDERWRITERS' written consent.

### **3. CO-OPERATION**

The INSURED shall co-operate fully with UNDERWRITERS and their appointed representatives in all matters concerning any CLAIM or CIRCUMSTANCE notified hereunder and give UNDERWRITERS all such additional information and assistance as the UNDERWRITERS may require. Without limitation, the INSURED shall:

- a. send UNDERWRITERS each CLAIM, writ, summons, process, notice of arbitration or other document relevant to actual or threatened legal proceedings and all documents relating thereto immediately after the INSURED receives them;
- b. provide UNDERWRITERS and their representatives immediately upon request with all pertinent records, including audit records of its accounts, and provide for interview any of its EMPLOYEES or other persons;
- c. execute all documents and render all assistance to secure all rights, title, interest, causes of action and/or defences as the INSURED may have against any person or entity in connection with any CLAIM, CIRCUMSTANCE or ACT OF TERRORISM notified hereunder, and do nothing to prejudice such rights, causes of action or defences; and
- d. ensure all documents and records relevant to every CLAIM, CIRCUMSTANCE or ACT OF TERRORISM (whether in paper or electronic form) are preserved in their entirety and not in any way destroyed, altered, disposed of, rendered inaccessible or provided to any third party (besides the INSURED's legal advisors) without UNDERWRITERS' prior written consent.

### **4. EXTENDED REPORTING PERIOD**

If the INSURED does not renew this POLICY then an extended reporting period of ninety (90) days (commencing on the date this POLICY expires) applies for CLAIMS first made against the INSURED during the PERIOD OF INSURANCE, subject to the following:

- a. save that the CLAIM may be notified during the extended reporting period, the INSURED must notify the CLAIM in accordance with Claims Condition E.6. below; and
- b. the terms and conditions of this POLICY apply to any CLAIM notified during this extended reporting period; and

- c. the LIMIT OF INDEMNITY and AGGREGATE LIMIT OF INDEMNITY are not increased or reinstated by virtue of any notification during the extended reporting period; and
- d. the extended reporting period does not apply to any CLAIM which (i) is covered by any other insurance or (ii) would be covered by such other insurance save for the exhaustion of any applicable limits.

This extended reporting period provision does not apply if the POLICY is cancelled under General Condition clause F.1.

The INSURED is not eligible to elect this extended reporting period if other insurance has been obtained by the INSURED to cover the CLAIMS which would otherwise be covered by the extended reporting period.

## **5. HANDLING OF CLAIMS**

UNDERWRITERS shall:

- a. assume the handling or control of the investigation, defence and/or settlement of any CLAIM or CIRCUMSTANCE unless agreed otherwise with the INSURED; and
- b. be entitled to select legal representation and/or experts to act on behalf of the INSURED; and
- c. have the right to make such investigation, negotiation and settlement of any CLAIM or CIRCUMSTANCE as UNDERWRITERS may deem expedient; and
- d. not be obliged to defend any legal proceedings where UNDERWRITERS, in their absolute discretion, deem that the proceedings have no reasonable prospect of being successfully defended; and
- e. have discretion over whether to provide any indemnity in respect of any appeal of any judgment or award (to include claimant's costs and/or DEFENCE COSTS relating thereto), provided always that UNDERWRITERS' liability shall never exceed the LIMIT OF INDEMNITY or AGGREGATE LIMIT OF INDEMNITY; and
- f. indemnify the INSURED for any DEFENCE COSTS incurred in excess of the DEDUCTIBLE, provided always that the INSURED obtains UNDERWRITERS' prior written consent before incurring any DEFENCE COSTS, and subject to the LIMIT OF INDEMNITY and AGGREGATE LIMIT OF INDEMNITY.

If the INSURED refuses to consent to any settlement or compromise which UNDERWRITERS (in their sole discretion) wish to accept, then UNDERWRITERS' liability to the INSURED under this POLICY shall not exceed the lesser of:

- (i) the amount for which the CLAIM could have been settled, less any applicable DEDUCTIBLE, plus the DEFENCE COSTS and any claimants' costs or other claims expenses covered by this POLICY and incurred up to the time of such refusal; or
- (ii) the applicable LIMIT OF INDEMNITY and/or AGGREGATE LIMIT OF INDEMNITY.

UNDERWRITERS shall have the right to withdraw from the defence of the CLAIM without any further liability whatsoever by tendering such sums to the INSURED and passing control of the defence to the INSURED.

## **6. NOTICE OF CLAIM**

The INSURED must give written notice to UNDERWRITERS of any CLAIM and/or any CIRCUMSTANCE as soon as reasonably practicable.

Any CIRCUMSTANCE validly notified to UNDERWRITERS which subsequently gives rise to a CLAIM covered by this POLICY shall be deemed to be a CLAIM first made during the PERIOD OF INSURANCE.

Any notification to UNDERWRITERS shall include full details of the CLAIM or CIRCUMSTANCE including, wherever practicable:

- a. full details of the ACT OF TERRORISM giving rise to the CLAIM or CIRCUMSTANCE; and
- b. the name of any claimant(s) and/or potential claimant(s); and
- c. the amount of any potential CLAIM.

## **7. PREVENTION OF LOSS**

The INSURED must, at its own expense, take all reasonable steps within its ability to prevent or mitigate any CLAIM which may be covered under this POLICY, and take all reasonable steps to prevent any further loss or damage.

Whenever any written demand received by the INSURED for damages is finally resolved by the INSURED making a payment which, regardless of the amount thereof, is only partially covered by this POLICY, then the percentage of any DEFENCE COSTS and/or claimants' costs recoverable under this POLICY (subject to the LIMIT OF INDEMNITY and the AGGREGATE LIMIT OF INDEMNITY set out in the Schedule) shall be calculated by dividing that part of such payment which is covered by this POLICY by the total amount payable by the INSURED.

## **8. SUBROGATION AND RECOVERIES**

In respect of any payment made or to be made under this POLICY, UNDERWRITERS shall be subrogated to all the INSURED's rights of recovery against any party not entitled to indemnity under this POLICY, and the INSURED shall provide all relevant information and assistance in this regard or do whatever else is necessary to secure such rights, including formal assignment of such rights to UNDERWRITERS at UNDERWRITERS' request.

The INSURED shall do nothing to prejudice such rights. If the INSURED prejudices or waives any claim against a third party who is not an INSURED, UNDERWRITERS shall be entitled to recover from the INSURED an amount in proportion to the prejudice suffered.

## **F. GENERAL CONDITIONS AND NOTICES**

The following General Conditions apply to this POLICY unless specifically amended by endorsement.

**The INSURED must comply with these General Conditions. If the INSURED fails to do so, UNDERWRITERS are not obliged to provide an indemnity under this POLICY.**

### **1. CANCELLATION**

- a. This POLICY shall be non-cancellable by UNDERWRITERS or the INSURED except in the event of non-payment of premium, in which case UNDERWRITERS may cancel this POLICY at their discretion in the manner set out below.
- b. In the event of non-payment of premium this POLICY may be cancelled by or on behalf of UNDERWRITERS by delivering or mailing to the INSURED or the Broker by registered, certified, or other first class mail, at the INSURED's address as shown in this POLICY, written notice stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice.
- c. If the notice period for any cancellation of the POLICY by UNDERWRITERS is prohibited or made void by any law controlling the construction thereof, such notice period shall be deemed to be amended so as to be equal to the minimum period permitted by such law.
- d. In the event of cancellation as described above, premium is due to UNDERWRITERS on a pro rata basis for the period that UNDERWRITERS are on risk, but the full premium for this POLICY shall be payable to UNDERWRITERS in the event that damages, DEFENCE COSTS, claimants' costs, or any other fees and expenses (1) give rise to a valid CLAIM for indemnity under this POLICY (subject to all POLICY terms and conditions) prior to the date of cancellation and (2) give rise to liability or are incurred prior to the date of cancellation.

### **2. CHOICE OF LAW**

Any dispute concerning the interpretation of the terms, conditions, limitations and/or exclusions contained in this POLICY, or concerning the validity of this POLICY, is understood and agreed by both the INSURED and UNDERWRITERS to be subject to the law of the territory, Country or State stated in the Schedule.

### **3. COMMUNICATION OF NOTICES**

The first named INSURED in the Schedule shall act on behalf of all insured parties in all matters with respect to this POLICY. Any notice communicated under the terms of this POLICY to or from the first named INSURED shall be binding upon all INSUREDS.

### **4. DISPUTE RESOLUTION**

If the INSURED and UNDERWRITERS are unable to settle any dispute by these means then the INSURED and UNDERWRITERS will resolve such controversy or dispute in accordance with the procedures stated in this General Condition 4, which shall be the sole and exclusive procedures for the resolution of any controversy or dispute under this POLICY.

- a. **ARBITRATION:**  
Any dispute arising out of or in connection with this POLICY, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the London Court of International Arbitration (LCIA) Rules, or as may be mutually agreed by the parties as stated in the Schedule, which Rules are deemed to be incorporated by reference into this clause.

The parties will choose whether to refer any such dispute to a panel of one or three arbitrators. In the event of non-agreement there shall be three arbitrators.

If a single arbitrator tribunal is agreed upon, the arbitrator is to be agreed between the parties, or failing agreement within fourteen (14) days after either party has given to the other a written request to concur in the appointment of an arbitrator, the arbitrator is to be appointed by the President or a Vice President of the LCIA, or the President or a Vice President of the body whose Rules have been mutually agreed by the parties as stated in the Schedule.

If a three arbitrator tribunal is agreed upon, each party shall nominate one arbitrator. If a party fails to nominate an arbitrator, the appointment shall be made by the President or a Vice President of the LCIA, or the President or a Vice President of the body whose Rules have been mutually agreed by the parties as stated in the Schedule. The third arbitrator, who will act as chairman of the Arbitral Tribunal, shall be appointed by the two party nominated arbitrators after consultation with the parties.

The seat, or legal place, of arbitration shall be London, England, or as may be mutually agreed by the parties as stated in the Schedule.

The language to be used in the arbitral proceedings shall be English, or as may be mutually agreed by the parties as stated in the Schedule.

The governing law of the contract shall be the substantive law of England and Wales, or as may be mutually agreed by the parties as stated in the Schedule.

The parties shall bear the costs of the arbitrator(s) in equal shares.

b. **SERVICE OF SUIT (OVERSEAS JURISDICTION):**

This Service of Suit Condition is not intended and shall not be deemed to conflict with or override the obligations of the parties to arbitrate their disputes as provided for in this General Condition 4. This Service of Suit Condition is solely intended as an aid to compelling arbitration or enforcing such arbitration or arbitral award, not as an alternative to the Arbitration requirements for resolving disputes under this POLICY as stated in clause a. above.

It is agreed that:

- (i) this POLICY shall be governed by the law specified in the Schedule and whose Courts shall have jurisdiction in any dispute arising hereunder; and
- (ii) any summons, notice or process to be served upon UNDERWRITERS for the purpose of instituting any legal proceedings against them in connection with this POLICY may be served upon the Nominee specified in the Schedule who has authority to accept on their behalf.

**5. FALSE AND FRAUDULENT CLAIMS**

If the INSURED, or anyone acting on their behalf, makes a CLAIM for an indemnity under this POLICY knowing it to be false or fraudulent in amount or in any other respect, or use any fraudulent means in support of any such CLAIM, the UNDERWRITERS will not be liable to pay the CLAIM and may recover from the INSURED any sums paid in respect of the CLAIM. The UNDERWRITERS may also, by notice to the INSURED, treat the POLICY as having been cancelled with effect from the time of the fraudulent act.

**6. INSOLVENCY**

The insolvency, bankruptcy or receivership of the INSURED or any refusal or inability to pay by the INSURED shall not operate to:

- a. deplete any DEDUCTIBLE stated in the Schedule; or
- b. increase UNDERWRITERS' liability under this POLICY; or
- c. increase any UNDERWRITER's share of liability under this POLICY.

Under no circumstances will any insolvency, bankruptcy, receivership or inability to pay of another insurer require UNDERWRITERS to drop down, replace, or assume any obligation within the DEDUCTIBLE.

In no event shall any UNDERWRITER of this POLICY assume the responsibilities and/or obligations of the INSURED and/or any other insurer and/or any other UNDERWRITER.

**7. INVALIDITY OR UNENFORCEABILITY**

In the event that any provision, or part of any provision, of this POLICY is found to be legally invalid or legally unenforceable by a court of competent jurisdiction, the other provisions of this POLICY (and the remainder of any partially invalid provision) shall not be affected and shall remain in full force and effect.

**8. NON-ASSIGNMENT**

Assignment or transfer of any legal, equitable or other interest in this POLICY shall not be valid without the written consent of UNDERWRITERS.

**9. ONUS OF PROOF**

In any claim for an indemnity under this POLICY, the INSURED shall bear the burden of proving:

- a. that the indemnity falls to be provided under this POLICY; and
- b. that no limitation or exclusion of this POLICY applies; and
- c. the quantum of any indemnity claimed.

**10. OTHER INSURANCE**

If any CLAIM or CIRCUMSTANCE notified to this POLICY is insured by another valid contract of insurance, then this POLICY shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other contract(s) of insurance, whether such other contract(s) of insurance is or are stated to be primary, contributory, excess, contingent or otherwise, unless such other contract(s) of insurance is or are written specifically excess of this POLICY by express reference in such other insurance to the Policy Number indicated in the Schedule to this POLICY.

**11. PREMIUM PAYEE**

The first named INSURED is responsible for the payment of all premiums, and will be the payee for all return premiums paid by UNDERWRITERS.

**12. PREVENTIVE MEASURES**

As soon as the INSURED becomes aware of an ACT OF TERRORISM, CLAIM or CIRCUMSTANCE, it shall promptly, and at its own expense, take all reasonable steps to prevent:

- a. BODILY INJURY and/or PROPERTY DAMAGE which may result from such matters; and/or
- b. conditions which may give rise to or facilitate any similar or subsequent ACT OF TERRORISM or any CLAIMS.

**13. PROTECTION MAINTENANCE**

The INSURED shall maintain any protection and safeguards provided for any person and/or safety of property in good order throughout the PERIOD OF INSURANCE and these shall be in use at all times. Such protection and safeguards shall not be withdrawn or varied to the detriment of the interests of UNDERWRITERS without their written consent.

**14. SANCTIONS**

UNDERWRITERS shall not provide any cover, nor shall they be liable to pay any indemnity to the INSURED or provide any benefit hereunder, to the extent that the provision of such cover, payment of such indemnity or provision of such benefit would expose UNDERWRITERS to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

**15. SEVERAL LIABILITY**

The subscribing UNDERWRITERS' obligations under this POLICY are several and not joint and are limited solely to the extent of their individual subscriptions. No subscribing UNDERWRITER is responsible for the subscription of any co-subscribing UNDERWRITER who for any reason does not satisfy all or part of its obligations.

**16. THIRD PARTY RIGHTS**

- a. This POLICY is effected solely between the INSURED and UNDERWRITERS.
- b. This POLICY shall not confer any benefits on any third parties, including shareholders, and no such third party may enforce any term of this POLICY.
- c. This clause shall not affect the rights of the INSURED.

**17. WAIVER OR CHANGE**

Notice to or knowledge possessed by any person shall not effect a waiver or change in any part of this POLICY or stop UNDERWRITERS from asserting any right under this POLICY; nor shall any part of this POLICY be waived or changed, except by endorsement issued to form a part hereof, signed by UNDERWRITERS.