



Policy Wording

Angel Directors and Officers &/or Trustees Liability Insurance

Including Extensions – CLL &/or Organisational Liability
&/or Professional Liability &/or EPL



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1 Introduction

This policy consists of this document, the **Schedule** and **Endorsements**, if any, all of which are a single document and are to be read as one contract. In this policy, certain words or phrases are specially defined. In deciding to accept this policy and in setting the terms and premium **We** have relied on the information which **You** have provided to **Us**.

We will, in consideration of the payment of the premium and the section of the policy operative, insure **You** or **Directors** &/or **Trustees**, subject to the terms and conditions of this policy, against the events set out in the Operative Clauses and occurring in connection with the **Business** during the **Period of Insurance** or any subsequent period for which **We** agree to accept payment of premium.

Please read this policy carefully and make sure that it meets **Your** needs. If any corrections are necessary **You** should contact **Your** broker through whom this policy was arranged.

Please keep this policy in a safe place – **You** may need to refer to it if **You** have to make a **Claim**.

1.1 Accessibility

Upon request **Angel** can provide Braille, audio or large print versions of the policy and the associated documentation including the Key Facts document. If **You** require an alternative format **You** should contact **Your** broker through whom this policy was arranged.

1.2 Third Party Rights

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

1.3 Law and Jurisdiction

The parties are free to choose the law applicable to this policy. Unless specifically agreed to the contrary this policy shall be governed by English law and subject to the exclusive jurisdiction of the courts of England and Wales.

The language of this policy and all communications relating to it will be in English.

1.4 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.



1.5

Cancellation and Cooling Off Period

(a) **Your Right to Cancel during the Cooling-Off Period**

You are entitled to cancel this policy by **Notifying Us** through **Angel** within fourteen (14) days of either:

- (i) the date **You** receive this policy; or
- (ii) the start of **Your Period of Insurance**;

whichever is the later.

A full refund of any premium paid will be made unless **You** have made a **Notifiable Claim** in which case the full annual premium is due.

(b) **Your Right to Cancel after the Cooling-Off Period**

You are entitled to cancel this policy after the cooling-off period by **Notifying Us** through **Angel**. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a **Notifiable Claim** in which case the full annual premium is due.

(c) **Our Right to Cancel**

We are entitled to cancel this policy, if there is a valid reason to do so, including for example:

any failure by **You** to pay the premium; or

a change in risk which means **We** can no longer provide **You** with insurance cover; or

non-cooperation or failure to supply any information or documentation **We** request, such as details of a **Notifiable Claim**;

by giving **You** fourteen (14) days' notice in writing. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a **Notifiable Claim** in which case the full annual premium is due.

1.6

Information You Have Given Us

In deciding to accept this policy and in setting the terms including premium **We** have relied on the information which **You** have provided to **Us**. **You** must take care when answering any questions **We** ask by ensuring that any information provided is accurate and complete.

If **We** establish that **You** deliberately or recklessly provided **Us** with untrue or misleading information **We** will have the right to:

- (a) treat this policy as if it never existed;
- (b) decline all claims; and
- (c) retain the premium.



If **We** establish that **You** carelessly provided **Us** with untrue or misleading information **We** will have the right to:

- (i) treat this policy as if it never existed, refuse to pay any **Loss** and return the premium **You** have paid, if **We** would not have provided **You** with cover;
- (ii) treat this policy as if it had been entered into on different terms from those agreed, if **We** would have provided **You** with cover on different terms;
- (iii) reduce the amount **We** pay on any **Claim** in the proportion that the premium **You** have paid bears to the premium **We** would have charged **You**, if **We** would have charged **You** more.

We will **Notify You** through **Angel** in writing if (i), (ii) and/or (iii) apply.

If there is no outstanding **Claim** and (ii) and/or (iii) apply, **We** will have the right to:

- (1) give **You** thirty (30) days' notice that **We** are terminating this policy; or
- (2) give **You** notice that **We** will treat this policy and any future **Claim** in accordance with (ii) and/or (iii), in which case **You** may then give **Us** thirty (30) days' notice that **You** are terminating this policy.

If this policy is terminated in accordance with (1) or (2), **We** will refund any premium due to **You** in respect of the balance of the **Period of Insurance**.

1.7 **Changes We Need to Know About**

You must tell **Us** through **Angel** as soon as practicably possible of any change in the information **You** have provided to **Us** which happens before or during any **Period of Insurance**.

When **We** are **Notified** of a change **We** will tell **You** if this affects **Your** policy. For example **We** may cancel **Your** policy in accordance with the **Cancellation** and **Cooling-Off Provisions**, amend the terms of **Your** policy or require **You** to pay more for **Your** insurance. If **You** do not inform **Us** about a change it may affect any **Notifiable Claim You** make or could result in **Your** insurance being invalid.

1.8 **Fraud**

If **You**, or anyone acting for **You**, makes a fraudulent **Claim**, for example a loss which is fraudulently caused and/or exaggerated and/or supported by a fraudulent statement or other device, **We**:

- (a) will not be liable to pay the **Claim**; and
- (b) may recover from **You** any sums paid by **Us** to **You** in respect of the **Claim**; and
- (c) may by notice to **You** treat this policy as having been terminated with effect from the time of the fraudulent act.

If **We** exercise **Our** right under (c) above:

- (i) **We** shall not be liable to **You** in respect of a relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to **Our** liability under this **Policy** (such as the occurrence of a loss, the making of a **Claim**, or the notification of a potential **Notifiable Claim**); and.
- (ii) **We** need not return any of the premium paid.



1.9

Sanctions

We shall not provide any benefit under this policy to the extent of providing cover, payment of any **Loss** or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

1.10

Complaints Procedure

We are dedicated to providing a high quality service and **We** want to ensure that **We** maintain this at all times.

If **You** have any questions or concerns about the policy or the handling of a **Notifiable Claim** please contact **Your** broker through whom this policy was arranged.

If **You** wish to make a complaint **You** can do so at any time by referring the matter to:

Complaints Department
XL Catlin Services SE
20 Gracechurch Street
London
EC3V 0BG

Telephone Number: +44 (0)20 7743 8487
E-mail: axaxlukcomplaints@axaxl.com

XL Catlin Services SE acts on **Our** behalf in the administration of complaints.

If **You** remain dissatisfied after the Complaints Department has considered **Your** complaint, or **You** have not received a final decision within eight (8) weeks, **You** can refer **Your** complaint to the Financial Ombudsman Service at:

Exchange Tower
London
E14 9SR

E-mail: complaint.info@financial-ombudsman.org.uk

From within the United Kingdom

| | | |
|-------------------|---------------|--|
| Telephone Number: | 0800 0234 567 | calls to this number are free on mobiles and landlines |
| Telephone Number: | 0300 1239 123 | calls to this number costs no more than calls to 01 and 02 numbers |

From outside the United Kingdom

| | | |
|-------------------|--------------------|-------------------|
| Telephone Number: | +44(0)20 7964 0500 | |
| Fax Number: | +44(0)20 7964 1001 | |
| Text Number: | 07860 027 586 | Call Back Service |

The Financial Ombudsman Service can look into most complaints from consumers and small businesses. For more information contact them on the above number or address, or view their website: www.financial-ombudsman.org.uk



The European Commission also provides an on-line dispute resolution (ODR) platform that allows consumers to submit their complaint through a central site, which will forward the complaint to the right Alternative Dispute Resolution (ADR) scheme. The ADR scheme for AXA XL Insurance Company UK Limited is the Financial Ombudsman Service, which can be contacted directly using the contact details above. For more information about ODR please visit <http://ec.europa.eu/odr>.

1.11 **Financial Services Compensation Scheme**

We are covered by the Financial Services Compensation Scheme. **You** may be entitled to compensation from the Scheme if **We** are unable to meet **Our** obligations under this policy. If **You** were entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this policy. Further information about the Scheme is available from the Financial Services Compensation Scheme (10th Floor, Beaufort House, 15 St Botolph Street, London, EC3A 7QU) and on their website: www.fscs.org.uk.

1.12 **Regulatory Information**

(a) **AXA XL Insurance Company UK Limited**

AXA XL Insurance Company UK Limited are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Firm Reference No. 423308).

Registered office: 20 Gracechurch Street, London, EC3V 0BG.
Registered in England No. 5328622.

(b) **Angel Risk Management Limited**

Angel Risk Management Limited are authorised and regulated by the Financial Conduct Authority (Firm Reference No. 718451).

Registered office: 20 Gracechurch Street, London, EC3V 0BG.
Registered in England No. 2942487.

You can check this out on the FCA's website at www.fca.org.uk which includes a register of all the firms they regulate or by calling the FCA on 0800 111 6768.

1.13 **Fair Processing Notice**

This Privacy Notice describes how AXA XL Insurance Company UK Limited (for the purpose of this notice "**We**", "**Us**" or the insurer) collect and use the personal information of insureds, claimants and other parties (for the purpose of this notice "**You**") when **We** are providing **Our** insurance and reinsurance services.

The information provided to the insurer, together with medical and any other information obtained from **You** or from other parties about **You** in connection with this policy, will be used by the insurer for the purposes of determining **Your** application, the operation of insurance (which includes the process of underwriting, administration, claims management, analytics relevant to insurance, rehabilitation and customer concerns handling) and fraud prevention and detection. **We** may be required by law to collect certain personal information about **You**, or as a consequence of any contractual relationship **We** have with **You**. Failure to provide this information may prevent or delay the fulfilment of these obligations.



Information will be shared by the insurer for these purposes with group companies and third party insurers, reinsurers, insurance intermediaries and service providers. Such parties may become data controllers in respect of **Your** personal information. Because **We** operate as part of a global business, **We** may transfer **Your** personal information outside the European Economic Area for these purposes.

You have certain rights regarding **Your** personal information, subject to local law. These include the rights to request access, rectification, erasure, restriction, objection and receipt of **Your** personal information in a usable electronic format and to transmit it to a third party (right to portability).

If **You** have questions or concerns regarding the way in which **Your** personal information has been used, please contact: compliance@axaxl.com.

We are committed to working with **You** to obtain a fair resolution of any complaint or concern about privacy. If, however, **You** believe that **We** have not been able to assist with **Your** complaint or concern, **You** have the right to make a complaint to the UK Information Commissioner's Office.

For more information about how **We** process **Your** personal information, please see **Our** full privacy notice at: <http://axaxl.com/privacy-and-cookies>.



2 Director &/or Trustees and Officers Liability Section

2.1 Operative Clauses

We will insure the **Director** and/or **Trustee**, as detailed below, against any **Notifiable Claim** made against them in the Covered Jurisdictions stated in the **Schedule**, subject to all the terms and conditions of this policy:

(a) **Director's and/or Trustee's Liability**

We will pay on behalf of the **Director** and/or **Trustee Loss** arising from a **Notifiable Claim** against the **Director** and/or **Trustee** in their capacity as such provided that the **Notifiable Claim** is first made during the **Period of Insurance** except to the extent Operative Clause 2.1(b) applies.

(b) **Your Reimbursement**

We will pay on **Your** behalf any sums that **You** have paid to or are held liable to pay the **Director** and/or **Trustee** by way of an advancement or reimbursement in relation to the **Director's** and/or **Trustee's** liability that would otherwise be covered by Operative Clause 2.1(a);

or an **Employment Practices Wrongful Act** provided that the **Claim** is first made against the **Director** and/or **Trustee** during the **Period of Insurance** or **Discovery Period** if applicable.

(c) **Shareholders Derivative Costs**

We will pay on **Your** behalf the **Shareholders Derivative Costs**.

(d) **Identity Theft**

We will pay **Defence Costs** incurred by the **Director** and/or **Trustee** in connection with an **Identity Theft Claim** first made during the **Period of Insurance** up to the aggregate amount stated in the **Schedule**.

2.2 Section Limit of Liability

The Limit of Liability is the maximum amount **We** shall be called upon to pay under this policy in respect of any one **Notifiable Claim** or in the aggregate as applicable, as stated in the **Schedule**.

In certain Extensions a sub-limit may be applicable and these are also stated in the **Schedule**.

2.3 Section Deductible

Where a **Deductible** applies under Operative Clause 2.1(b), **We** shall be liable for **Loss** which exceeds the **Deductible**. The **Deductible** does not form part of **Our** liability for **Loss** and shall remain uninsured. **We** shall only be liable to the extent that any liability exceeds the relevant **Deductible**.

The **Deductible** shall be as stated in the **Schedule**.



Section Extensions

Subject to all other terms, conditions, exceptions, limits, **Deductibles** and exclusions of this policy.

(a) **Additional Excess Protection for Your Board**

In the event that:

- (i) the limit of liability applicable to this Section; and
- (ii) all other applicable **Director** and/or **Trustee Liability** policies, whether or not specifically written as excess over the limit of liability of this policy; and
- (iii) all other sources of reimbursement for **Loss** available to any such **Director** and/or **Trustee**;

have been exhausted, **We** shall pay **Loss** of such **Directors** and/or **Trustees** who are members of **Your** board arising out of a subsequent **Notifiable Claim** first made against them during the **Period of Insurance**, up to the sub-limit stated in the **Schedule**, which limit shall be in the aggregate for all such **Directors** and/or **Trustees** during the **Period of Insurance**.

(b) **Automatic Acquisition Cover**

Where, during the **Period of Insurance**, **You** create or acquire an entity then such entity shall be treated as being a **Subsidiary** for the purpose of this policy provided that:

- (i) **Your** total gross assets including **Your Subsidiaries** as shown, where they exist, in the audited consolidated group accounts most recently preceding the **Period of Insurance** are not increased by the acquisition or creation of such **Subsidiary** by more than 50%; and
- (ii) such newly created or acquired **Subsidiary** is not domiciled in the US &/or Canada and/or does not have its **Securities** listed or traded on any exchange; and
- (iii) cover shall only apply to **Notifiable Claims** arising out of a **Wrongful Act** committed (or alleged to have been committed) subsequent to the effective date of such creation or acquisition.

Where the coverage for a newly created or acquired **Subsidiary** is not automatically conferred as a consequence of (i) or (ii) above, then **You** may request that this policy be extended to cover such **Subsidiary** and **We**, at **Our** sole discretion, may alter the terms and conditions of this policy in accordance with Clause 1.7 – Changes We Need to Know About.

(c) **Corporate Manslaughter**

We shall pay the **Loss** of any **Director** and/or **Trustee**, under Operative Clause 2.1(a), with respect to any proceeding brought against them for any gross breach of duty of care that causes the death of another person including under the Corporate Manslaughter and Homicide Act 2007.



(d) **Difference in Conditions**

In the event the **Director** &/or **Trustee** or **Corporate Legal Liability** and/or **Organisational Liability / Professional Liability** cover taken out by **You** for the **Period of Insurance** immediately preceding the policy period would have been more favourable to **You** in relation to any **Notifiable Claim** or **Investigation** then in relation to that **Notifiable Claim** or **Investigation**, the more favourable term(s) of such policy shall apply, save that this does not apply to:

- (i) any limit of liability or **Deductible**; or
- (ii) any subsequent amendments made to this policy by specific **Endorsement**; or
- (iii) the premium; or
- (iv) any provision in relation to sanctions; or

This clause will not apply if the Preceding cover was not placed through Angel.

(e) **Discovery Period**

In the event that, on the expiry of the **Period of Insurance**, this policy is not renewed or replaced with any other **Directors** and/or **Trustees Liability** policy broadly equivalent to this policy in scope and there are no reported **Notifiable Claims** and/or circumstances then the **Director** and/or **Trustee** shall have the right to purchase a **Discovery Period** so that for the purposes of Operative Clause 2.1(a), any **Notifiable Claim** made in the **Discovery Period** shall be treated as having been first made during the **Period of Insurance**, subject to the following conditions:

- (i) cover shall apply only to **Notifiable Claims** arising out of **Wrongful Acts** committed (or alleged to have been committed) prior to the expiry of the **Period of Insurance**; and
- (ii) the **Discovery Period** is only effective if the following additional **Premium** is paid within thirty (30) days of the expiry of the **Period of Insurance**:

- (1) 50% for a **Discovery Period** of twelve (12) months;
- (2) 100% for a **Discovery Period** of twenty-four (24) months.

We, at **Our** sole discretion, may offer or agree to a **Discovery Period** of up to seventy-two (72) months on terms including the premium as **We** may think appropriate; and

- (iii) the right to purchase the **Discovery Period** is not exercisable after or, once purchased shall lapse upon:
 - (1) **Director** and/or **Trustee** or **You** effecting a **Directors** and/or **Trustees Liability** policy broadly equivalent to this policy in scope; or
 - (2) the appointment of an insolvency practitioner (or equivalent) as **Your** liquidator, administrator or receiver (or equivalent); and



- (iv) **We** shall have no liability to a **Director** and/or **Trustee** to the extent that the **Director** and/or **Trustee** are entitled to a reimbursement from **You** under any applicable company law or agreement.

(f) **Emergency Costs**

If **Our** prior written consent cannot practicably be obtained before:

- (i) **Investigation Defence Costs;**
- (ii) **Criminal Prosecution Defence Costs;**
- (iii) **Pollution Defence Costs;**
- (iv) **Asbestos Defence Costs;**
- (v) **Extradition Proceedings Defence Costs;**
- (vi) **Asset and Liberty Proceedings Defence Costs;**

are incurred, **We** will give retrospective approval for such costs, for an amount up to the aggregate amount stated in the **Schedule**, provided that:

- (1) Our approval is obtained within fourteen (14) days of such costs being incurred; and
- (2) the costs would otherwise be covered under this policy.

(g) **Outside Boards**

This policy shall extend to any **Wrongful Act** committed in the capacity of **Outside Director** and/or **Trustee**, but only in excess of the aggregate of:

- (i) the amounts reimbursable by the entity on whose board the **Outside Director** and/or **Trustee** is serving; and
- (ii) any other collectible insurance cover available to the **Director** and/or **Trustee**.

(h) **Personal Appointments**

This policy shall extend to 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 a **Director** and/or **Trustee** whilst serving in a personal capacity as a governor or trustee of a **School, Charity or Charitable Organisation** but only in excess of the aggregate of:

- (i) the amount of **Loss** reimbursable by the **School, Charity or Charitable Organisation** to the **Director** and/or **Trustee**; and
- (ii) any other valid and collectible contract of insurance, whether it responds or not.



Provided that:

- (1) the **Director** and/or **Trustee** is formally appointed on written authority; and
- (2) the maximum aggregate amount payable by **Us** shall not exceed the aggregate amount stated in the **Schedule**.

(i) **Regulatory Crisis Costs**

We will pay on behalf of the **Director** and/or **Trustee**, under Operative Clause 2.1(a), any fees, costs and expenses of any consultant chosen by a **Director** and/or **Trustee**, with **Our** prior written consent, incurred in responding to:

- (i) a raid or on-site visit to **You** which first takes place during the **Period of Insurance** by any **Official Entity** that involves the production, review, copying or confiscation of files or interviews of any **Director** and/or **Trustee**; or
- (ii) a public announcement relating to any event detailed in (i) above; or
- (iii) the receipt by any **Director** and/or **Trustee** during the **Period of Insurance**, from any **Official Entity** of a formal notice which legally compels the **Director** and/or **Trustee** to produce to, or answer questions by or attend interviews with that **Official Entity**.

Provided that the maximum aggregate amount payable by **Us** shall not exceed the sub-limit stated in the **Schedule** during the **Period of Insurance**.

(j) **Retirement Run-Off**

In the event that, on the expiry of the **Period of Insurance**, this policy is not renewed or replaced with any other **Directors** and/or **Trustees Liability** policy broadly equivalent to this policy in scope then this policy shall extend to cover any **Director** and/or **Trustee** who has retired or resigned prior to the date of such expiry in respect of **Notifiable Claims** made against that **Director** and/or **Trustee** for a further six (6) years immediately following such retirement or resignation. However this extension shall apply only:

- (i) in respect of **Wrongful Acts** committed before the expiry of the **Period of Insurance**; and
- (ii) if the **Director** and/or **Trustee** has retired or resigned for reasons other than disqualification or as a result of a merger, consolidation or acquisition as detailed in Clause 2.4(l); and
- (iii) up to the aggregate sub-limit stated in the **Schedule**.



(k) **Spouses / Estates**

We will pay on behalf of:

- (i) the **Director's** and/or **Trustee's** lawful spouse (which will include civil partnerships that are recognised by law in their country of domicile) a sum to compromise enforcement proceedings brought against joint property held or owned by or on behalf of the spouse to enforce a court judgement against the **Director** and/or **Trustee** in respect of a **Notifiable Claim** that would otherwise be covered under this policy.
- (ii) the estate, heirs and legal representatives of a **Director** and/or **Trustee** in the event of their death, incapacity or bankruptcy, but only in respect of a **Notifiable Claim** against the **Director** and/or **Trustee** that would otherwise be covered under this policy.

(l) **Takeovers and Mergers Run-off**

If during the **Period of Insurance You** merge with or consolidate into another entity, or any person or entity acquires 50% or more of **Your** issued share capital (other than by way of a management buy-out being a change of ownership of **You** whereby at least 50% of **Your** issued share capital is transferred to **Your** existing **Directors** and/or Trustees and/or members) or where the other organisation or person assumes the right to appoint or remove the majority of **Your Trustees** or board of **Directors** or assumes de-facto control:

- (i) **You** shall **Notify Us** through **Angel** in accordance with Clause 1.8 – Changes We Need to Know About; and
- (ii) cover shall apply to any **Notifiable Claim** arising out of any **Wrongful Act** committed, or alleged to have been committed, prior to the effective date of such merger, consolidation or acquisition, unless otherwise agreed with **Us**;
- (iii) **You** may request that the policy may be extended up to a further six (6) years to provide cover for **Wrongful Acts** occurring prior to the effective date of such merger, consolidation or acquisition. This extension shall be at **Our** sole discretion and may amend the terms of this policy and:
 - (1) Extensions 2.4(e) – **Discovery Period** and 2.4(j) – Retirement Run-Off will not apply to any such extension;
 - (2) cover shall lapse in the event that **You** effect any other **Directors** and/or **Trustees** Liability policy broadly equivalent to this policy in scope;
 - (3) cover shall not be provided to any **Director** and/or **Trustee** who has been or is disqualified from holding such position.

3 General Definitions

All the individual policy Sections are subject to the following definitions except where stated below.

- 3.1 **Angel** means Angel Risk Management Limited.
- 3.2 **Asbestos** means the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos.
- 3.3 **Asbestos Defence Costs** means **Defence Costs** incurred in relation to any **Notifiable Claim** first made during the **Period of Insurance**, against the **Director** and/or **Trustee** in their capacity as such, or **You** under the Corporate Legal Liability and/or Organisational and Professional Liability Section if operative in the **Schedule**, involving any **Asbestos**. For the avoidance of doubt, this does not include the costs involved in testing for, monitoring, cleaning up, removing, containing, treating or detoxifying any **Asbestos**.
- 3.4 **Asset and Liberty Proceedings** means any proceeding brought against the **Director** and/or **Trustee** by anybody other than **You**, so authorised for the purpose of examining **Your** affairs or the conduct of the **Director** and/or **Trustee** in their capacity as such, seeking:
- (a) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of a **Director** and/or **Trustee**;
 - (b) a charge over real property or personal assets of such **Director** and/or **Trustee**;
 - (c) a temporary or permanent prohibition on such **Director** and/or **Trustee** from holding the office of or performing the function of a **Director** and/or **Trustee**;
 - (d) a restriction of such **Director's** and/or **Trustee's** liberty to a specified domestic residence or an official detention;
 - (e) deportation of a **Director** and/or **Trustee** following revocation of otherwise proper, current and valid immigration status for any reason other than such **Director's** and/or **Trustee's** conviction of a crime.
- 3.5 **Asset and Liberty Proceedings Defence Costs** means **Defence Costs** incurred by the **Director** and/or **Trustee** in dealing with an **Asset and Liberty Proceeding**, provided that such proceeding is commenced during the **Period of Insurance**.
- 3.6 **Benefits** means any perquisites, fringe benefit and payment in connection with an **Employee** benefit plan or pension scheme, including share options or any other right to be given or to purchase shares.
- 3.7 **Business** means the business description stated in the **Schedule**.
- 3.8 **Claim** means any demand for compensation or damages, or the allegation of a right that can be enforced through a civil proceeding, alleging a **Wrongful Act**.
- 3.9 **Criminal Prosecution** means any prosecution commenced by the police or any other criminal prosecuting body, including under Health and Safety legislation, against the **Director** and/or **Trustee** in their capacity as such or, under the Corporate Legal Liability and/or Organisational and Professional Liability Section against **You** if operative.



- 3.10 **Criminal Prosecution Defence Costs** means **Defence Costs** incurred by the **Director** and/or **Trustee** or, under the Corporate Legal Liability and/or Organisational and Professional Liability Section by **You** if operative, in defending a **Criminal Prosecution** that is commenced during the **Period of Insurance**.
- 3.11 **Deductible** means the first part of each and every **Loss**, for which **You** are responsible as stated in the **Schedule**.
- 3.12 **Defence Costs** means costs, fees and expenses incurred by **You** or on **Your** behalf or by a **Director** and/or **Trustee** with **Our** written consent in the **Investigation**, defence or settlement of any **Notifiable Claim**, suit or proceedings which are or would, if successful, be covered under this policy.
- Defence Costs** includes any premium paid for insurance instruments or for bonds which may be required.
- Defence Costs** do not include **Your** or **Your Director's** and/or **Trustee's** own costs, fees or expenses (including salaries) or value attributable to the time spent in dealing with a **Notifiable Claim** or a circumstance.
- 3.13 **Director** and/or **Trustee** means any natural person, except an external auditor or an insolvency office holder or equivalent, who at the date of inception has been or is, or who during the **Period of Insurance** becomes:
- (a) **Your** director or officer, trustee, committee member, governor including non-executive directors, trustees and persons who hold equivalent positions in any other jurisdiction;
 - (b) an **Outside Director** and/or **Trustee**;
 - (c) an **Employee** acting in any managerial or supervisory capacity or who is named as co-defendant with any **Director** and/or **Trustee**.
- 3.14 **Discovery Period** means the period of twelve (12), twenty-four (24) months (or period agreed by **Us**) immediately following the expiry of the **Period of Insurance** during which written notice may be given to **Us** of a **Wrongful Act** committed (or alleged to have been committed) prior to the expiry of the **Period of Insurance**.
- 3.15 **Employee** means any:
- (a) person under a contract of service or apprenticeship with **You**;
 - (b) labour only sub-contractor and persons supplied by them;
 - (c) person employed by labour only sub-contractors;
 - (d) self-employed person;
 - (e) person hired to or borrowed by **You**;
 - (f) person undertaking study or work experience, voluntary work or a youth training scheme with **You**;
- working for **You** and under **Your** control in connection with the **Business**



3.16

Employment Practices Wrongful Act means any actual or alleged:

- (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) harassment, including unwelcome sexual or non-sexual advances, requests for sexual favours and any unwelcome verbal or physical contact of a sexual or non-sexual nature which:
 - (i) is explicitly or implicitly made a term or condition of employment; or
 - (ii) creates a hostile or offensive working environment for an **Employee**; or
 - (iii) 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) unfair or constructive dismissal of an **Employee** (or the equivalent in any other jurisdiction) or refusal to hire or promote an **Employee**;
- (e) adverse change in the terms and conditions of a person's employment in retaliation for that person's exercise of their rights under law, or support of the rights of another.

3.17

Endorsement means a change in the terms and conditions of this policy agreed by **Us** that can extend or restrict cover.

3.18

Extradition Notice means:

- (a) any request for the extradition of any **Director** and/or **Trustee**, any warrant for the arrest of any **Director** and/or **Trustee** or other proceedings under the provisions of the United Kingdom Extradition Act 2003;
- (b) any associated appeal, including an appeal to the European Court of Human Rights, 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;
- (c) the equivalent of the above in any other jurisdiction except USA &/or Canada;

arising from a **Wrongful Act**.

3.19

Extradition Proceedings Defence Costs means **Defence Costs** incurred by the **Director** and/or **Trustee** in dealing with an **Extradition Notice**, provided the **Extradition Notice** is first served on the **Director** and/or **Trustee** during the **Period of Insurance**.

3.20

Identity Theft Claim means any **Notifiable Claim** for damages made by a third party to enforce an agreement entered into with another person fraudulently representing themselves as a **Director** and/or **Trustee**.



3.21 **Investigation** means any formal request for information from a **Director** and/or **Trustee** or for the **Director's** and/or **Trustee's** attendance, or **Your** attendance under the Employment Practices Liability Section if operative in the **Schedule**, at an interview, which is made by anybody other than **You** (unless in respect of any internal **Investigation** instigated as a result of a shareholder derivative action), so authorised for the purpose of examining **Your** affairs or the conduct of the **Director** and/or **Trustee** in their capacity as such, including for example proceedings under the Corporate Manslaughter and Corporate Homicide Act 2008 or the Financial Services and Markets Act 2000.

For the avoidance of doubt, an **Investigation** does not include a risk management visit or equivalent by **Your** regulator.

3.22 **Investigation Defence Costs** means **Defence Costs** incurred by the **Director** and/or **Trustee** &/or Corporate Legal Liability and/or Organisational and Professional Liability Section if operative in the **Schedule** in an **Investigation**, provided the **Investigation** is initiated during the **Period of Insurance**.

3.23 **Loss** means:

- (a) any award of compensatory damages made by a competent court or tribunal including third party costs **or** any settlement incurred with **Our** prior written consent; and
- (b) **Defence Costs**; and
- (c) **Investigation Defence Costs**; and
- (d) **Criminal Prosecution Defence Costs**; and
- (e) **Extradition Proceedings Defence Costs**; and
- (f) **Asset and Liberty Proceedings Defence Costs**; and
- (g) **Pollution Defence Costs**; and
- (h) **Asbestos Defence Costs**; and
- (i) **Public Relations Expenses**.

Loss does not include:

- (i) **Employee** remuneration, **Benefits**, stock or share options or severance payments; or
 - (1) taxes; or
 - (2) fines; or
 - (3) civil, regulatory or criminal penalties; or
 - (4) punitive, aggravated or exemplary damages;

except where legally permissible in the country or territory in which the **Notifiable Claim** is brought.



- (ii) in respect of any **Employment Practices Wrongful Act**:
- (1) matters uninsurable under the laws of England and Wales; or
 - (2) fines or penalties; or
 - (3) any amount for which **You** are absolved from payment by reason of any covenant, agreement or court order; or
 - (4) the future salary or **Benefits** of a claimant who has been or shall be hired, promoted or reinstated to **Employment**; or
 - (5) damages, compensation or sums which:
 - (a) are severance payments; or
 - (b) are in respect of a notice period; or
 - (c) are determined to be owing under a written contract of **Employment**; or
 - (d) are determined to be owing under an express written obligation to make payments in the event of the termination of **Employment**; or
 - (e) represent any amount **You** would have been liable for in the absence of an **Employment Practices Wrongful Act**.

- 3.24 **Non-Reimbursable Loss** means any **Loss** by a **Director** and/or **Trustee** that **You** cannot provide an advancement or reimbursement for due to legislative prohibition or insolvency as determined in accordance with Section 123 of the Insolvency Act or the equivalent in any other jurisdiction except USA &/or Canada.
- 3.25 **Notified/Notifying/Notify** means that notice is sent in writing by **You** (or **Your** insurance broker) to, and received by, **Us** through **Angel**. For the avoidance of doubt, notice is not valid if given by any third party (other than **Your** insurance broker).
- 3.26 **Notifiable Claim** means a **Claim** or an **Investigation** or a **Criminal Prosecution** or an **Extradition Notice** or an **Asset and Liberty Proceeding** or an **Identity Theft Claim**.
- 3.27 **Official Entity** means any regulator, government, government body, governmental or administrative agency and self-regulatory body recognised as such under applicable law or official trade body.
- Official Entity** does not include the Pension Ombudsman, the Pensions Regulator, the Pensions Regulator Tribunal, the Pension Protection Fund and/or any successor body or other regulator, government body, government agency or any official trade body concerned with pensions.
- 3.28 **Outside Director** and/or **Trustee** means any **Director** and/or **Trustee** formally appointed on **Your** specific written request to the board or equivalent position (including in the case of not-for-profit organisations, governors and committee members) in an **Outside Entity**.



- 3.29 **Outside Entity** means any entity in which **You** hold a shareholding, including any not-for profit entity, provided that such entity is not:
- (a) a publicly listed company or possesses any assets located within the USA &/or Canada but this proviso shall not apply in the event We agree in writing otherwise; or
 - (b) a bank, clearing house, credit institution, undertaking for collective investment in securities, investment firm, investment advisor/manager, investment fund or mutual fund, private equity or venture capital company, stock brokerage firm, insurance company or similar entity;
- unless such entity has been specified in the **Schedule**.
- 3.30 **Period of Insurance** means the period stated in the **Schedule**.
- 3.31 **Pollution** means any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including for example smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including for example material to be recycled, reconditioned or reclaimed) or contamination of any kind of the atmosphere or of any water, land, buildings or other tangible property.
- 3.32 **Pollution Defence Costs** means **Defence Costs** incurred in relation to any **Notifiable Claim** first made during the **Period of Insurance**, against the **Director** and/or **Trustee** in their capacity as such, or **You** under the **Corporate Legal Liability** and/or **Organisational** and **Professional Liability Section** if operative in the **Schedule**, involving any **Pollutants**. For the avoidance of doubt, this does not include the costs involved in testing for, monitoring, cleaning up, removing, containing, treating or detoxifying any **Pollution**.
- 3.33 **Professional Liability Wrongful Act** means **Loss** that **You** are legally liable (directly or vicariously) to pay for **Claims** arising out of professional advice given or services performed on **Your** behalf as a result of:
- (a) a **Wrongful Act** committed by **You** or by an **Employee**, or by any other person, organisation or company directly appointed by and acting for or on **Your** behalf; or
 - (b) any dishonest or fraudulent act or omission on the part of any **Employee**; or
 - (c) libel or slander committed unintentionally by **You** or by any **Employee**; or
 - (d) any unintentional breach of confidentiality committed by **You** or by any **Employee**, or by any other person, organisation or company directly appointed by and acting for or on **Your** behalf.
- 3.34 **Public Relations Expenses** means the fees, costs and expenses of the public relations consultants incurred by a **Director** and/or **Trustee**, or **You** under the Corporate Legal Liability and/or Organisational and Professional Liability Section if operative, with **Our** prior written consent to be given at **Our** absolute discretion where **We** are satisfied that such fees, costs and expenses will mitigate or reduce the adverse effect on such **Director's** and/or **Trustee's** reputation or **Your** reputation if the Corporate Legal Liability and/or Organisational and Professional Liability Section is operative from a **Notifiable Claim** first made against the **Director** and/or **Trustee**, in their capacity as such, or **You** if the Corporate Legal Liability and/or Organisational and Professional Liability Section is operative, during the **Period of Insurance**.
- 3.35 **Schedule** means the document entitled **Schedule** that relates to and forms part of this policy.



- 3.36 **School, Charity or Charitable Organisation** means:
- (a) a place or institution for teaching or learning; or
 - (b) a body registered with the Charities Commission; or
 - (c) a voluntary organisation which does not distribute its surplus funds to owners or shareholders, but instead uses them for the benefit of its members or charitable purposes;
- in the **United Kingdom**.
- 3.37 **Securities** means any security representing **Your** debt or equity interests.
- 3.38 **Shareholders Derivative Costs** means the fees, costs and expenses incurred by **Your** shareholders in pursuing a **Notifiable Claim** first made during the **Period of Insurance** against any **Director** and/or **Trustee** for a **Wrongful Act** by way of a shareholder derivative action on **Your** behalf but only to the extent that **You** are legally liable to pay such fees, costs and expenses pursuant to an order of the Court.
- 3.39 **Subsidiary** means a company in which **You**:
- (a) owned or owns directly or through one or more of **Your 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 **You** are also a shareholder in it;
- but only in respect of **Wrongful Acts** committed in relation to the **Subsidiary** while **Your Subsidiary**.
- 3.40 **Terrorism** means an act, including for example the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear.
- 3.41 **United Kingdom** means England, Wales, Scotland, Northern Ireland, the Isle of Man and the Channel Islands.
- 3.42 **We / Us / Our** means AXA XL Insurance Company UK Limited.
- 3.43 **Wrongful Act** means any actual or alleged act, error, omission, misstatement, misleading statement, libel, slander, negligent act, negligent error, negligent omission or negligent breach of duty by a **Director** and/or **Trustee** in their capacity as such. **Wrongful Act** shall include any **Employment Practices Wrongful Act** committed by a **Director** and/or **Trustee** and, with respect to shareholder derivative actions under the Companies Act 2006, any proposed act and shall include any **Professional Liability Wrongful Act** but only if the Professional Liability Section is stated as operative in the **Schedule**.
- 3.44 **You / Your** means the company/companies stated in the **Schedule** and its/their **Subsidiaries**.

4 General Exclusions

All the individual policy **Sections** are subject to the following exclusions except where stated below.

This policy does not apply to or include cover for or arising out of or relating to:

4.1 **Asbestos**

Asbestos. However this exclusion shall not apply to:

- (a) **Asbestos Defence Costs** which fall within **Non-Reimbursable Loss**; or
- (b) any **Notifiable Claim** instigated by way of shareholder derivative action including under the Companies Act 2006 or the equivalent in any other jurisdiction without the willing assistance, procurement, instigation or involvement of any **Director** and/or **Trustee**.

4.2 **Death or Bodily Injury**

any bodily injury, sickness, disease, emotional distress, mental anguish, mental stress or the death of any person, howsoever caused except:

- (a) emotional distress arising from any libel or slander; or
- (b) in respect of **Investigation Defence Costs** or **Criminal Defence Costs**.

This exclusion does not apply to the Professional Liability &/or Employment Practices Liability Section if stated as operative in the **Schedule** nor any allegation of Corporate Manslaughter.

4.3 **Data Protection**

any compensation, damages, losses, costs, expenses, fines, penalties or any other sum arising out of breach of privacy rules or legislation including the Data Protection Act 2018, whether the liability of the Insured arises directly or indirectly.

This exclusion does not apply to the Data Protection Act 1998 and the Data Protection Act 2018 Extensions 6.4 (c) and (d) of the Corporate Legal Liability and/or Organisational and Professional Liability Section Extension.

4.4 **Employee Benefit**

any retirement, pension, profit-sharing, health, welfare or any other employee benefit fund, trust scheme or plan:

- (a) other than a money purchase (defined contribution) pension or employee benefit scheme which is registered in the **United Kingdom** and governed by the laws of England and Wales; or
- (b) except to the extent as provided in Extension 6.4(h).

4.5 **Fraud and Dishonesty**

any intentional dishonest or fraudulent act or omission or any wilful breach of any statute, rule or law committed by the **Director** and/or **Trustee** or **You**.

This exclusion shall only apply to the **Director** and/or **Trustee** who or the party comprising of **You** that is actually guilty of the above conduct, as established through a final adjudication by any court, tribunal or other similar body, or formal written admission by the **Director** and/or **Trustee** or the party comprising of **You**.



4.6 **Known Claim or Circumstances**

any **Notifiable Claim** or circumstance(s) which may give rise to a **Notifiable Claim** under this policy and which was (or were) known to any **Director** and/or **Trustee** or to **You** prior to the **Period of Insurance**.

This exclusion shall only apply to the **Director** and/or **Trustee** or the party comprising of **You** that had the requisite knowledge.

4.7 **Major Shareholder**

any liability based on arising from or attributable to any **Notifiable Claim** brought by or on behalf of, whether directly or derivatively, any individual or entity which owns or controls 50% or more of **Your** issued and outstanding share capital provided that this exclusion shall only apply to any **Notifiable Claim** where such individual or entity or their representative has, participated in or ratified the alleged **Wrongful Act** being the subject of the **Notifiable Claim**.

4.8 **Other Insurance**

any matter in respect of which the **Director** and/or **Trustee** or **You** are, or but for the existence of this policy would be, entitled to cover under any other valid and collectible contract of insurance, except where such other contract of insurance is written as specific excess insurance to provide reimbursement in excess of the amount payable under this policy. This policy shall only apply in excess of such other contract of insurance to the extent of such part of the Limit of Liability or any applicable sub-limit as exceeds the limit of the other policy.

4.9 **Pollution**

Pollution. However this exclusion shall not apply to:

- (a) **Pollution Defence Costs** which fall within **Non-Reimbursable Loss**; or
- (b) any **Notifiable Claim** instigated by way of shareholder derivative action including under the Companies Act 2006 or the equivalent in any other jurisdiction without the willing assistance, procurement, instigation or involvement of any **Director** and/or **Trustee**.

4.10 **Professional Liability**

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.

This exclusion shall not apply to any **Notifiable Claim** arising out of the actual or alleged failure to supervise those who gave or failed to give professional advice or service and shall not apply if stated as operative in the **Schedule**.

4.11 **Profit or Advantage**

any unlawful personal profit, remuneration or advantage gained by the **Director** and/or **Trustee** or a financial advantage to any entity in which such **Director** and/or **Trustee** has a financial interest.

This exclusion shall only apply to such **Director** and/or **Trustee** who has benefitted in the above way, as established through a final adjudication by any court, tribunal or other similar body or by a formal written admission by the **Director** and/or **Trustee**.



4.12 **Property Damage**

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

4.13 **Radioactive Contamination**

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4.14 **Securities**

any liability under this policy, including any **Endorsements**, arising out of, or in any way connected with any purchase, exchange or sale, or offer to purchase or sell **Securities** by means of a prospectus or private placement on or after the commencement of the **Period of Insurance**. However **We** may at **Our** discretion offer such cover in this regard on terms including as to premium as **We** may think appropriate.

This exclusion does not apply to the raising of funds from external parties if such raising(s) are less than £5m in total during the **Period of Insurance**.

4.15 **Terrorism**

any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the **Loss**.

This exclusion also applies to any action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**.

4.16 **USA and/or Canada**

any **Notifiable 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 judgement, order, award or settlement made within the USA or Canada or which arises from or is connected with:

- (a) any event, occurrence or activity of any sort within the USA or Canada; or
- (b) the holding of or dealing in **Securities** listed or traded on any USA or Canadian Exchange or any other form of assets, tangible or intangible in the USA or Canada; or
- (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.

4.17 **War**

war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

In the event that any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.



5 General Conditions

All the individual policy Sections are subject to the following conditions except where stated below

5.1 Advanced Payment of Defence Costs

We shall pay **Defence Costs**, or any other costs and/or expenses payable under this policy. However in the event and to the extent that it is finally determined that the **Director** and/or **Trustee** or **You** are not entitled to such payments under this policy the sums advanced shall be repaid by the **Director** and/or **Trustee** or **You** as applicable to **Us** upon demand, and failing that the Limit of Liability will automatically be reduced by the amount of such advance payment.

5.2 Allocation

In the event of:

- (a) any **Loss** or **Shareholders Derivative Costs** being partially excluded by the terms of this policy; and/or
- (b) any **Notifiable Claim** against a **Director** and/or **Trustee** being also made against **You** and/or one or more persons who are not insured under this policy;

then **We**, the **Director** and/or **Trustee** and/or **You** shall use their best endeavours, based on established judicial decisions, to agree such an allocation of the **Loss** and professional costs and expenses to the policy as may be appropriate, having regard to the legal and financial exposures of the relevant parties and the proportion to which the **Losses** and professional costs and expenses are not covered under this policy.

5.3 Assistance and Co-operation

You and any person insured must provide **Us** through **Angel** with such information, assistance and co-operation as **We** and/or **Our** representative may request. In the event of breach of this condition, **We** shall have no liability under this policy, unless **You** show that non-compliance with this condition could not have increased the risk of the **Loss** which actually occurred in the circumstances in which it occurred.

5.4 Cancellation

This policy will be cancelled in accordance with the Cancellation provisions in the event of any of the following:

- (a) the presentation of a petition seeking the appointment of a receiver or the making of a winding up order or the appointment of an administrator over **You** or the making of any court order to that effect;
- (b) the passing of a resolution for the appointment of a liquidator, receiver or administrator or on the appointment of a liquidator, receiver or administrator over any of **Your** assets;
- (c) if **You** suspend payment of **Your** debts or any threat by **You** to do so or **You** enter into a voluntary arrangement or other scheme of composition with **Your** creditors;

or the equivalent court application, order, appointment or arrangement in any jurisdiction in which **You** may be domiciled or any territory within the specified territory or territories.



For the purpose of this condition, **You** shall mean only the firm or company named in the **Schedule** and not any **Subsidiaries** that are covered under this policy.

In such cases, **You** shall be entitled to the return of a proportionate part of the premium in respect of the unexpired **Period of Insurance** unless a **Notifiable Claim** or circumstance has been made, in such case there will be no return of premium.

5.5 **Claim Notification**

We must be **Notified** in writing, by email or by telephone through **Angel**, to the **Notification Address** stated below, or shown in the **Schedule**, as soon as practicably possible however such notification must be received by **Us** during the **Period of Insurance**:

- (a) any **Notifiable Claim** made against **You** or any person insured which is likely to fall within the scope of this policy;
- (b) any circumstances of which **You** or the **Director** &/or **Trustee** shall become aware which are likely to give rise to a **Notifiable Claim** being made against **You** or the **Director** &/or **Trustee**.

In the event that **We** are Notified during the **Period of Insurance** of any circumstance which in **Our** opinion may give rise to a **Notifiable Claim** then any subsequent **Notifiable Claim** which arises directly from the circumstance so **Notified** shall be treated as having been made during the **Period of Insurance**.

Notification Address: Angel Risk Management Limited
Ground Floor
Marlborough House
Victoria Road South
Chelmsford
Essex
CM1 1LN

Telephone Number: 01245 343630
Email: claims@angelriskmanagement.com

5.6 **Documents Relevant to a Claim**

You or any person insured must ensure that all documents relevant to any **Notifiable Claim** and any circumstance which is likely to give rise to a **Notifiable Claim** are not destroyed or otherwise disposed of.

5.7 **Entitlement to Defend**

We are entitled, but not obliged, to take over and conduct in **Your** name or the name of any person insured the defence or settlement of any **Notifiable Claim** or to prosecute in **Your** name or the name of any person insured for **Our** own benefit any **Notifiable Claim** for reimbursement or damages or otherwise. **We** shall have full discretion in the conduct of any proceedings and in the settlement of any **Notifiable Claim**. **You** shall be entitled to any and all information and/or documentation regarding the defence, **Investigation** or settlement of any **Notifiable Claim** and/or the **Investigation** into any circumstances that **You** may request.



5.8

Limit of Liability and Deductible

(a) Limit of Liability

All payments made by **Us** in respect of any Operative Clause, Extension or any **Endorsement** or otherwise relating to the same **Notifiable Claim** shall erode the Limit of Liability in respect of any one **Notifiable Claim** under this policy.

All **Notifiable Claims** whether made against or sought from **You**, wholly or substantially arising from or having any connection with or relation to:

- (i) the same event, occurrence, act, error, omission or breach of duty or having the same originating or underlying cause; or
- (ii) a series of events, occurrences, acts, errors, omissions or breaches of duty having the same originating or underlying cause; or
- (iii) the acts, errors, omissions or breaches of a single person or persons acting together or in which such person or persons is or are concerned or implicated;

shall be treated as being one **Notifiable Claim** for the purposes of deciding the applicable Limit of Liability and the application of the **Deductible** under this policy. **We** shall be the sole judge as to whether the provisions of this sub-clause shall operate in relation to any **Notifiable Claim**.

(b) Deductible

The **Deductible** is not applicable to **Non-Reimbursable Loss**.

Payment of the **Deductible** by **You** must be made prior to any payment by **Us** unless **You** are unable to pay by reason of insolvent liquidation or are legally prohibited from paying. In the event that payment of any such **Deductible** is not made within thirty (30) days **We** shall advance to the **Director** and/or **Trustee** all Loss within the **Deductible**. In such circumstances **You** agree to repay the **Deductible** to the full extent once **We** have **Notified You** of the amount so advanced.

Only one **Deductible** shall apply to **Notifiable Claims** that are related or connected in any way by reference to any common contributory factor or characteristic.

5.9

Non-Admission of Liability

No admission, offer, promise or payment is to be made or given by **You** or on **Your** behalf or any person insured without **Our** prior written consent.

In the event of breach of this condition, **We** shall have no liability under this policy, unless **You** show that non-compliance with this condition could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.



5.10

Non-Imputation

- (a) This policy shall operate severally in relation to each **Director** &/or **Trustee**.
- (b) In determining whether **We** are entitled to apply the provisions of Clause 1.6 – Information **You** Have Given **Us** to a **Director's** and/or **Trustee's** interest in this policy or reject a **Director's** and/or **Trustee's Claim** for reimbursement under this policy, **We** shall only take into account the information provided by or the acts, omissions or conduct of, that particular **Director** and/or **Trustee**.
- (c) In determining whether **We** are entitled to apply the provisions of Clause 1.7 – Information **You** Have Given **Us** to **Your** interest in this policy where cover is available to **You**, **We** shall only take into account the information provided by or the acts, omissions or conduct on the part of, any two out of **Your** chairman of the board, managing director, finance director, chief legal officer or their equivalents shall be treated to be imputed or attributable to **You**.

5.11

Order of Payments

Where there are multiple demands for reimbursement under this policy, **We** shall make payments in the order those demands are presented to **Us**.

If it becomes apparent to **Us** in **Our** absolute discretion that the Limit of Liability will not be sufficient to cover all expected payments under the policy then **We** will make payments in the following order:

- (a) payments under Operative Clause 2.1(a), direct to the **Directors** and/or **Trustees**, followed by;
- (b) payments under Operative Clause 6.1(a and/or b), to **You**, followed by;
- (c) any other payments to **You**.

5.12

Subrogation

In the event of any payment by **Us** under this policy, **We** shall be subrogated up to the amount of such payment to all **Your** rights of recovery or any person insured against any third party, provided always that they shall not exercise any such rights against any **Employee** or former **Employee** unless the **Loss** was caused or contributed to by a fraudulent, dishonest or malicious act or omission by said person.

You and any person insured shall, without charge, provide such assistance as **We** may require in any subrogation and shall at all times protect and preserve any rights of recovery to which they would become subrogated under this policy. **We**, at **Our** option, may take over the conduct of any proceedings to recover monies paid or payable by **Us**, whether or not **You** or any person insured has an interest in such proceedings by reason of any uninsured **Loss**.



6 Corporate Legal Liability and/or Organisational and Professional Liability Section – Extension

This Extension only applies if it is shown in the **Schedule**.

This Extension is subject to the Definitions, Exclusions and Conditions of this policy. The Definitions, Exclusions, Extensions, Limits of Liability and Conditions contained in this Extension apply to this Extension.

6.1 Operative Clause

We will insure **You** against any **Notifiable Claim** made against **You** in the Covered Jurisdictions stated in the **Schedule**, subject to all the terms and conditions of this policy:

(a) Corporate Liability and/or Organisational Liability

We will pay on **Your** behalf **Loss** arising from a **Notifiable Claim** against **You** provided that the **Notifiable Claim** is first made during the **Period of Insurance**.

(b) Professional Liability

We will pay on **Your** behalf **Loss** arising from a **Notifiable Claim** in connection with a **Professional Liability Wrongful Act** against **You** provided that the **Claim** is first made during the **Period of Insurance** and is stated as operative in the **Schedule**.

(c) Identity Theft

We will pay **Defence Costs** incurred by **You** in connection with an **Identity Theft Claim** first made during the **Period of Insurance**.

6.2 Section Limit of Liability

The Limit of Liability is the maximum amount **We** shall be called upon to pay under this policy in respect of any one **Notifiable Claim** or in the aggregate as applicable, as stated in the **Schedule**.

In certain Extensions a sub-limit may be applicable and these are also stated in the **Schedule**.

6.3 Section Deductible

The **Deductible** shall be as stated in the **Schedule**.

6.4 Section Extensions

Subject to all other terms, conditions, exceptions, limits, **Deductibles** and exclusions of this policy.

(a) Automatic Acquisition Cover

Where, during the **Period of Insurance**, **You** create or acquire an entity then such entity shall be treated as being a **Subsidiary** for the purpose of this policy provided that:

- (i) **Your** total gross assets including **Your Subsidiaries** as shown, where they exist, in the audited consolidated group accounts most recently preceding the **Period of Insurance** are not increased by the acquisition or creation of such **Subsidiary** by more than 50%; and



- (ii) such newly created or acquired **Subsidiary** is not domiciled in the USA &/or Canada and/or does not have its Securities listed or traded on any exchange; and
- (iii) cover shall only apply to **Notifiable Claims** arising out of a **Wrongful Act** committed (or alleged to have been committed) subsequent to the effective date of such creation or acquisition.

Where the coverage for a newly created or acquired **Subsidiary** is not automatically conferred as a consequence of (i) or (ii) above, then **You** may request that this policy be extended to cover such **Subsidiary** and **We**, at **Our** sole discretion, may alter the terms and conditions of this policy in accordance with Clause 1.8 – Changes We Need to Know About.

(b) **Corporate Manslaughter**

We shall pay **Your Loss**, under Operative Clause 6.1(a), with respect to any proceeding brought against **You** for any gross breach of duty of care that causes the death of another person including under the Corporate Manslaughter and Homicide Act 2007.

(c) **Data Protection 1998**

We will pay on **Your** behalf all **Losses** that **You** are legally liable to pay for a **Notifiable Claim** and **Defence Costs** and **Expenses** resulting from any prosecution first brought against the Insured and/or any **Employee** and **Notified** during the **Period of Insurance** which arises out of the conduct of the Insured's **Business** in respect of any offences or alleged offences under sections 21(1), 21(2), 22(6) or 47(1) of the Data Protection Act 1998.

(d) **Data Protection 2018**

Subject to the policy terms, exclusions and conditions this policy is extended to cover **You** for legal liability in respect of any **Notifiable Claim** for compensation as a result of injury and/or damage under Section 168 of the Data Protection Act 2018.

Cover in respect of such **Notifiable Claims** shall be available only under the terms and conditions of this extension and nowhere else in this policy.

For the purposes of this extension non-material damage which is the subject of such **Claim** shall be considered as injury and will be treated as having occurred when the claimant first had knowledge or alleges that they had knowledge of the event giving rise to that injury.

The maximum aggregate amount payable by **Us** shall not exceed the amount stated in the **Schedule** and shall be inclusive of **Defence Costs**, which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.



Additional Exclusions

This extension shall not provide cover:

- (a) against liability caused by or arising from a deliberate act by or omission of any person entitled to insurance under this policy if the result could have been expected having regard to the nature and circumstances of such act or omission;
- (b) for the costs of replacing, reinstating, rectifying or erasing any Personal Data, as defined in Data Protection Act 2018;
- (c) against liability caused by or arising from the recording, processing or provision of data for reward or the determining of the financial status of a person; or
- (d) against liability which attaches by virtue of a contract or agreement but which would not have attached in the absence of such contract or agreement.

Fee Payment Condition

We shall be entitled to refuse to pay any **Claim** under this policy in its entirety if **You** have not paid any fees required to be paid by any data protection authority.

(e) **Defence Costs for Breach of Contract**

We shall pay on **Your** behalf **Defence Costs** resulting from any **Notifiable Claim** arising from an alleged breach by **You** of a written contract or agreement, other than a contract of employment, up to the aggregate amount stated in the **Schedule** and in excess of:

- (i) any other valid and collectible contract of insurance, whether it responds or not; and
- (ii) the **Deductible** stated in the **Schedule**.

(f) **Emergency Costs**

If **Our** prior written consent cannot practicably be obtained before:

- (i) **Investigation Defence Costs;**
- (ii) **Criminal Prosecution Defence Costs;**
- (iii) **Pollution Defence Costs;**
- (iv) **Asbestos Defence Costs;**
- (v) **Extradition Proceedings Defence Costs;**
- (vi) **Asset and Liberty Proceedings Defence Costs;**

are incurred, **We** will give retrospective approval for such costs, for an amount not exceeding the aggregate amount stated in the **Schedule**, provided that:

- (a) **Our** approval is obtained within fourteen (14) days of such costs being incurred; and
- (b) the costs would otherwise be covered under this policy.



(g) **Fidelity**

We shall reimburse **You** for any loss of money or other property belonging to **You** first discovered by **You** and **Notified** to **Us** during the **Period of Insurance** arising from the dishonest, fraudulent, criminal or malicious act or omission of any **Employee**, committed with the manifest intent to cause loss to **You** or make an improper financial gain for the **Employee** or for an identified third party, provided that:

- (i) **You** will not be reimbursed for any loss resulting from any act or omission perpetrated after **You** could have discovered or suspected improper conduct on the part of the relevant **Employee**; and
- (ii) any monies which but for such act or omission would be due to **You** or any monies of any person committing or colluding in any such act or omission shall be deducted from any amount payable under this extension; and
- (iii) **Our** liability under this extension shall not exceed the aggregate amount stated in the **Schedule** and is in excess of any other valid and collectible contract of insurance, whether it responds or not and subject to the **Deductible** stated in the **Schedule**.

This extension shall not apply to or include cover for or arising out of or relating to:

- (a) any accounting or arithmetical error or omission or unexplained shortage; or
- (b) the default or non-payment of any loan or other credit agreement; or
- (c) any expenses incurred in establishing the amount of any loss of money or other property; or
- (d) any loss of profit; or
- (e) any loss of interest; or
- (f) any loss of money or other property not belonging to **You**.

(h) **Loss of Documents or Data**

We shall reimburse **You** for:

- (i) costs, incurred with **Our** prior written consent, of repair, replacement or reconstitution, from backups, of; and
- (ii) any settlement, damages, interest and claimant's costs arising from an **Wrongful Act** involving

any **Documents** or **Data** which have been unintentionally destroyed, damaged, lost or mislaid during the **Period of Insurance** (and which after diligent search cannot be found) and which is first **Notified** to **Us** during the **Period of Insurance**.

For the purposes of this extension "**Documents or Data**" mean all and any records whether kept in paper (excluding stamps, currency, bank notes and instruments, travellers cheques, cheques, postal orders, money orders, securities and the like), magnetic or electronic form, which are **Your** property or in **Your** care custody or control.



The maximum aggregate amount payable by **Us** shall not exceed the amount stated in the **Schedule** and be in excess of:

- (a) any other potentially applicable cover, whether or not it actually responds; and
- (b) the **Deductible** stated in the **Schedule**.

(i) **Pension and Employee Benefit Scheme**

We shall pay on **Your** behalf **Loss** including **Defence Costs** arising from a **Wrongful Act** committed by **You** in **Your** capacity as administrators of any money purchase (defined contribution) pension or employee benefit scheme which is registered in the **United Kingdom** and governed by the laws of England and Wales and in excess of any other valid and collectible contract of insurance, whether it responds or not, and subject to the **Deductible** stated in the **Schedule**.

6.5 **Section Exclusions**

This policy does not apply to or include cover for or arising out of or relating to:

(a) **Breach of Contract**

any actual or alleged breach of contract or agreement, either oral or written, except to the extent as provided in Extension 6.4(e).

(b) **Breach of Copyright**

any actual or alleged plagiarism or breach of copyright or trademark, patents, database rights, registered design or design rights, except to the extent as provided in Extension 6.4(d).

(c) **Goods**

any liability concerning the manufacture, sale, supply, installation or maintenance of any products or goods.

(d) **Information Technology**

any of the following:

- (i) the failure of any computer or other electronic processing device or of any program, instruction or data for use in any computer or other electronic processing device, equipment or system to function in the way expected or intended;
- (ii) the transmission or receipt of any virus, program or code that causes loss or damage to any computer system and/or prevents or impairs its proper function or performance.



(e) **Insolvency**

Your insolvency or bankruptcy.

In the event that any portion of any of these exclusions is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

(f) **Monopolies**

any breach of regulatory, statutory or common law aimed at preventing monopolies, price discrimination, fixing of prices or other unfair trade practices.

(g) **Premises Modification**

Loss, other than **Defence Costs**, which constitutes the cost of any obligation, howsoever arising, to provide or modify any premises, equipment or working methods to accommodate the needs of a person with a disability.

(h) **Related Companies**

any **Notifiable Claim** brought by **You** or on **Your** behalf, or any parent or **Subsidiary** company having a controlling interest in **You** or by or on behalf of any entity controlled or managed by **You**.

(i) **Trading Losses**

any trading losses or trading liabilities incurred by **You** or any **Business** managed by or carried on by **You** or on **Your** behalf.



7 Employment Practices – Extension

This extension only applies if it is shown in the **Schedule**.

This extension is subject to the Definitions, Exclusions and Conditions of this policy. The Exclusions, Limit of Liability and Conditions contained in this Extension apply to this Extension only.

7.1 Operative Clause

We will pay on **Your** behalf the **Loss** arising from a **Notifiable Claim** made against **You** in the Covered Jurisdictions stated in the **Schedule**, for an **Employment Practices Wrongful Act** provided that such **Notifiable Claim** is first made during the **Period of Insurance**, subject to all the terms and conditions of this policy.

7.2 Section Limit of Liability

The Limit of Liability is the maximum amount **We** shall be called upon to pay under this policy in respect of all **Notifiable Claims** under Operative Clause 7.1.

The Limit of Liability shall be the amount stated in the **Schedule**.

7.3 Section Deductible

The **Deductible** shall be as stated in the **Schedule**.

7.4 Section Exclusions

This policy does not apply to or include cover for or arising out of or relating to:

(a) Benefits

a **Benefit** due or to become due or their equivalent value, however, this exclusion shall not apply to **Loss** which arises out of a wrongful or unfair dismissal, discharge or termination of employment.

(b) Breach of Health, Wages and Benefits Legislation

any actual or alleged breach of any law or duty relating to:

(i) health; or

(ii) wages and benefits being:

- (1) the amount, calculation, timing or manner of payment of minimum wages, prevailing wage rates, overtime pay or other reward; or
- (2) the classification of **Employee** for wage or hours of work purposes; or
- (3) withholdings or other deductions from wages; or
- (4) rights to leave or absence from work rights to pay during such absence; or
- (5) child labour.



(c) **Breach of Labour Relations Legislation**

any actual or alleged breach of law or duty relating to labour relations being:

- (i) the right of any **Employee** to engage in, or to refrain from engaging in, union or other collective activities; or
- (ii) the duty or obligation to **Notify**, meet, discuss with, consult with or bargain with any **Employee** or their representative, collectively or otherwise; or
- (iii) collectively bargained agreements; or
- (iv) strikes, work stoppages, boycotts, picketing, lockouts or other industrial action.

(d) **Breach of Redundancy Legislation**

the breach of any law or duty relating to redundancy procedures or requirements where the breach is deliberate or reckless.

(e) **Employee Benefit Schemes**

any breach of law governing, breach of duty of, or breach of trust by **You** relating to any superannuation, pension, profit sharing, health and welfare or other **Employee** benefit scheme, programme, plan or trust established or maintained to provide a **Benefit** to any **Employee** or **Director** and/or **Trustee**.

(f) **Employee Insurance Schemes**

any actual or alleged breach of a legal obligation to obtain or maintain insurance or of any legal obligation relating to any state or legally required sickness, healthcare, disability, pension, benefit, social security or national insurance scheme.

(g) **Injunctive or Non-Pecuniary Relief**

the cost of compliance with any order for, grant of or agreement to provide injunctive or non-pecuniary relief.

(h) **Involuntary Assumption of Liability**

the involuntary assumption by **You** of the liability for any act or omission whatsoever of any person who is not a **Director** and/or **Trustee** or **Employee**.

(i) **Non Consulted Dismissal**

Any **Claim** arising from actual or threatened redundancy, dismissal or the suspension of any **Employee** where **You** did not consult and follow the advice of a properly qualified human resource person or employment solicitor prior to the actual or threatened redundancy, dismissal or suspension.



(j)

Premises Modification

the cost of any obligation, howsoever arising, to provide or modify any premises, equipment or working methods to accommodate the needs of a person with a disability.

In the event that any portion of any of these exclusions is found to be invalid or unenforceable, the remainder shall remain in full force and effect.



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