

**ANGEL UNDERWRITING
LIMITED
09/07 - SB
THE DIRECTORS INSURANCE
POLICY**

UK PRIVATE COMPANY SMALL
BUSINESS
DIRECTORS AND OFFICERS
LIABILITY INSURANCE

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LEGAL HELPLINE:

Available Monday to Friday from 8.00am to 8.00pm for general English legal advice potentially giving rise to a liability under this policy on the part of directors or officers or in relation to an Employment Practices Wrongful Act.

Telephone: **0203 060 6000**, to speak to Edward Mann or Simon Goldring.

Advice on the Helpline is at no charge for the first 30 minutes only and is not otherwise recoverable from Insurers. Advice given will not include whether or not there might be a notifiable circumstance or claim under the policy, any issues concerning the validity of the policy, or any policy coverage issues. Calls to the Helpline do not and cannot compromise any form of notification to Insurers such as may be required under this policy.

The **Company** has submitted to the **Insurer** on behalf of itself and the **Insured** the **Proposal** and declarations which it is agreed shall be the basis of, and be incorporated into, this policy and in consideration of the **Premium** paid or to be paid by the **Company**, the **Insurer**, the **Insured** and the **Company** agree as follows subject to the terms, conditions, exclusions, exceptions and limitations of this policy.

1 SCHEDULE

Policy Number: _____

1) The Company: _____

and its **Subsidiaries**

2) Period of Insurance **From:** _____
To: _____
both days at 00.01 am

3) Limit of Indemnity: £_____ in the aggregate, within and as part of which there shall be sub-limits as follows:
(a) £_____ in the aggregate (Clause 2.2(c))
(b) £_____ in the aggregate (Clause 2.2(d))
(c) £50,000 in the aggregate (Clause 2.2(e))
(d) £50,000 in the aggregate (Clause 6.4)
(e) £50,000 in the aggregate in respect of **Employment Practices Wrongful Acts**

4) Deductible: Nil

5) Premium: £_____
plus IPT (Insurance Premium Tax) £_____

Total: £_____

6) Territorial Limits: Worldwide excluding the United States of America and/or Canada

7) Proposal: Electronic Application attached

8) Endorsements: _____

Signed:

On behalf of Catlin Insurance Company (UK) Limited
Date:

2 INSURING CLAUSES

2.1 The **Insurer** will pay on behalf of:

- (a) the **Insured** all **Loss** that the **Insured** is legally liable to pay;
- (b) the **Company** any such **Loss** that the **Company** is legally required or permitted to pay the **Insured** as advancement or indemnity under any applicable company law or agreement;

for a **Claim** against the **Insured** for a **Wrongful Act** or an **Employment Practices Wrongful Act** provided that the **Claim** is first made against the **Insured** during the **Period of Insurance** or **Discovery Period** if applicable.

2.2 The **Insurer** will pay on behalf of the **Insured**:

- (a) **Defence Costs and Expenses** in the defence, investigation or settlement of any **Claim** which falls to be dealt with under Insuring Clause 2.1;
- (b) **Defence Costs and Expenses** in the investigation of any circumstance(s) **Notified** to the **Insurer** under condition 8.3 which is (or are) likely to give rise to a **Claim**;
- (c) **Investigation Costs and Expenses**;
- (d) **Criminal Defence Costs and Expenses**; and
- (e) **Pollution and Contamination Defence Costs and Expenses**.

3 DEFINITIONS

3.1 "**Claim**" means any demand made of, or allegation of a right against, the **Insured** which is communicated to the **Insured**. All **Claims** related or connected in any way by reference to any common contributory factor or characteristic shall be treated as a single **Claim** first made on the date the first such **Claim** was **Notified**, provided that all such related or connected **Claims** are made during the same **Period of Insurance** or the **Discovery Period** if applicable.

3.2 "**Company**" means the company/companies stated in the **Schedule** and its/their **Subsidiaries**

3.3 "**Criminal Defence Costs and Expenses**" means in relation to any **Claim** for bodily injury, sickness, disease, emotional distress (other than emotional distress arising from any libel or slander), mental anguish, mental stress or the death of any person, **Defence Costs and Expenses** in any criminal proceedings or investigation under Health and Safety at Work legislation including corporate manslaughter or the equivalent in any jurisdiction.

3.4 "**Defence Costs and Expenses**" means legal costs and expenses incurred by or on behalf of the **Insured** with the prior written and continuing consent of the **Insurer** (such consent not to be unreasonably withheld). It does not include any **Insured's** or the **Company's** own costs and expenses (including salaries) or any value attributable to the time spent by the **Insured**, **Company** or any **Employee** in dealing with a **Claim**. **Defence Costs** shall also include premium paid for insurance instruments or for bonds which may be required.

3.5 "**Discovery Period**" means any period of up to twelve months by which in respect of **Wrongful Acts** committed prior to the expiry of the **Period of Insurance** the **Insurer** extends cover. The limit of indemnity for the **Period of Insurance** and **Discovery Period** combined shall not exceed the sum stated in the **Schedule**.

3.6 "**Employee**" and "**Employment**" means any person, other than a director or officer of the **Company**, who is under a contract of service or apprenticeship, supplied to, hired, or borrowed by the **Company**, or under any work experience or similar scheme, whilst employed or engaged by and under the control of the **Company**.

With respect to a **claim** for an **Employment Practices Wrongful Act** to the extent that such **Employee**:

- (a) is acting in any managerial or supervisory capacity or **Outside Director**.
- (b) is named as a co-defendant with an **Insured**.

3.7 "**Employment Practices Wrongful Act**" shall mean a **claim** for:

- (a) discrimination with respect to the terms or conditions of **Employment** on the basis of an individual's race, colour, religion, age, sex, national origin, disability, pregnancy, sexual orientation or preference or other status protected under applicable law;
- (b) sexual harassment, including unwelcome sexual or non sexual advances, requests for sexual favours, and any unwelcome verbal, visual or physical contact of a sexual nature which:
 - 1. is explicitly or implicitly made a term or condition of **Employment**;
 - 2. creates a hostile or offensive working environment;
 - 3. when rejected or opposed by a person becomes a basis for decisions regarding that person's **Employment**;
- (c) defamation (including libel and slander) which relates to a person's job skills, job performance, qualifications for **Employment**, professional reputation, disciplinary history, or termination of employment;
- (d) wrongful termination of **Employment** or refusal to hire;
- (e) an adverse change in the terms and conditions of a person's **Employment** in retaliation for that person's exercise of his or her rights under law, or support of the rights of another.

The total aggregate limit of indemnity for all **Employment Practices Wrongful Acts** shall not exceed the amount shown in part 3. (e) of the **Schedule**.

3.8 "**Insured**" means:

- (a) any natural person except an external auditor who is a past, present or future director or officer of the **Company**, or holds any equivalent position in any jurisdiction;
- (b) any past, present or future **Employee** of the **Company**:
 - (i) acting at the specific prior written request of the **Company** in the capacity of **Outside Director**; or
 - (ii) acting in any managerial or supervisory capacity; or
 - (iii) named as co-defendant with any director or officer.
- (c) any director or officer's lawful spouse or civil partner (as defined in the Civil Partnership Act 2004) where in receipt of a **Claim** because of the **Wrongful Act** of the director or officer.
- (d) the director or officer's estate, heirs, legal representatives or assigns.

For the avoidance of doubt, all references to directors and officers apply equally to non-executive and executive directors.

- 3.9 "**Insurer**" means Catlin Insurance Company (UK) Limited.
- 3.10 "**Investigation**" means any formal investigation enquiry or request for information of or attendance by the **Insured** initiated by any body (including the Financial Services Authority) other than the **Company** authorised so to compel the **Insured** during the **Period of Insurance** for the purpose of evaluating the conduct of the **Insured** in such insured capacity, including but not limited to proceedings under the Proceeds of Crime Act 2002 and Money Laundering Regulations 2003 or by reference to the Financial Services and Markets Act 2000.
- 3.11 "**Investigation Costs and Expenses**" means **Defence Costs and Expenses** incurred in the context of an **Investigation**.
- 3.12 "**Loss**" means any award of compensatory damages made by a competent court or tribunal including third party costs or any settlement, **Defence Costs and Expenses Investigation Costs and Expenses** or **Criminal Costs and Expenses** incurred with the prior written consent of the **Insurer**.
- Loss** does not include
- a) **Employee** remuneration, benefits, stock or share options or severance payments; or
 - b) taxes, fines, or civil, regulatory or criminal penalties or
 - c) punitive, aggravated or exemplary damages; or
 - d) In respect of any **Employment Practices Wrongful Act Loss**:
 - (i) any salary or wages earned while in the **Employment** of the **Company**.
 - (ii) any **Employment** related benefits to which the claimant would have been entitled as an **Employee** had the **Insured** or the **Company** provided the claimant with a continuance, reinstatement or commencement of **Employment**.
 - (iii) contractual damages based upon the terms of a contract of **Employment**.
 - (iv) any liability or costs incurred by any **Insured** or the **Company** to modify any building or property in order to make such a building or property more accessible or accommodating to any disabled persons.
- 3.13 "**Notified**" means that notice is sent in writing by the **Insured** and/or the **Company** (or its insurance agent) to, and received by, the **Insurer**. For the avoidance of doubt, notice is not valid if given by any third party (other than the **Insured's** and/or the **Company's** insurance agent).
- 3.14 "**Outside Director**" means any **Insured** acting in the capacity of a director formally appointed on the written authority and request of the **Company** to the board or equivalent position in any organisation in which the **Company** holds a shareholding, any not-for-profit entity or any other entity which has been specified in the **Schedule** other than:
- a) the **Company**; or
 - b) any entity:
 - (i) having its securities listed or traded on any US exchange; or
 - (ii) possessing any tangible or intangible asset located within the USA.
- 3.15 "**Period of Insurance**" means the period stated in the **Schedule**.
- 3.16 "**Pollution and Contamination Defence Costs and Expenses**" means **Defence Costs and Expenses** incurred in relation to any **Wrongful Act** involving any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed) or contamination of any kind; or ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- 3.17 "**Premium**" means the amount stated in the **Schedule**.
- 3.18 "**Proposal**" means the application referred to in the **Schedule** and containing particulars and statements together with any other information and documents supplied to the **Insurer** by or on behalf of any **Insured** or the **Company**.
- 3.19 "**Schedule**" means the document entitled "**Schedule**" that attaches to and forms part of this policy.
- 3.20 "**Subsidiary**" means a company in which the **Company**:
- (a) owned or owns directly or through one or more of its **Subsidiaries** more than 50% of the voting rights or more than 50% of the share capital issued in such entity; or
 - (b) had or has the right to appoint or remove the majority of such entity's board of directors; or
 - (c) controlled or controls alone pursuant to a written agreement with other shareholders or members the majority of the voting rights in such entity, provided that the **Company** is also a shareholder in it;
- but only in respect of **Wrongful Acts** committed in relation to the **Subsidiary** while a **Subsidiary** of the **Company**
- 3.21 "**Total Gross Assets**" means the **Total Gross Assets** of the **Company** and its **Subsidiaries** as shown in its audited consolidated group accounts most recently preceding the **Period of Insurance**.
- 3.22 "**Wrongful Act**" means any actual or alleged act, error, omission, misstatement, misleading statement, negligent act, negligent error, negligent omission or negligent breach of duty committed or attempted by an **Insured** acting in his or her capacity as a director or officer of the **Company** or any allegation made against the **Insured** by reason of his or her capacity as a director or officer of the **Company**.
- 4 **LIMIT OF INDEMNITY**
- 4.1 The limit of indemnity means the maximum amount payable by the **Insurer** under this policy for the **Period of Insurance** (including any **Discovery Period** and run-off period under clause 6.4) irrespective of the number of **Claims** and/or the number of claimants and/or the number of **Insureds, Companies** or **Subsidiaries**. All inner or sub-limits form part of and, where paid, erode the limit of indemnity and are in all respects subject to the terms, conditions, limits, exclusions and other provisions of this policy. As regards **Outside Director** cover the limit of indemnity shall be further reduced by the amount of any other potentially applicable cover, whether or not paid.

- 4.2 The limit of indemnity shall be as stated in the **Schedule**.

The aggregate sub-limit shown in the **Schedule** shall apply as part of and where paid, in whole or in part, erode the limit of indemnity.

- 4.3 Any payment in respect of Insuring Clause 2.1 and/or 2.2 and/or any endorsement or otherwise shall erode the limit of indemnity.

- 4.4 The limit of indemnity shall be the maximum the **Insurer** shall be called upon to pay in respect of any **Period of Insurance** (including any **Discovery Period**) irrespective of the number of **Claims**, claimants or **Losses** and shall include all **Defence Costs and Expenses** and **Investigation Costs and Expenses**.

- 4.5 All **Claims** or series of **Claims** arising from or attributable to or which are otherwise causally connected with a single **Employment Practices Wrongful Act** or series of related **Employment Practices Wrongful Acts** shall be considered as a single **Claim** for the purposes of this policy provided that all such **Claims** are made during the same **Period of Insurance** or the **Discovery Period** if applicable.

5 DEDUCTIBLE

- 5.1 The deductible means the first part of any **Loss** payable by the **Company** together with any unpaid **Premium**. The **Insurer** shall only be liable to the extent that any liability exceeds the relevant deductible.

- 5.2 Payment of any such deductible by the **Company** is a condition precedent to payment by the **Insurer**.

- 5.3 The deductible includes **Defence Costs and Expenses** and **Investigation Costs and Expenses**.

6 EXTENSIONS

Subject to all other terms, conditions, exceptions, limits, deductibles and exclusions of this policy:

6.1 Automatic Acquisition Cover

This policy provides automatic cover for **Loss** arising out of any newly created or acquired **Subsidiary**, including by merger, to the extent that:

- (a) the **Total Gross Assets** of the **Company** at the commencement of the **Period of Insurance** combined with any applicable **Discovery Period** are not increased by the acquisition or creation of such **Subsidiary** or **Subsidiaries** by more than 25%; and
- (b) any **Wrongful Act** for which cover is sought takes place while the **Subsidiary** is a **Subsidiary** of the **Company**.

This extension shall not apply to any new **Subsidiary**:

- (i) having its securities listed or traded on any US exchange; or
- (ii) possessing any tangible or intangible asset located within the USA.

6.2 Takeovers and Mergers

If during the **Period of Insurance** the **Company** merges with or consolidates into another entity, or any person or entity acquires 50% or more of its issued share capital:

- (a) the **Company** shall within thirty days give written notice to the **Insurer** of such merger, consolidation or acquisition; and

- (b) cover shall thereafter apply only to **Wrongful Acts** committed prior to the effective date of such merger, consolidation or acquisition.

- (c) the **Company** may cancel the remainder of this policy on behalf of the **Company** and all **Insureds** by sending written notice to the **Insurer**, stating the date from which the cancellation is to take effect.

6.3 Discovery Period

In the event that the **Insurer** cancels this policy for any reason other than non-payment of **Premium**, or refuses to offer renewal terms (changes in the limit of indemnity, deductible, **Premium** or any other terms and conditions do not constitute a refusal to offer renewal terms for the purpose of this clause) or the **Insured** elects not to renew with the **Insurer**, the **Insurer** will (upon request by or on behalf of the **Insured** to be received within no more than thirty days after expiry) offer as an extension of the **Period of Insurance** a **Discovery Period** of up to twelve months at 100% additional **Premium** for **Wrongful Acts** committed prior to expiry of the **Period of Insurance**. The limit of indemnity for the **Period of Insurance** including the **Discovery Period** shall remain as set out in the **Schedule**. This **Discovery Period** shall terminate immediately upon the **Insured** purchasing any other Directors and Officers policy cover (irrespective of whether it is equivalent to this policy in scope) and any unearned **Premium** shall be returned as soon as possible.

6.4 Retirement Run-off

In the event that this policy is not renewed on expiry with the **Insurer** and provided that there is no available indemnity under any other Directors and Officers policy this policy shall extend to cover any **Insured** who had retired or resigned from the **Company** prior to the date of such expiry in respect of **Claims** made against that **Insured** for a further six years immediately following such date. However this extension shall apply only:

- (a) in respect of **Wrongful Acts** committed during the original **Period of Insurance** and
- (b) in respect of **Wrongful Acts** committed during any previous **Period of Insurance** which is linked by continuous renewal to this **Period of Insurance**.
- (c) if the **Insured** has retired for reasons other than disqualification or as a result of a merger, consolidation or acquisition as detailed in clause 6.2.
- (d) up to aggregate sub-limit stated in part 3(d) of the **Schedule** in respect of an **Insured** in the **Period of Insurance** combined with any **Discovery Period**.

6.5 Outside Boards

This cover shall extend to any **Wrongful Act** committed in the capacity of **Outside Director**, but only in excess of the aggregate of:

- (a) the amount of Loss the **Outside Director** serving on the Outside Board is indemnifiable by the outside entity.
- (b) any other potentially applicable cover, whether or not it actually responds; and
- (c) a deductible which shall be double the deductible figure specified in part 4 of the **Schedule**.

6.6 Extradition Proceedings

The **Insurer** will pay on behalf of the **Insured Extradition Proceedings Defence Costs and Expenses**.

For the purposes of this endorsement "**Extradition Proceedings Defence Costs and Expenses**" shall mean legal costs and expenses incurred by or on behalf of the **Insured** with the prior written and continuing consent of the **Insurer** (such consent not be to unreasonably withheld) in:-

- (a) any request for extradition of any **Insured**, any warrant for arrest in respect of any **Insured** or other proceedings under the provisions of the United Kingdom Extradition Act 2003; or
- (b) any associated appeal to the European Court of Human Rights, or court of similar standing, and the pursuit of judicial review proceedings against the decision of the Home Secretary or another appropriately authorised representative of the Government of the United Kingdom to issue an extradition certificate under the United Kingdom Extradition Act 2003; or
- (c) the equivalent of the above in any other jurisdiction.

6.7 Identity Theft

Should a person or entity other than an **Insured** or the **Company** enter into an agreement with another person or entity fraudulently representing themselves as an **Insured** or the **Company** then **Insurers** shall pay all reasonable and necessary fees and expenses incurred in establishing that such fraudulent misrepresentation has taken place should any person or entity attempt to enforce such agreement against an **Insured** or the **Company**, provided that:

- (a) any other applicable cover has been exhausted, whether or not it actually responds;
- (b) such fraudulent misrepresentation is in connection with the **Company's** business;
- (c) such fraudulent misrepresentation first started before the end of the **Period of Insurance**;
- (d) such fraudulent misrepresentation is first discovered during the **Period of Insurance** or the **Discovery Period**;
- (e) the total amount payable by **Insurers** shall not exceed £50,000 any one **Insured** or the **Company**, subject to an overall aggregate sub limit of £250,000,

6.8 Emergency Defence Costs

In the event the **Insured** is unable to contact the **Insurer** or its representatives to obtain consent to authorise **Defence Costs and Expenses** following a **Claim**, then **Insurers** agree to reimburse the **Insured** for emergency **Defence Costs and Expenses** incurred for a period of up to 14 days from the date the **Claim** was first made.

7 EXCLUSIONS

For the purposes of determining whether exclusion applies, no statement, information or knowledge on the part of any **Insured** shall be imputed to any other **Insured**.

The **Insurer** shall not have any liability under this policy for, or directly or indirectly arising out of, or in any way connected with:-

7.1 Known Claim or Circumstance

Any **Claim** or circumstance(s) which may give rise to a liability under this policy and which **Claim** or circumstance(s) was (or were) known to the **Insured** or the **Company** prior to the **Period of Insurance**.

7.2 Securities

Any purchase, exchange or sale, or offer to purchase or sell, securities of any description by means of a prospectus or private placement on or after the commencement of the **Period of Insurance**. However the **Insurer** may at its discretion offer such cover in this regard on terms including as to **Premium** as it may think appropriate, subject to the supply and review of all material information and documentation connected with the prospectus or private placement.

7.3 Death or Bodily Injury

Bodily injury, sickness, disease, emotional distress (other than emotional distress arising from any libel or slander), mental anguish, mental stress or the death of any person, except:

- (a) in respect of any **Employment Practices Wrongful Act**; or
- (b) in respect of **Criminal Defence Costs and Expenses** in any criminal proceedings or investigation under Health and Safety legislation including corporate manslaughter or the equivalent in any jurisdiction, up to the limit in the **Schedule**.

7.4 Property Damage

Any damage to or destruction or loss of any property including loss of use.

It is further understood and agreed that notwithstanding the above this exclusion shall not apply to any **Claim** or **Claims** arising out of the actual or alleged failure to supervise.

7.5 Dishonest, Fraudulent or Criminal Acts

Any dishonest, fraudulent or criminal act or omission or any wilful breach of any statute, rule or law by the **Insured**.

For the purpose of this exclusion, no individual **Insured** shall be denied cover unless possessed of actual knowledge of the relevant act or omission at the commencement of the **Period of Insurance**.

This exclusion shall only apply where there has been a final adjudication by any court, tribunal or other similar body, or admission by the **Insured** of such conduct.

7.6 Profit or Advantage

Any unlawful personal profit, remuneration or advantage gained by the **Insured** or a financial advantage to an entity in which the **Insured** has a financial interest.

This exclusion shall only apply to an **Insured** who has admitted such conduct has occurred or against whom there has been a final adjudication by a competent court or tribunal that such conduct has occurred.

7.7 Pollution

any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including but not limited to material to be recycled, reconditioned or reclaimed) or contamination of any kind; or ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof. However this exclusion shall not apply to:

- (a) **Defence Costs and Expenses** in relation to any **Wrongful Act** concerning such matters.
- (b) any **Claim** against the **Insured** instigated by one or more shareholders of the **Company** in the name of the **Company** without the willing assistance or involvement of the **Insured**.

7.8 United States of America and/or Canada

any **Claim**, allegation, proceeding or **Investigation** brought in the United States of America (USA) or Canada, including the enforcement outside the USA or Canada of any judgment, order, award or settlement made within the USA or Canada or which arises from or is connected, directly or indirectly, with:-

- (a) any event, occurrence or activity of any sort within the USA or Canada,
- (b) the holding of or dealing in securities listed or traded on any US or Canadian Exchange or any other form of assets, tangible or intangible in the USA or Canada,
- (c) activity in the USA or Canada of any parent, **Subsidiary**, associated company, joint venture or special purpose vehicle or company whether or not registered in the USA or Canada.

7.9 Other Insurance

any matter in respect of which the **Insured** or **Company** is (or but for the existence of this policy would be) entitled to cover under any other contract of insurance, except where such other insurance is written as specific excess insurance to provide an indemnity in excess of the amount payable under this policy. This policy shall only apply in excess of such other policy to the extent of such part of the limit of indemnity or any applicable sub-limit as exceeds the limit of the other policy.

7.10 Employee Benefit

any retirement, pension, profit-sharing, health, welfare or any other **Employee** benefit fund, trust scheme or plan, or related legislation or regulations anywhere in the world including but not limited to the US Employee Retirement Income Security Act 1974 and UK Pensions Act 1995 and/or subsequent amending or re-enacting legislation.

7.11 Professional Indemnity

any liability arising from or connected with the giving of professional advice or service whether or not for remuneration or any act, error or omission relating thereto.

It is further understood and agreed that notwithstanding the above this exclusion shall not apply to any **Claim** or **Claims** arising out of the actual or alleged failure to supervise those who gave or failed to give professional advice or service.

7.12 Manufacture, Supply, Sale of Goods

any **Claim** based upon or arising out of the manufacture, sale, supply, installation or maintenance of any products or goods.

It is further understood and agreed that notwithstanding the above this exclusion shall not apply to any **Claim** or **Claims** arising out of the actual or alleged failure to supervise.

7.13 War and Terrorism

any of the following:

- (a) war (whether declared or not), civil war, invasion, acts of a foreign enemy, hostilities, or any similar act, condition or warlike operation, warlike action by a regular or irregular military force or other authority to hinder or defend against an actual or expected attack;
- (b) insurrection, rebellion, revolution, civil commotion, riot, attempt to usurp power, popular uprising, or any action taken by any governmental or martial authority in hindering or defending against any of these;
- (c) discharge, explosion, or use of a weapon of mass destruction, whether or not employing nuclear fission or fusion, or chemical, biological, radioactive or similar agents, by any party at any time for any reason.

Further, the **Insurer** shall not have any liability under this policy for, or directly or indirectly arising out of, or in any way connected with any Terrorist Action (regardless of any other cause or event contributing concurrently or in any other sequence to the liability) or any action taken in controlling, preventing or suppressing Terrorist Action.

For the purpose of this exclusion "Terrorist Action" means the actual or threatened:

- (a) use of force or violence against persons or property, or
- (b) commission of an act dangerous to human life or property, or
- (c) commission of an act that interferes with or disrupts an electronic or communications system undertaken by any person or group, whether or not acting alone or on behalf of or in connection with any organisation, government, power, authority, or military force, in any of the following circumstances:
 - (i) where the apparent intent or effect is to intimidate or coerce a government or business, or to disrupt any segment of the economy; or
 - (ii) where the apparent intent or effect is to cause alarm, fright, fear of danger, or apprehension of public safety in one or more distinct section of the general public, or to intimidate or coerce one or more such section; or
 - (iii) where the apparent intent or effect is to further political, ideological, religious, ethnic, racial or cultural objectives or to express support for or opposition to a philosophy, ideology, religion, ethnic or racial group, or culture.

If the **Insurer** alleges that by reason of this exclusion any liability or **Loss** is not covered by this policy the burden of proving the contrary shall be upon the **Insured** and/or the **Company** and not the **Insurer**.

7.14 Shares Exclusion (Wrongful Act)

any liability based on arising from or attributable to any **Claim** brought by or on behalf of, whether directly or derivatively, any individual or entity which owns or controls 25% or more of the issued and outstanding share capital of the **Company** provided that this exclusion shall only apply to **Claims** where such individual or entity or their representative has, directly or indirectly, participated in or ratified the alleged **Wrongful Act** being the subject of a **Claim**.

7.15 Insolvency

any **Insured** or the **Company** filing a bankruptcy petition, winding up petition, making any arrangement with their creditors, deed of arrangement or going into liquidation within the first 180 days of the **Period of Insurance**. This Exclusion shall not apply if this policy is a renewal of a previous policy underwritten by Angel Underwriting Limited.

8 CONDITIONS

8.1 Contracts (Rights of Third Parties) Act

Under the contract of insurance comprised by this policy there is no intention to confer any rights on any party except **Insurers** and those named or defined as **Insureds** herein, and no third party shall acquire any rights in relation to this policy by operation of the Contracts (Rights of Third Parties) Act 1999 or any re-enactment of or amendment to it 8.2 **Proposal Operation**

The **Proposal** shall operate severally in relation to each **Insured** and no statement, information or knowledge on the part of any **Insured** shall be imputed to any other **Insured** for the purposes of determining whether cover is available to that other **Insured**.

8.3 Notification

As a condition precedent to cover under this policy the **Insurer** must be **Notified** as soon as practicable during the **Period of Insurance**, in writing to the Notification Address set out below and in any event within thirty days of the end of the **Period of Insurance**, or the end of the **Discovery Period** (if applicable):

- (a) of any **Claim**;
- (b) regardless of any previous notice, of receipt of any **Claim** Form, Particulars of **Claim**, Arbitration Notice or any other formal document commencing legal proceedings, copies of all such documents being provided with such notification;
- (c) of any circumstance(s) of which the **Insured** or **Company** shall become aware which is or are likely to give rise to a **Claim**;
- (d) of any circumstance(s) of which the **Insured** or **Company** shall become aware which is (or are) likely to give rise to an entitlement to be indemnified under this policy.

In the event that the **Insurer** is **Notified** during the **Period of Insurance** of any circumstance(s) which in the **Insurer's** reasonable opinion is (or are) likely to give rise to a **Claim** then any subsequent **Claim** which arises directly from the circumstance(s) so **Notified** shall be deemed to have been made during the **Period of Insurance**.

Notification Address:

Angel Underwriting Limited
Little Tey Road, Feering
Colchester, CO5 9RS
Tel: 01206 215500
E-mail: info@angelunderwriting.com

8.4 Duty to Cooperate

As a condition precedent to the right to be indemnified under this policy the **Insured** and/or **Company** must promptly provide to the **Insurer** full details concerning any **Claim** and any circumstance(s) likely to give rise to a **Claim** and any circumstance(s) where the **Insured** and/or **Company** has requested to be indemnified under this policy and provide such co-operation and assistance as the **Insurer** and its representatives, legal advisers or agents may reasonably require. It is a condition precedent to the right to be indemnified under this policy that the **Insured** and **Company** (or any person, firm or company acting for or on behalf of the **Insured** and **Company**) shall ensure that all documents relevant to any **Claim** and any circumstance(s) likely to give rise to a **Claim** shall not be intentionally destroyed or otherwise intentionally disposed of.

8.5 No Admission of Liability

As a condition precedent to the right to cover under this policy the **Insured** and/or **Company** shall not, without the prior written approval of the **Insurer**, admit liability for, compromise, settle, or make any offer or payment in respect of any **Claim** or any circumstance(s) likely to give rise to a **Claim** or any circumstance(s) where the **Insured** and/or **Company** has requested cover under this policy.

8.6 Insurer Entitled to Defend

The **Insurer** shall be entitled, but not obliged, to take over the investigation, defence and settlement of any **Claim** and any circumstance(s) likely to give rise to a **Claim** and any circumstance(s) where the **Insured** has requested cover under this policy including as to the choice and appointment of legal representation. The **Insurer** shall have full discretion in the handling thereof (notwithstanding that a dispute may have arisen between the **Insurer** and the **Insured**) provided always that the **Insured** shall not be obliged to defend any legal proceedings unless a Queen's Counsel (to be mutually decided upon by the **Insurer** and the **Insured**) shall advise that such proceedings can be contested with a reasonable prospect of success.

8.7 Subrogation

The **Insurer** shall be subrogated to all the rights of recovery of the **Insured** against any third party before or after any payment is made under this policy provided always that the **Insurer** shall not exercise any such rights against any **Employee** or former **Employee** of the **Company** unless the **Loss** in respect of which payment is made under this policy was caused or contributed to by a fraudulent, dishonest or malicious act or omission by the **Employee** or former **Employee**. The **Insured** and **Company** shall, without charge, provide such assistance as the **Insurer** may reasonably require in any subrogation.

8.8 Avoidance by Insurer

If the **Insurer** is entitled, for any reason, to avoid this policy ab initio, the **Insurer** may in its absolute discretion elect instead to give notice to the **Insured** or any of them that it regards this policy as being in full force and effect, except that no cover will be given under this policy that arises from or is related to the ground(s) that entitled the **Insurer** to avoid this policy.

8.9 Data Protection Act 1998

It is agreed by the **Company** on behalf of itself and the **Insured** that any information provided to the **Insurer** regarding the **Insured** and **Company** will be processed by the **Insurer**, in compliance with the provisions of the Data Protection Act 1998, for the purpose of providing insurance and handling claims, if any, which may necessitate providing such information to third parties.

8.10 Premium Payment

- (a) The **Company** undertakes that **Premium** will be paid in full to the **Insurer** within sixty days of inception of this policy (or, in respect of instalment Premiums, when due).
- (b) If the **Premium** has not been so paid to the **Insurer** by the sixtieth day from the inception of this policy (and, in respect of instalment Premiums, by the date they are due) the **Insurer** shall have the right to cancel this policy by notifying the **Company** via the broker in writing. In the event of cancellation, **Premium** is due to the **Insurer** on a pro rata basis for the period that the **Insurer** is on risk but the full policy **Premium** shall be payable to the **Insurer** in the event of a notification prior to the date of termination which gives rise to a **Claim** under this policy, and the **Premium** shall be added to and form part of the deductible amount in the event of its non-payment.
- (c) It is agreed that the **Insurer** shall give not less than fifteen days prior notice of cancellation to the **Company** via the broker. If **Premium** due is paid in full to the **Insurer** before the notice period expires, notice of cancellation shall automatically be revoked, if not, this policy shall automatically terminate at the end of the notice period.

8.11 Advanced Payment of Costs

The **Insurer** shall pay **Defence Costs and Expenses** incurred with its prior written consent, such consent not to be unreasonably withheld. However in the event and to the extent that it is finally determined that the **Insured** is not entitled to such payments under this policy the sums advanced shall be repaid to the **Insurer** upon demand or the limit of indemnity reduced by the amount of such uninsured advance payment. The **Company** shall where it is permitted to do so pay legal representation costs on behalf of the **Insured** to the amount of any deductible applicable under this policy.

8.12 Allocation

In the event of any **Loss** being partially covered and/or any **Claim** against an **Insured** being also made against the **Company** and/or one or more persons who are not **Insured** the **Insured**, **Insurer** and/or **Company** shall use their best endeavours fairly and reasonably to agree such an allocation of **Loss** to the policy as may be appropriate and proportional to the aggregate of insured and uninsured loss, damages and legal and other costs.

8.13 Consent to Settle

The **Insurer** shall not settle any **Claim** without the written consent of the **Insured**. If the **Insured** refuses to consent to a settlement demand acceptable to the claimant and recommended by the **Insurer** and elects instead to contest the **Claim**, then the **Insurer's** total liability for such **Claim** shall not exceed the amount for which the **Claim** could have been settled plus any **Defense Costs** incurred as of the date such **Claim** could have been settled and to which this policy would otherwise apply.

9 INTERPRETATION

In this policy:

- (a) reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception of this policy;
- (b) if any term, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall be in full force and effect;
- (c) the headings in this policy are for general reference only and shall not be considered when determining the meaning of this policy.

10 GOVERNING LAW AND DISPUTES

- (a) This policy shall be governed by and construed in accordance with the law of England and Wales, the courts of which shall have sole jurisdiction to deal with any matters in dispute not determinable by arbitration.
- (b) In the event that any dispute should arise between the **Insurer** and the **Insured** as to the terms and effect of this policy then such dispute shall be referred to arbitration before a sole arbitrator in London, England, to be appointed, in the event that the **Insurer** and **Insured** cannot agree upon a suitable person, by the President for the time being of the Chartered Institute of Arbitrators of England and Wales.

11 POLICYHOLDER COMPLAINTS

Catlin Insurance Company (UK) Limited is dedicated to providing a high quality service and wants to ensure that it maintains this at all times. If the **Insured** feels that Catlin has not offered a first class service or if the **Insured** has any questions or concerns about the policy or the handling of a **Claim** the **Insured** should, in the first instance, contact its broker through whom this insurance was placed.

If the **Insured** is unable to resolve the situation and wishes to make a complaint, the **Insured** can do so at any time by referring the matter to:

Compliance Department
Catlin Insurance Company (UK) Limited
3 Minster Court
London
EC3R 7DD

Tel No: 020 7743 8487
E-mail: catlinukcomplaints@catlin.com

Complaints that cannot be resolved by the Compliance Department may be referred to the Financial Ombudsman Service at:

South Quay Plaza
183 Marsh Wall
London
E14 9SR

Tel No: 0845 080 1800
e-mail: complaint.info@financial-ombudsman.org.uk