

## **POLICY DOCUMENT**

### **Directors and Officers Insurance / Professional Indemnity** *For Private Equity and Venture Capital Firms*



**PLEASE NOTE:**

**THIS IS A CLAIMS MADE POLICY.**

**THE COVER PROVIDED BY THIS POLICY IS AFFORDED SOLELY WITH RESPECT TO CLAIMS FIRST MADE AGAINST AN INSURED DURING THE POLICY PERIOD OR ANY DISCOVERY PERIOD PURCHASED.**

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THE POLICYHOLDER IS REQUESTED TO READ THIS POLICY AND SCHEDULE CAREFULLY AND TO REVIEW THE COVERAGE WITH AN INSURANCE AGENT OR BROKER TO ENSURE THAT THE POLICYHOLDER FULLY UNDERSTANDS THE CONTENTS AND THE TERMS AND CONDITIONS OF COVER.

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IF THE POLICY OR SCHEDULE IS INCORRECT PLEASE RETURN IT IMMEDIATELY FOR ALTERATION TO: HCC GLOBAL FINANCIAL PRODUCTS S.L., TORRE DIAGONAL MAR, JOSEP PLA 2, 08019 BARCELONA, SPAIN

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NOTICE: THIS IS A CLAIMS MADE POLICY WHICH APPLIES ONLY TO CLAIMS FOR WRONGFUL ACTS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR, IF APPLICABLE, THE DISCOVERY PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED, AND MAY BE EXHAUSTED, BY THE PAYMENT OF DEFENCE COSTS, INVESTIGATION COSTS AND MITIGATION AMOUNTS. DEFENCE COSTS, INVESTIGATION COSTS AND MITIGATION AMOUNTS WILL BE APPLIED AGAINST THE RETENTION. THE INSURER HAS NO DUTY UNDER THE POLICY TO DEFEND ANY INSURED.

Schedule

Policy Number.....

ITEM 1 POLICYHOLDER

- (a) NAME
- (b) Principal Address

ITEM 2 INSURING AGREEMENTS / INSURED ORGANISATIONS:

**Cover under this Policy is afforded solely in respect of Insuring Agreements and of entities, and the related Insured Person, marked as COVERED below:**

- a) MANAGEMENT LIABILITY COVERED
- b) OUTSIDE DIRECTORSHIP LIABILITY COVERED
- c) PROFESSIONAL INDEMNITY COVERED
- d) REPRESENTATIONS & WARRANTIES DEFENCE COSTS COVER: COVERED / NOT COVERED
- e) CRISIS RESPONSE COSTS COVER: COVERED/NOT COVERED

ITEM 3 POLICY PERIOD

- (a) Inception Date:
- (b) Expiration Date:

both days inclusive at local standard time at the Principal Address stated in ITEM 1

ITEM 4 LIMIT OF LIABILITY:

GBP in the aggregate, for all insurance covers combined

ITEM 5 AGGREGATE SUB-LIMIT(S):

- (a) Insuring Agreement 1.4 – Representations and Warranties Defence Costs Cover GBP
- (b) Carve-back to Exclusion 3.5(1)1.3.1(A)(1)- Pollution **Defence Costs:** GBP



- (c) Extension 4.7– **Investigation Costs** :
1. **Investigations** in relation to **Private Equity and Venture Capital Services:** GBP
  2. **Other Investigations**
    - commenced or maintained within the jurisdiction of or under any laws of the United States of America: GBP
    - ROW: NIL
- (d) Extension 4.8 – Civil Fines and Penalties: GBP
- (e) Extension 4.9 – Assets and Liberty Protection: GBP
- (f) Extension 4.10 – Reputational Remediation Costs: GBP
- (g) Extension 4.11 – Emergency Costs: GBP
- (h) Extension 4.13– Internal Investigations: GBP
- (i) Insuring Agreement 1.5– Crisis Response Costs: GBP
- (j) Extension 4.17 – Mitigation Amounts: Not applicable / GBP
- (k) Extension 4.18 – Emergency Mitigation Amounts: GBP

**All Sub-Limits are part of and not in addition to the Limit of Liability stated in ITEM 4 of the SCHEDULE.**

**ITEM 6 NON-EXECUTIVE DIRECTOR EXTRA LIMIT:**

- (a) Each non-executive director: GBP ,  
nevertheless,
- (b) Aggregate for all non-executive directors: GBP

**ITEM 7 RETENTIONS:**

- (a) INSURING AGREEMENT 1.1(B) GBP
- (b) INSURING AGREEMENT 1.3 GBP

**ITEM 8 PREMIUM:**

GBP plus applicable tax

**ITEM 9 INSURER:**

HCC INTERNATIONAL INSURANCE COMPANY PLC

This is noted on the Policy by way of information only and is payable by the **Insurer** to the Broker.



**ITEM 10** REQUIRED NOTICES TO BE ADDRESSED TO:

HCC GLOBAL FINANCIAL PRODUCTS, S.L.  
Torre Diagonal Mar  
Josep Pla, 2, 10th floor  
08019 Barcelona – Spain  
Attention: Claims Manager

**ITEM 11** APPLICABLE LAW AND EXCLUSIVE JURISDICTION:

- (a) Applicable Law:
- (b) Exclusive Jurisdiction:

**ITEM 12** CONTINUITY DATE

Pending and prior litigation:

**ITEM 13** DISCOVERY PERIODS:

- a) Automatic Discovery Period:
  - (i) Duration: days after the Expiration Date
  - (ii) Additional Premium: NIL
- b) Optional Discovery Period:
  - (i) Duration: months after the Expiration Date
  - (ii) Additional Premium: % of the premium stated in **Error! Reference source not found.** of the SCHEDULE
- c) Automatic Discovery Period for Retired Directors:
  - (i) Duration: 120 months after the Expiration Date
  - (ii) Additional Premium: NIL

**ITEM 14** NEW FUNDS ASSET UNDER MANAGEMENT LIMIT:

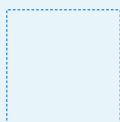
GBP

**ITEM 15** NEW SUBSIDIARIES ASSET LIMIT (applicable only where the Policyholder is not a fund):

% of the total gross assets of the **Policyholder** as reported in its latest audited Annual Report and Accounts (or equivalent in any other relevant jurisdiction) as calculated in accordance with the usual accounting policies, principles and practices of the **Policyholder**.

**ITEM 16** INVESTORS

**ITEM 17** ENDORSEMENTS ATTACHED AT ISSUANCE:



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SAMPLE



**THIS IS A CLAIMS MADE POLICY.  
PLEASE READ IT CAREFULLY.**

In consideration of the payment of the premium or agreement to pay the premium and subject to the terms, conditions, definitions and exclusions contained in this Policy and any endorsements attached thereto, the **Insurer** and the **Policyholder** agree as follows:

## 1. Insuring Agreements

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### 1.1 MANAGEMENT LIABILITY

#### (A) DIRECTORS' AND OFFICERS' LIABILITY

The **Insurer** shall pay to or on behalf of any **Director or Officer** any **Loss** resulting from a **Claim** first made against such **Director or Officer** during the **Policy Period** (or **Discovery Period**, if applicable) for a **Wrongful Managerial Act**, except to the extent that the **Insured Organisation** has indemnified or advanced such **Loss** to or on behalf of such **Director or Officer**.

#### (B) INSURED ORGANISATION REIMBURSEMENT

The **Insurer** shall pay to or on behalf of any **Insured Organisation** any **Loss** resulting from a **Claim** first made against a **Director or Officer** during the **Policy Period** (or **Discovery Period**, if applicable) for a **Wrongful Managerial Act**, if and to the extent that such **Insured Organisation** has indemnified or advanced such **Loss** to or on behalf of such **Director or Officer**.

### 1.2 OUTSIDE DIRECTORSHIP LIABILITY

The **Insurer** shall pay to or on behalf of any **Outside Director** any **Loss** resulting from a **Claim** first made against any **Outside Director** during the **Policy Period** (or **Discovery Period**, if applicable) for a **Wrongful Managerial Act**.

### 1.3 PROFESSIONAL LIABILITY

The **Insurer** shall pay to or on behalf of any **Director or Officer, Employee or Insured Organisation** any **Loss** resulting from a **Claim** first made against such **Director or Officer, Employee or Insured Organisation** during the **Policy Period** (or **Discovery Period**, if applicable) for a **Wrongful Professional Act**.

### 1.4 REPRESENTATIONS & WARRANTIES DEFENCE COSTS COVER

The **Insurer** will pay **Defence Costs** incurred by a **Fund** or a **Holding Company** in relation to a **Claim** alleging a **Breach of Warranty**, up to the Sub-Limit specified in ITEM 5(a) of the SCHEDULE.

### 1.5 CRISIS RESPONSE COSTS

Up to the Sub-Limit stated in ITEM 5(i) of the SCHEDULE, the **Insurer** will pay as **Defence Costs** the reasonable costs and expenses incurred by the **Insured Organisation** during the **Policy Period** (or **Discovery Period**, if applicable), for the professional advice of a public relations consultant or legal counsel, in relation to any **Crisis Event** affecting such **Insured Organisation**, provided:



- the **Insured Organisation** demonstrates to the **Insurer's** reasonable satisfaction that such costs and expenses have minimised or are likely to minimise the potential harm to such **Insured Organisation** resulting from such event; and
- such costs and expenses have been notified to the **Insurer** in accordance with the provisions of this Policy applicable to the notification of **Claims**.

## 2. Definitions

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In this Policy the following words in bold shall have the definitions that follow:

- 2.1. Breach of Warranty** any breach of warranty regarding either a **Fund's** or a **Holding Company's** title or capacity in the sale and purchase agreement in respect of the sale of a **Portfolio Company** provided that the transaction occurs and the **Portfolio Company's** assets involved in the transaction are located in the European Economic Area or Switzerland.
- 2.2. Change in Control**
- A) with respect to the **Policyholder** (other than where the **Policyholder** is a **Fund** or group of **Funds**):
- (i) the merger with or consolidation into any other entity; or
  - (ii) any person or company (other than a **Company**) acting alone or in concert:
    - (1) acquiring ownership or control or assuming control pursuant to a written agreement with other shareholders of more than 50% of the voting rights in the **Policyholder** and/or more than 50% of the outstanding shares representing the present right to vote for the election of the board of directors of the **Policyholder** and/or assuming the right to appoint or remove the majority of the board of directors of the **Policyholder**, or where the entity is not a company, of its executive management; or
    - (2) acquiring ownership of all or the majority of the assets of the **Policyholder**; or
- B) with respect to the **Policyholder**, any **Company** or any **Fund**, the appointment of a receiver, administrator, or liquidator, or the equivalent in any jurisdiction, by or on behalf of the **Policyholder**, such **Company** or **Fund**; or
- C) with respect to any **Fund**, including the **Policyholder** (if the **Policyholder** is a **Fund** or group of **Funds**):
- (i) the sale, transfer or dissolution, or the merger, consolidation or other combination of any **Fund** with any fund other than a **Fund** as defined herein; or
  - (ii) the investment advisor, principal underwriter and/or



general distributor of such **Fund** being replaced, changed or ceasing to act as such.

### 2.3. Circumstance

a fact, event, condition or matter which is likely to give rise to a **Claim** or **Mitigation Amounts**, deemed to be first identified at the time when an **Insured Person** (for the purposes of INSURING AGREEMENT 1.1 and 1.2, or the relevant **Insured Organisation's** Risk Manager, Head of Audit, Head of Legal or a member of the Board of Directors or the equivalent (for the purposes of INSURING AGREEMENT 1.3 and 1.4, first becomes aware of such fact, event, condition or matter.

### 2.4. Claim

- (i) any written demand for monetary or non-monetary relief; or
- (ii) any civil (including arbitration and other alternative dispute resolution), criminal, regulatory or administrative proceeding,

against an **Insured** for a **Wrongful Act** by such **Insured**, deemed to be made upon receipt by or service upon the **Insured**, whichever is earlier, or

- (iii) Solely for the purpose of giving effect to EXTENSION 4.7, an **Investigation**.

### 2.5. Company

- (1) the **Policyholder**; or
- (2) any **Subsidiary**.

**Company** shall not include any **Fund** or **Holding Company**

### 2.6. Control or Controlled

in respect of any entity:

- (i) the ownership of more than 50% of the issued and outstanding shares; or
- (ii) the control of more than 50% of the voting rights; or
- (iii) the control of the right to vote for the election or removal of the majority of the board of directors or, where the entity is not a company, of its executive management,

of or within such entity.

### 2.7. Crisis Event

any event occurring during the **Policy Period** and causing or likely to cause, in the reasonable opinion of the Chief Financial Officer of an **Insured Organisation**, an imminent decrease of greater than twenty-five percent (25%) of the consolidated annual revenues, or fifty percent (50%) of the aggregate capital commitment of the, regardless of whether a **Claim** is ever made in relation to such event.

### 2.8. Defence Costs

all reasonable legal and other professional fees, costs and expenses, incurred with the prior written consent of the **Insurer** (not to be unreasonably withheld or delayed), which the **Insured** is legally liable

to pay resulting from investigating, adjusting, settling, defending, appealing or otherwise participating in a **Claim**, including:

- (1) **Investigation Costs**, and
- (2) the reasonable premiums but not the collateral for any appeal bond, attachment bond or similar bond for any civil proceeding.

**Defence Costs** does not include any salaries, wages, benefits, overhead expenses or internal costs of any **Insured**.

## 2.9. Director or Officer

any natural person who was, is or during the **Policy Period** becomes:

- (1) a director, officer, non-executive director, de facto director (including any shadow director) any advisory board member of any **Insured Organisation**, general partner of any **Insured Organisation** established as a limited partnership or member of any **Insured Organisation** established as a limited liability partnership with executive management responsibilities within such **Insured Organisation**; or
- (2) a person employed by any **Insured Organisation** to whom the Financial Conduct Authority and/or the Prudential Regulatory Authority have given their approval, pursuant to Section 59 of the Financial Services and Markets Act 2000, to perform for such **Insured Organisation** one or more of those controlled functions which were or are designated by the Financial Conduct Authority as "significant influence functions"; or
- (3) an **Employee** but only for the purposes of INSURING AGREEMENT 1.1(A) and 1.1(B), and with respect to any:
  - (a) **Claim** for a **Wrongful Employment Practice**; or
  - (b) **Claim** where and during such time the employee is a co-defendant along any person listed in (1) above; or
  - (c) **Claim** in respect of a **Wrongful Managerial Act** actually or allegedly committed in a managerial or supervisory capacity.

**Director or Officer** shall not include any insolvency practitioner or external auditor appointed on behalf of a **Insured Organisation**.

## 2.10. Discovery Period

the applicable period(s) set out either in ITEM 13a), ITEM 13b) or ITEM 13c) of the SCHEDULE, commencing immediately after the Expiration Date of the **Policy Period**.

## 2.11. Employee

any natural person who is under any express or constructive contract of employment (whether full time, part-time or temporary) with the **Insured Organisation**.

**Employee** shall not include any independent professional, broker,

financial advisor, representative, agent or contractor hired by, or providing services to or on behalf of, the **Insured** and remunerated solely on a sales or commission basis.

#### 2.12. Fund

- (1) any trust, fund, collective investment scheme or other similar entity or any sub fund or subsidiary thereof, which, at or before the Inception Date of the **Policy Period**:
  - (a) is operated, managed or administered by any **Company** (but not by the **Policyholder** if it is a **Fund**); or
  - (b) has been advised to and agreed by the **Insurer**;

and

- (2) any trust, fund, collective investment scheme or other similar entity or any sub fund or subsidiary thereof included as a **Fund** under EXTENSION 4.2.

For the avoidance of doubt:

- (i) an entity ceases to be a **Fund** when it ceases to comply with all conditions set out in (1) above or in EXTENSION 4.2; and
- (ii) coverage for **Funds** under this Policy shall apply in respect of trusts, funds, collective investment schemes or other similar entities or any sub funds or subsidiaries thereof, or to natural persons employed or appointed by such entities solely in respect of **Claims** for, or **Mitigation Amounts** relating to, **Wrongful Acts** actually or allegedly committed, or **Investigations** in relation to events that actually or allegedly occurred or took place, during such time such entities are or were **Funds** as defined above.

#### 2.13. Holding Company

any entity **Controlled** either directly or indirectly by a **Fund** created or acquired for the principal purpose of lending to a **Portfolio Company** or acquiring securities, debentures or voting rights representing the present right to vote for the election of directors or to select managing partners, managing members, or the equivalent in any jurisdiction of a **Portfolio Company**.

Coverage for **Holding Companies** under this Policy shall apply in respect of entities or to natural persons employed or appointed by such entities solely in respect of **Claims** for, or **Mitigation Amounts** relating to, **Wrongful Acts** actually or allegedly committed, or **Investigations** in relation to events that actually or allegedly occurred or took place, during such time such entities are or were **Holding Companies** as defined above.

**Holding Company** does not include any **Portfolio Company**.

#### 2.14. Insured

- (1) any **Insured Person**; and
- (2) any **Insured Organisation**;



## 2.15. Insured Organisation

- (1) any **Company**; and
- (2) any **Fund**; and
- (3) any **Holding Company**.

**Insured Organisation** does not include any **Outside Entity** or any pension or retirement fund, trust or plan.

## 2.16. Insured Person

any natural person who was, is, has been or during the **Policy Period** becomes:

- (1) a **Director or Officer** for the purposes of INSURING AGREEMENT 1.1 and 1.3; or
- (2) an **Outside Director** for the purposes of INSURING AGREEMENT 1.2; or
- (3) an **Employee** for the purposes of INSURING AGREEMENT 1.3

**Insured Person** shall not include any independent professional, professional, broker, financial advisor, representative, agent or contractor hired by, or providing services to or on behalf of, the **Insured Organisation** and remunerated solely on a sales or commission basis.

## 2.17. Insurer

the entity named in ITEM 9 of the SCHEDULE.

## 2.18. Investigation

any formal or official hearing, investigation or inquiry by a governmental or judicial agency:

- (1) into the affairs of an **Insured Organisation**, an **Outside Entity**, a **Director or Officer**, or **Outside Director**, in their capacity as such and other than in relation to the performance or failure to perform **Private Equity and Venture Capital Services**; or
- (2) into the affairs of any **Insured** in their capacity as such with respect to the performance of or failure to perform **Private Equity and Venture Capital Services** by or on behalf of an **Insured Organisation**,

first commenced during the **Policy Period** (or **Discovery Period**, if applicable).

An **Investigation** shall be deemed to commence and be first made upon receipt by the **Insured** of written documentation by the investigating authority (in the case of the United States Securities and Exchange Commission, a subpoena or a Wells Notice):

- (i) that legally requires an **Insured Person** to attend such hearing, investigation or inquiry; or

- (ii) in which an **Insured** is identified by the investigating authority as a subject of such hearing, investigation or inquiry,

whichever is earlier.

**Investigation** shall not include routine regulatory supervision, inspection or compliance review or any investigation which focuses on an industry rather than an **Insured Organisation, Outside Entity or Insured Person** in their capacity as such.

#### 2.19. Investigation Costs

all reasonable legal and other professional fees, costs and expenses (other than salaries, wages, benefits, overhead expenses or internal costs) incurred by or on behalf of an **Insured Person** with the prior written consent of the **Insurer** (not to be unreasonably withheld or delayed) in preparing for, attending or participating in, or co-operating with, an **Investigation**.

#### 2.20. Limit of Liability

the amount stated in ITEM 4 of the SCHEDULE.

#### 2.21. Loss

- (1) **Defence Costs**; and
- (2) any amounts that an **Insured** is legally liable to pay to a third party as a result of a **Claim** including damages, settlements, pre and post judgment interest on a covered judgment or award, or awards of costs; and
- (3) any amount covered under any EXTENSION of this Policy.

**Loss** shall not include:

- (i) non-compensatory damages, including punitive, exemplary or aggravated damages, or the multiplied portion of any multiplied damages award except to the extent covered under EXTENSION 4.12; or
- (ii) fines or penalties, except to the extent covered under EXTENSION 4.8; or
- (iii) taxes, except to the extent covered under EXTENSION 4.16; or
- (iv) non-monetary relief and any costs incurred in complying with any judgment, award or settlement for non-monetary relief; or
- (v) any benefits, overheads, charges or expenses paid by or to any **Insured** including but not limited to the cost of the time of any **Insured**; or
- (vi) wages, salaries, remuneration or any employment-related benefits of any **Insured Person**; or
- (vii) any reimbursement of an **Insured Organisation** required pursuant to Section 304 the Sarbanes-Oxley Act of 2002 of



the United States of America; or

- (viii) any amounts which are deemed uninsurable under the laws of the jurisdictions in which such sums are payable or in which such sums were ordered to be paid.

## 2.22. Mandate

any mandate given, at the express request of the **Insured Organisation**, to a natural or legal **person** to act as a director, officer, trustee, regent or governor of or in another equivalent executive position in any organisation, association or entity.

## 2.23. Mitigation Amounts

all reasonable:

- (1) external professional fees, costs and expenses (excluding **Defence Costs**) incurred by an **Insured** to avoid or mitigate the consequences of a **Wrongful Professional Act**; and
- (2) payments (or part thereof) by an **Insured** made to identified third parties solely and exclusively:
  - (a) as compensation for any actual loss sustained by such third parties resulting directly from a **Wrongful Professional Act**; and
  - (b) to avoid or mitigate the consequences of such **Wrongful Professional Act**;

provided always that the **Insurer** shall not be liable to make any payment for **Mitigation Amounts** unless:

- (i) the prior written consent of the **Insurer** (which shall not be unreasonably withheld or delayed) has been obtained to such professional fees, costs, and expenses being incurred, and/or to such payments being made; and
- (ii) prior to such professional fees, costs, and expenses being incurred, and/or to such payments being made, such **Wrongful Professional Act** has been reported as a **Circumstance** in compliance with the provisions of CLAIMS CONDITIONS 5.1; and
- (iii) such **Insured** establishes to the reasonable satisfaction of the **Insurer** that such **Wrongful Professional Act** would otherwise, but for the payment of the **Mitigation Amounts**, result in a **Claim** against such **Insured** for which there would be a legal liability for covered **Loss** of an amount at least equivalent to the total sum of all such professional fees, costs and expenses and/or such payments.

**Mitigation Amounts** shall not include any amounts that do not constitute **Loss**.

## 2.24. Non-Indemnifiable Loss

**Loss** that an **Insured Organisation** (i) is legally prohibited from indemnifying the **Insured Person** for, or (ii) is unable to indemnify due to its insolvency under section 123 of the Insolvency Act 1986 or

	under the law that governs the insolvency of such <b>Insured Organisation</b> .
<b>2.25. Outside Director</b>	any natural person employed by the <b>Insured Organisation</b> who exercises a <b>Mandate</b> in an <b>Outside Entity</b> .
<b>2.26. Outside Entity</b>	<p>(1) any organisation, association or entity run on a non-profit basis; or</p> <p>(2) any <b>Portfolio Company</b> provided that it is not an organisation, association or entity having any of its <b>Securities</b> traded on any exchange in the United States of America, unless expressly agreed by the <b>Insurer</b> by endorsement to this Policy; or</p> <p>(3) any entity listed as an <b>Outside Entity</b> by endorsement to this Policy,</p> <p>during any time any person exercises a <b>Mandate</b> therein. <b>Outside Entity</b> shall not include any <b>Subsidiary</b>.</p>
<b>2.27. Policyholder</b>	the entity(ies) identified in ITEM 1 of the SCHEDULE.
<b>2.28. Policy Period</b>	the period set out in ITEM 3 of the SCHEDULE.
<b>2.29. Portfolio Company</b>	<p>any entity:</p> <p>(1) in which one or more <b>Funds</b>, at or before inception of the <b>Policy Period</b>, either directly or indirectly through a <b>Holding Company</b>, maintains a debt or equity interest; or</p> <p>(2) specifically listed as <b>Portfolio Company</b> by endorsement to this <b>Policy</b>;</p> <p><b>Portfolio Company</b> does not include any <b>Fund</b> or <b>Subsidiary</b>.</p>
<b>2.30. Private Equity and Venture Capital Services</b>	<p>(1) the creation, management or advice on the capital structure of any <b>Fund</b>; or</p> <p>(2) the investment in, formation, capitalization or management of any <b>Holding Company</b>, or <b>Portfolio Company</b>; or</p> <p>(3) any other services or investment management services specifically described as <b>Private Equity and Venture Capital Services</b> in the <b>Proposal</b>,</p> <p>by or on behalf of the <b>Insured Organisation</b> for or in the interest of any investor in a <b>Fund</b>.</p>
<b>2.31. Proposal</b>	(i) any publicly available annual financial statements, including the annual report, of the <b>Policyholder</b> , (ii) any document, information or statement made available to the <b>Insurer</b> for the purpose of its



assessment of the risk to be covered under this Policy, and (iii) any attachments, exhibits, or appendices to any of the documents referred to in (i) and (ii).

### 2.32. Retention

any of the amounts set out at ITEM 7 of the SCHEDULE.

### 2.33. Security

any of the following issued by any entity:

- (1) bonds, debentures, evidence of indebtedness, notes, shares, stocks or other equity or debt security; and
- (2) certificates of interest or participation in, receipts for, warrants or other rights to subscribe to or purchase, voting trust certificates relating to, certificates of deposit for, or other documentary evidence of interest in any of the securities referred to in (1) above.

### 2.34. Subsidiary

- (1) any entity over which the **Policyholder** has **Control** at or before the Inception Date of the **Policy Period**, either directly or through one or more **Subsidiaries**; and
- (2) any entity included as **Subsidiary** under EXTENSION 4.1.

For the avoidance of doubt:

- (i) an entity ceases to be a **Subsidiary** when the **Policyholder** ceases to hold **Control** thereof or when it ceases to comply with all conditions set out in EXTENSION 4.1; and
- (ii) coverage for **Subsidiaries** under this Policy shall apply in respect of entities or to natural persons employed or appointed by such entities solely in respect of **Claims** for, or **Mitigation Amounts** relating to, **Wrongful Acts** actually or allegedly committed, or **Investigations** in relation to events that actually or allegedly occurred or took place, during such time such entities are or were **Subsidiaries** as defined above.

### 2.35. Wrongful Act

any:

- (1) **Wrongful Managerial Act** for the purposes of INSURING AGREEMENTS 1.1 and 1.2; or
- (2) **Wrongful Professional Act** for the purposes of INSURING AGREEMENT 1.3, or
- (3) **Breach of warranty** for the purposes of INSURING AGREEMENT 1.4.

### 2.36. Wrongful Managerial Act

- (1) actual or alleged act, error, misstatement, misleading statement, omission, breach of duty, breach of statute, civil or common law including any **Wrongful Employment Practice**; or



- (2) proposed act with respect to shareholder derivative actions only,

by the **Insured Person** acting solely in their capacity as such or solely because of such capacity, and shall not include any actual or alleged act, error or omission by an **Insured Person** in the performance of or failure to perform any **Private Equity and Venture Capital Services**.

### 2.37. Wrongful Professional Act

any actual or alleged act, error or omission committed individually or otherwise:

- (a) by an **Insured Organisation**; or
- (b) on behalf of an **Insured Organisation**, by a **Director or Officer, Employee** or **Insured Organisation** or any other person for whose acts such **Insured Organisation** is legally liable,

solely and specifically in the performance of or failure to perform **Private Equity and Venture Capital Services**.

### 2.38. Wrongful Employment Practice

in relation to the **Insured Organisation's** employees any actual or alleged:

- (1) unfair dismissal or wrongful termination of employment or victimisation, whether actual or constructive; or
- (2) employment-related misrepresentation; or
- (3) sexual or other harassment in the workplace; or
- (4) wrongful deprivation of career opportunity, employment or promotion; or
- (5) wrongful discrimination related to employment; or
- (6) defamation of character related to employment, or to the giving of a reference to an ex-employee; or
- (7) failure to employ or promote, unfair deprivation of career opportunity, unfair discipline, failure to grant tenure or negligent employee evaluation; or
- (8) "whistleblower" retaliation.

## 3. Exclusions

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EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS AND ALL EXTENSIONS APPLICABLE THERETO:



The **Insurer** will not be liable to make any payment for **Loss** resulting from any **Claim** brought, anticipated, contemplated or threatened, arising out of, based upon or attributable to:

### 3.1 PRIOR OR SUBSEQUENT MATTERS

- (1) Any facts, circumstances or **Wrongful Acts** underlying, alleged in, contained in or deriving from, the same originating cause as alleged or contained in any **Claim, Circumstance** or other matter which has been reported, or with respect to which any notice has been given under, any policy of which this Policy is a renewal or replacement or which it may succeed in time; or
- (2) Any pending or prior civil, criminal, administrative or regulatory proceeding, investigation, arbitration, demand or adjudication as of the Continuity Date stated in ITEM 12 of the SCHEDULE, or alleging or derived from the same or essentially the same facts or circumstances as alleged in such pending or prior proceeding, investigation, arbitration, demand or adjudication.

### 3.2 UNLAWFUL CONDUCT

- (1) The actual or attempted gaining by the **Insured** of any profit, remuneration or advantage to which such **Insured** was not legally entitled; or
- (2) The committing or permitting by the **Insured** of a dishonest or fraudulent act or omission; or
- (3) The deliberate committing or permitting by the **Insured** of a breach of statute or violation of law or of a criminal act.

This EXCLUSION 3.2 shall however only apply to that **Insured** to whom the above behaviour is established primarily or incidentally in a final adjudication by any court, tribunal, legal panel or regulator or by a written admission of such **Insured**.

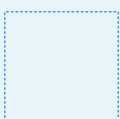
### 3.3 BODILY INJURY/ PROPERTY DAMAGE

Bodily injury, sickness, mental anguish or emotional distress or disturbance, disease or death howsoever caused, provided that this EXCLUSION 3.30 shall not apply to:

- (a) any **Claim** for libel, slander, defamation or injurious falsehood; or
- (b) any **Claim** for emotional distress or disturbance resulting from a **Wrongful Employment Practice**; or
- (c) in respect of INSURING AGREEMENT 1.1 only, **Defence Costs** incurred in respect of any **Claim** made against any **Director or Officer** based upon the Corporate Manslaughter and Corporate Homicide Act 2007 of the United Kingdom or for gross negligence manslaughter, or for any breach of any health and safety or similar legislation under which said **Director or Officer** could be found liable by reason of his or her committing a relevant **Wrongful Act** in his or her capacity as a **Director or Officer**.

### 3.4 TRUSTEE LIABILITY

Any act or omission by or on behalf of an **Insured** as a trustee, fiduciary or administrator of any pension, profit-sharing or employee benefits programme of any **Insured Organisation**, including any



actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (USA) or the Pensions Act 1995 (UK) or any equivalent or similar legislation, regulations or rules in any jurisdiction.

### 3.5 POLLUTION AND NUCLEAR

Any direction, request or effort to test for, monitor, clean up, remove, contain, treat, detoxify, neutralise, respond to or assess the effects of:

- (1) any substance, solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including but not limited to, asbestos, asbestos products, mycota or by-products, lead, or lead containing products, smoke, vapours, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals, air emissions, odour, waste water, oil, oil products, medical waste and waste materials (including nuclear materials) to be recycled, reconditioned or reclaimed, provided that in respect of INSURING AGREEMENT 1.1, this EXCLUSION 3.5(1) shall not apply to:
  - (a) **Defence Costs** incurred in connection with such **Claim** up to the Sub-Limit stated in ITEM 5(a) of the SCHEDULE; or
  - (b) any **Claim** made by any **Securities** holder of the **Insured Organisation**, either directly or derivatively.
- (2) Ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

### EXCLUSIONS APPLICABLE TO INSURING AGREEMENT 1.1 AND 1.2 ONLY AND ALL EXTENSIONS APPLICABLE THERETO:

The **Insurer** will not be liable to make any payment for **Loss** resulting from any **Claim**:

### 3.6 ENTITY OR INSURED VS. INSURED (USA ONLY)

Brought or maintained in the United States of America by, on behalf of, at the instigation of, solicited by, voluntarily assisted or participated in by:

- (1) an **Insured Organisation** or **Insured Person** against a **Director or Officer**; or
- (2) an **Outside Entity** (or its parent, subsidiary or affiliate, or any director, officer, trustee, regent or governor of, or equivalent executive position) against an **Outside Director**.

Provided that this EXCLUSION 3.6 shall not apply to **Defence Costs** or to any **Claim** brought or maintained:

- (1) by or on behalf of a **Portfolio Company** or its directors, officers, trustees, regents, governors or equivalent executives, without the solicitation, voluntary assistance

- participation or co-operation of any **Insured**; or
- (2) by an administrator, receiver, trustee or liquidator of any **Insured Organisation** in the framework of insolvency proceedings, directly or derivatively without the solicitation, voluntary assistance participation or co-operation of any person or entity listed above unless required by law; or
  - (3) for contribution or indemnity if the **Claim** directly results from another **Claim** covered under this Policy; or
  - (4) by way of shareholder derivative action without the solicitation, voluntary assistance, participation or co-operation of any person or entity listed above unless required by law; or
  - (5) by a **Director or Officer** for a **Wrongful Employment Practice**; or
  - (6) by a former **Director or Officer**; or
  - (7) by an **Insured Organisation** or **Outside Entity** where if failing to do so such **Insured Organisation** or **Outside Entity** would incur legal liability.

### 3.7 PUBLIC OFFERINGS

Arising out of, based upon, or attributable to any public offering of **Securities** of any **Insured Organisation** during the **Policy Period**; provided however that this EXCLUSION Error! Reference source not found. shall not apply to:

- (1) debt offerings anywhere in the world; or
- (2) any public offering of equity of an **Insured Organisation** outside the United States of America where the total value of such placement or offering does not exceed 50% of the market capitalisation of such **Insured Organisation** immediately prior to such offering.

### EXCLUSIONS APPLICABLE TO INSURING AGREEMENT 1.3 ONLY AND ALL EXTENSIONS APPLICABLE THERETO:

The **Insurer** will not be liable to make any payment for **Loss** resulting from any **Claim** brought, anticipated, contemplated or threatened:

### 3.8 KNOWN CIRCUMSTANCES

Arising out of, based upon or attributable to **Circumstances** known to a **Director or Officer** or the **Insured Organisation's** Risk Manager, Head of Audit, Head of Legal or a member of the Board of Directors, or the equivalent prior to the Inception Date stated ITEM 3(a) of the SCHEDULE.

### 3.9 CONTRACTUAL LIABILITY

Arising out of, based upon or attributable to any liability under any contract, agreement, guarantee or warranty except to the extent such liability would have attached to the **Insured** in the absence of such contract, agreement, guarantee or warranty.



### 3.10 GOVERNMENT AND REGULATOR

By, on behalf of, or at the behest of any government, government body, governmental or administrative agency, statutory body, official trade body, professional body, self-regulatory body or any other regulator.

This EXCLUSION 3.10 shall not apply:

- (1) to the extent such **Claim** is brought solely:
  - (a) by a client or customer of any **Insured Organisation**; or
  - (b) by an assignee of a client or customer of any **Insured Organisation** as a result of indemnification and subrogation in the rights thereof; or
  - (c) on behalf or to the benefit of a client or customer of any **Insured Organisation**; or
- (2) to any **Investigation Costs**.

### 3.11 FEES AND COMMISSIONS

Arising out of, based upon or attributable to fees, commissions, or other compensation for the actual or alleged provision of **Private Equity and Venture Capital Services** or that portion of any settlement or award in an amount equal to such fees, commissions or other compensation.

### 3.12 INSURED VS INSURED AND SHAREHOLDER CLAIMS

By or on behalf of or in the name or right of:

- (1) any **Insured Organisation**, any parent, successor or assign of any **Insured Organisation**, or any entity in which an **Insured** or the management of any **Insured Organisation** has an executive or controlling interest, or the parent, successor or assign of such entity, unless such **Claim** is:
  - (a) by a **Fund** where failure to make a **Claim** would, on the balance of probabilities, be a breach of duty by its **Directors or Officers** according to independent legal advice from legal counsel selected and paid by the **Fund** with the prior written consent of the **Insurer**; or
  - (b) by an **Insured Organisation** in its capacity as a client or customer; or
- (2) any principal, partner, director or officer of any **Insured Organisation**, any **Insured Person**, or any employee of any **Insured Organisation**, in their capacity as such; or
- (3) any shareholder or bondholder of any **Insured Organisation**, or a holder of any similar equity, debt or obligation interest in any **Insured Organisation**, unless brought as a customer or client of an **Insured Organisation** or investor in a **Fund**.

### 3.13 INFRASTRUCTURE FAILURE

Arising out of, based upon or attributable to:



- (1) Software or mechanical failure;
- (2) Electrical failure, including any electrical power interruption, surge, brown out or black out; or
- (3) Telecommunications or satellite systems failure,

This EXCLUSION 3.13 shall not apply to a **Claim** for a **Wrongful Professional Act** in using the systems of the **Insured Organisation**.

### 3.14 INSOLVENCY

Arising out of, based upon or attributable to the insolvency, bankruptcy, liquidation, administration or receivership of an **Insured Organisation**.

### 3.15 MARKET ABUSE

Arising out of, based upon or attributable to any actual or alleged conduct which constitutes market abuse pursuant to the provisions of the Financial Services and Markets Act 2000.

### 3.16 INTELLECTUAL PROPERTY

Arising out of, based upon or attributable to:

- (1) The breach of any intellectual property license, patent, trade or service mark, copyright, any other form of registered intellectual property right; or
- (2) Any breach of a right to privacy; or
- (3) Misappropriation of a trade secret (including but not limited to any information (including a formula, compilation, pattern, programme, device, method, process, technique or know-how) that derives independent economic value, actual or potential, from not being generally known and not readily ascertainable through proper means by another person who can obtain economic advantage from its disclosure or use).

## 4. Extensions

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Subject always to the Insuring Agreements to which they relate, and the other terms, conditions and exclusions of this Policy (unless specified otherwise), the Policy is extended as follows:

### EXTENSIONS APPLICABLE TO INSURING AGREEMENTS 1.1, 1.2, 1.3 (AND 1.4 IF APPLICABLE):

#### 4.1 AUTOMATIC NEW SUBSIDIARIES

**Subsidiary** shall include any entity acquired or created by the **Policyholder** or by any **Subsidiary** during the **Policy Period** over which and during such time the **Policyholder**, either directly or through one or more **Subsidiaries** has **Control**, provided that such entity:

- (1) at the date of such acquisition or creation:
  - (a) does not have total gross assets exceeding the limit stated in ITEM 15 of the SCHEDULE; and
  - (b) has not incurred any loss of the type covered by this

Policy with a quantum greater than any applicable **Retention** within the past 5 years of operating as the former business; or

and

- (2) is not incorporated, formed or providing **Private Equity and Venture Capital Services** in the United States of America; and
- (3) is not a **Portfolio Company, Fund, Holding Company** or created or acquired by the **Policyholder** or any **Subsidiary** for the purpose of acquiring assets and liabilities (that are not assets and liabilities of the **Policyholder** or any **Subsidiary**), which acquisition shall lead such entity to fail to fulfil (1)(a) and (1)(b) above.

#### 4.2 AUTOMATIC NEW FUNDS

**Fund** shall include any trust, fund, collective investment scheme or other similar entity or any sub fund or subsidiary thereof, which first becomes operated, managed or administered by a **Company**, during the **Policy Period** provided that:

- (1) the total gross assets under management of such entity do not exceed the limit in stated in ITEM 14 of the SCHEDULE; and
- (2) such entity is not domiciled in the United States of America, nor regulated by the United States of America's Securities Exchange Commission or any government body, governmental or administrative agency, statutory body, official trade body, professional body, self-regulatory body or any other regulator of the United States of America, nor for the benefit of citizens of the United States of America; and
- (3) the nature of the investment strategy of such entity is not materially different from that of existing **Funds**.

#### 4.3 DISCOVERY PERIOD

This Policy shall cover **Claims** first made subsequent to the **Policy Period** but during any applicable **Discovery Period**, solely for acts, errors or omissions actually or allegedly committed, or in the case of an **Investigation**, events which actually or allegedly occurred or took place before the Expiration Date stated in ITEM 3(b) of the SCHEDULE.

A **Discovery Period** shall be afforded under the following conditions:

- (1) If, subsequent to the expiration of the **Policy Period**, this Policy is not renewed or replaced by any other policy affording similar coverage, the **Insurer** will grant:
  - (a) an automatic **Discovery Period** as stated in ITEM 13a) **Error! Reference source not found.** of the SCHEDULE at no additional premium; and
  - (b) subject to written request to this effect and payment of the applicable additional premium before the Expiration Date stated in ITEM 3(b) of the SCHEDULE by the **Policyholder**, the optional **Discovery Period** as stated in ITEM 13b) of the SCHEDULE at the

corresponding additional premium; and

- (c) any additional premium shall be deemed to be fully earned as of the inception of the optional **Discovery Period**.
- (2) Any **Discovery Period** invoked shall be automatically cancelled upon the effective date or the date of execution of any other policy affording similar coverage to part or all of the **Insureds**, whichever is the earlier.
- (3) Rights to a **Discovery Period** shall automatically lapse upon a **Change in Control**.

#### EXTENSIONS APPLICABLE TO INSURING AGREEMENTS 1.1, 1.2 AND 1.3 ONLY:

##### 4.4 ESTATES, HEIRS AND LEGAL REPRESENTATIVES

**Insured Person** shall include the estates, heirs, legal representatives or assigns of an **Insured Person** who is deceased or the legal representatives or assigns of an **Insured Person** who is incompetent, insolvent or bankrupt, to the extent that such **Insured Person** would have been covered by this Policy for **Loss** in the absence of their death, incompetence, insolvency or bankruptcy.

##### 4.5 SPOUSES AND DOMESTIC PARTNERS

**Insured Person** shall include the lawful spouse or domestic partner (including same sex relationship civil partnerships) of any **Insured Person** to the extent that such lawful spouse or domestic partner is subject to a proceeding solely by reason of their ownership or interest in property which a claimant seeks as recovery in respect of a **Claim** against such **Insured Person**.

##### 4.6 EXTRADITION PROCEEDINGS

**Claim** shall include any proceedings against an **Insured Person** following a request or arrest warrant for deportation or extradition, including an appeal or separate proceeding to overturn a deportation, extradition or arrest order, provided such request or arrest is not issued as a consequence of such **Insured Person** being unlawfully at large in any country or jurisdiction after final adjudication by the court of another country.

**Claims** covered under this EXTENSION 4.6 shall be deemed first made upon receipt by the **Insured Person** of an official notice in writing from the responsible government authority advising of a request for extradition being made against them, or upon execution of a warrant for arrest of such **Insured Person**, whichever is the earlier.

##### 4.7 INVESTIGATION COSTS

The **Insurer** shall pay to or on behalf of the **Insured Person** any **Investigation Costs** resulting from an **Investigation**.

#### EXTENSIONS APPLICABLE TO INSURING AGREEMENTS 1.1 AND 1.2, ONLY:

##### 4.8 CIVIL FINES AND PENALTIES

**Loss** shall include, up to the Sub-limit stated in ITEM 5(d) of the SCHEDULE, any civil fine or penalty that an **Director or Officer** or an **Outside Director** is legally liable to pay as a result of a **Claim**, where lawfully insurable by the laws of the jurisdictions in which such civil fine or penalty is payable and in which such fine or penalty was ordered to be paid.



#### 4.9 ASSETS AND LIBERTY PROTECTION

**Loss** shall include, up to the Sub-Limit stated in ITEM 5(e) of the SCHEDULE, the reasonable legal and other professional fees, costs and expenses incurred by a **Director or Officer** or **Outside Director** to bring or defend legal proceedings first instituted during the **Policy Period**, in order to obtain the dismissal, discharge or revocation of any:

- (1) seizure, freezing, confiscation, assumption of ownership and control, or suspension of rights of ownership of, an **Director or Officer's** or **Outside Director's** real property or personal assets; or
- (2) charge over a **Director or Officer's** or **Outside Director's** real property or personal assets; or
- (3) prohibition on a **Director or Officer** or **Outside Director** from holding office as a director or officer of an **Insured Organisation**; or
- (4) restriction of a **Director or Officer's** or **Outside Director's** liberty to a domestic residence or an official detention; or
- (5) deportation of a **Director or Officer** or **Outside Director** upon revocation of otherwise valid immigration status for any reason other than such **Director or Officer's** or **Outside Director's** arrest or conviction for a crime,

sought or obtained through any interim or interlocutory judicial order by reason of a **Claim** against such **Director or Officer** or **Outside Director** covered under this Policy, provided such fees, costs and expenses have been notified to the **Insurer** in accordance with the provisions of this Policy applicable to the notification of **Claims**.

#### 4.10 REPUTATIONAL REMEDIATION COSTS

**Loss** shall include, up to the Sub-Limit stated in ITEM 5(f) of the SCHEDULE, the reasonable and necessary costs and expenses incurred by any **Director or Officer** or **Outside Director** for the professional advice of a public relations consultant appointed with the **Insurer's** prior written consent to mitigate the adverse effect of a covered **Claim** or **Investigation**.

#### 4.11 EMERGENCY COSTS

The **Insurer** will waive the requirement for its prior written consent to the incurring of **Defence Costs** up to the Sub-Limit stated in ITEM 5(g) of the SCHEDULE where it was not reasonably practicable for the **Director or Officer** or **Outside Director** to seek the **Insurer's** prior written consent.

#### EXTENSIONS APPLICABLE TO INSURING AGREEMENT 1.1 ONLY:

#### 4.12 NON-COMPENSATORY DAMAGES

**Loss** shall include punitive or exemplary damages and the multiplied portion of any multiplied damage award that the **Director or Officer** is legally liable to pay as a result of a **Claim**, where lawfully insurable by the laws of the jurisdictions in which such sums are payable and in which such sums were ordered to be paid.

#### 4.13 INTERNAL INVESTIGATIONS

**Investigation** shall include internal investigations commenced by the **Insured Organisation** of an actual or suspected material breach of any **Insured's** legal or regulatory duties which the **Insured Organisation** is required to formally notify to an official governmental body, enforcement agency, or regulator, and in which internal investigations a **Director or Officer** is reasonably required to participate, and the **Insurer** shall pay **Investigation Costs** resulting therefrom, up to the Sub-Limit stated in ITEM 5(h) of the SCHEDULE.

**Investigations** covered under this EXTENSION 4.13 shall be deemed commenced and first made when the **Director or Officer** is first required to participate therein.

#### 4.14 NON-EXECUTIVE DIRECTORS EXTRA COVER

Provided always that the **Policyholder** is not a **Fund** or group of **Funds**, the **Insurer** shall pay to or on behalf of any natural person serving as a non-executive director of the **Policyholder**, any **Loss** resulting from a **Claim** first made during the **Policy Period** (or **Discovery Period**, if applicable) up to the Non-Executive Director Extra Limit stated in **Error! Reference source not found.** of the SCHEDULE but only after exhaustion of:

- (1) the **Limit of Liability**; and
- (2) any other available directors' and officers' or management liability cover whether written excess of the **Limit of Liability** or otherwise; and
- (3) any indemnification available from any other source.

#### 4.15 RETIRED DIRECTORS DISCOVERY PERIOD

Subject to the requirements of the terms and conditions of EXTENSION 4.3, the **Insurer** will afford an automatic **Discovery Period** as stated in **Error! Reference source not found.** of the SCHEDULE at no additional premium, solely for **Director or Officers** who voluntarily ceased to hold such office prior to the Expiration Date as stated in ITEM 3(b) of the SCHEDULE other than disqualified **Directors or Officers** or where directly related to a **Change in Control**.

#### EXTENSION APPLICABLE TO INSURING AGREEMENT 1.1(A) ONLY:

#### 4.16 TAX LIABILITY

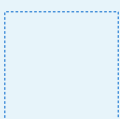
**Loss** shall include corporate taxes that the **Director or Officer** is legally liable to pay as a result of a **Claim** provided:

- (1) the personal liability of the **Director or Officer** for the non-payment of such taxes is established by law in the jurisdiction in which the **Claim** is made; and
- (2) such liability constitutes a **Non-Indemnifiable Loss**.can obtain economic advantage from its disclosure or use).

#### EXTENSIONS APPLICABLE TO INSURING AGREEMENT 1.3 ONLY:

#### 4.17 MITIGATION AMOUNTS

The **Insurer** shall indemnify the **Insured** for **Mitigation Amounts** up to the Sub-Limit stated in ITEM 5(j) of the SCHEDULE.



#### 4.18 EMERGENCY MITIGATION AMOUNTS

The **Insurer** will waive the requirement for prior written consent to the incurring or payment of **Mitigation Amounts** up to the Sub-Limit stated in ITEM 5(k) of the SCHEDULE where the **Insured** subsequently demonstrates to the reasonable satisfaction of the **Insurer** that it was not reasonably practicable for the **Insured** to seek the prior consent of the **Insurer**, provided always that the **Insurer** shall have no liability under this EXTENSION **Error! Reference source not found.** unless the **Insured** notifies the **Insurer** of such **Mitigation Amounts** within fourteen (14) days of first incurring such **Mitigation Amounts** or the date of first payment of such **Mitigation Amounts** (whichever is earlier).

For the avoidance of doubt, all conditions for the coverage of Mitigation Amounts other than the prior written consent of the Insurer remain applicable for the purposes of this EXTENSION **Error! Reference source not found.**

## 5. Notification and Claims Conditions

### 5.1 NOTICE

The **Insured** shall give notice in accordance with the following provisions:

(A) NOTICE

- (a) The **Insured** shall, as soon as practicable within the **Policy Period** (or **Discovery Period**, if applicable), give written notice to the **Insurer** of any **Claim** first made during the **Policy Period** (or **Discovery Period**, if applicable);
- (b) The **Insured** shall, as soon as practicable within the **Policy Period**, give written notice to the **Insurer** of a **Circumstance** first identified during the **Policy Period**.

(B) EXTENDED NOTICE

Where it has not been reasonably practicable for the **Insured** to give notice during the **Policy Period** (or **Discovery Period**, if applicable) pursuant to (A) above, then notice shall be given in any event no later than thirty (30) days of the date of expiration of the **Policy Period** (or **Discovery Period**, if applicable).

(C) RELATED CLAIMS OR CIRCUMSTANCES

If written notice of a **Claim** or **Circumstance** has been given to the **Insurer** as prescribed above, then:

- (a) any further **Claim** arising out of, based upon or attributable to the same originating cause or source will be deemed together with the previously notified **Claim** as a single **Claim** first made during the **Policy**

**Period** and notified at the time of the original notice;

- (b) any **Claim** arising out of, based upon or attributable to the notified **Circumstance** will be deemed to have been first made during the **Policy Period** and notified at the time of the original notice.

(D) CONTENTS AND FORM OF NOTICE

- (a) Notices of **Claims**, or **Circumstances** shall contain full particulars as to dates, persons and entities involved (only where known in respect of **Circumstances**) and, where applicable, the claimants (where known), the actual or anticipated **Wrongful Acts**, the dishonest, fraudulent or malicious acts and improper financial gain, the consequences which have resulted or may result from any anticipated **Claim** (where applicable) and, in respect of **Circumstances** only, the reason to anticipate a **Claim**;
- (b) All notices of **Claims** or **Circumstances** under this NOTIFICATION AND CLAIMS CONDITION **Error! Reference source not found.** shall be in writing, referring to the Policy Number, and be made to the address set out in ITEM 10 of the SCHEDULE.

**5.2 DEFENCE AND SETTLEMENT OF CLAIMS AND CONSENT**

As soon as reasonably practicable after the **Insurer** receives a notice under Clause 5.1 above, but in any event no more than thirty (30) **Business Days** after the notice is delivered to the **Insurer** by the **Insured**, the **Insurer** shall respond:

- 1) by acknowledging or denying cover for the **Loss** claimed for or the claimed erosion of the **Retention** if in the reasonable opinion of the **Insured** the **Loss** claimed is likely to exceed the **Retention**; or
- 2) if the **Insurer** is not in a position to determine whether (or the extent to which) the **Loss** is covered by this Policy, or the **Retention** is eroded within such thirty (30) **Business Day** period, by requesting such additional information as it may reasonably require (such notice provided with reasonable detail) from the **Insured** and following receipt of which the thirty (30) **Business Day** time limit in this Clause 5.2 shall apply; or
- 3) if the notice concerns a **Circumstance**, by acknowledging that the fact, matter or circumstance identified in the notice is one that could be reasonably expected to give rise to a **Loss** or, if the **Insurer** is not in a position to determine whether (or the extent to which) such fact, matter or circumstance is one that could reasonably give rise to a **Loss**, by requesting such additional information as it may reasonably require from the **Insured**.

**5.3 ALLOCATION**

- (A) The **Insurer** shall pay only those amounts or portions of **Loss** relating to covered matters. If the **Insured** incurs any **Loss** that includes both matters covered and matters not



#### 5.4 SUBROGATION AND RECOVERIES

- covered by this Policy, or results from a **Claim** or potential **Claim** (in the case of **Mitigation Amounts**) that is made against or involves both covered and non-covered parties, the **Insured** and the **Insurer** shall use their best efforts to determine a fair and proper allocation of the **Loss** covered hereunder, taking into account the relative legal and financial exposures of the parties to the **Claim**, potential **Claim**, and the relative benefits to the relevant parties to be obtained by the resolution of the **Claim** or potential **Claim**.
- (B) If an allocation cannot be agreed between the **Insured** and the **Insurer**, then the parties agree that it shall be determined, having regard to the principles stated in this CLAIMS CONDITION 5.3(A), by a legal counsel to be mutually agreed upon, who shall act as an expert and not an arbitrator and whose determination shall be based upon the written submissions of the parties. There shall be no obligation on such counsel to provide reasons unless specifically requested by the **Insured** or the **Insurer**.
- (C) The costs of any reference to expert determination under this CLAIMS CONDITION 5.3 shall be borne equally by both the **Insured** and the **Insurer**.
- (A) The **Insurer** shall be subrogated to all of the rights of recovery of the **Insured** to the extent of all payments of **Loss**.
- The **Insured** shall do nothing to prejudice such rights of recovery, shall provide to the **Insurer** all information, assistance and cooperation, and shall do everything necessary to secure any rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in the name of the **Insured** whether such acts become necessary before or after payment by the **Insurer**.
- (B) Any recoveries, whether effected by the **Insurer** or the **Insured**, following the payment of **Loss** under this Policy and after deducting the actual cost of obtaining such recovery but excluding the own labour or establishment costs of the **Insured**, will be allocated in the following order of reimbursement, unless compelled otherwise by law or any judicial or regulatory order:
- (a) Initially, to reimburse the **Insured** for any **Loss** which exceeds the amount paid under this Policy (disregarding the amount of any **Retention** applicable),
  - (b) Subsequently, to reimburse the **Insurer** for any payment made for such **Loss**, and
  - (c) Finally, to reimburse the **Insured** for such **Loss** sustained by the **Insured** by reason of any **Retention** applicable pursuant to ITEM 7 of the SCHEDULE.
- (C) the **Insurer** shall not exercise any right of subrogation against an **Insured Person** unless EXCLUSION 3.2 applies to such

### Insured Person.

## 5.5 FRAUDULENT NOTIFICATIONS

If any **Insured** shall claim cover for any **Loss** under this Policy knowing such claim to be false or fraudulent as regards amounts or otherwise, such **Loss** shall be excluded from cover under the Policy.

## 6. General Conditions

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### 6.1 AGGREGATION

For the purposes of this Policy, **Claims** and **Mitigation Amounts** shall be aggregated as follows:

- (i) if two or more **Claims** arise out of or are based upon or attributable to the same originating cause or source, they will be considered a single **Claim**, which single **Claim** will only attach to this Policy if the earliest **Claim** was made during the **Policy Period** (or **Discovery Period**, if applicable).
- (ii) In the event that a **Claim** is made based upon or attributable to the same originating cause or source as a **Wrongful Act** in respect of which notice of a **Circumstance** was previously given to the Policy or a preceding policy, such **Claim** and such **Wrongful Act** will be considered a single **Claim**, which single **Claim** shall only attach to this Policy if the notice of **Circumstance** was given during the **Policy Period**.
- (iii) For the purposes of **Mitigation Amounts**, if two or more **Wrongful Acts** are based upon or attributable to the same originating cause or source, they will be considered a single **Wrongful Act**, which single **Wrongful Act** shall only attach to this Policy if the earliest **Wrongful Act** was notified as a **Circumstance** during the **Policy Period**.

### 6.2 LIMIT OF LIABILITY AND RETENTION

- (i) **Limit of Liability** and Sub-Limits:
  - (a) The maximum aggregate liability of the **Insurer** under this Policy for all **Loss** shall not exceed the **Limit of Liability**, regardless of the number of claims for cover under this Policy.
  - (b) All Sub-Limits stated in ITEM 5 of the SCHEDULE are aggregate for the whole **Policy Period** (and **Discovery Period**, if applicable) regardless of the number of claims for cover and are part of and not in addition to the **Limit of Liability**.
  - (c) The maximum aggregated liability of the **Insurer** in respect of **Defence Costs** covered both under INSURING AGREEMENT 1.4 and any other policy issued by the **Insurer** covering the same costs, shall not exceed the highest amount between the sub-limit stated in ITEM 5(a) of the Schedule and the limit of liability available for such costs under such other policy.

- (d) Notwithstanding the above, the Non-Executive Director Extra Limit stated in ITEM 6 of the SCHEDULE is separate from and in addition to the **Limit of Liability**.

The Non-Executive Director Extra Limit is an aggregate amount per non-executive director of the **Policyholder** (as stated in ITEM 6(a) of the SCHEDULE), subject to the aggregate limit for all non-executive directors of the **Policyholder** combined as stated in ITEM 6(b) of the SCHEDULE.

(ii) **Retention:**

- (a) The **Insurer** will be liable only for the amount of **Loss** which exceeds the applicable **Retention** stated in ITEM 7 of the SCHEDULE.

Such **Retention** is to be borne by the **Insured** and shall remain uninsured hereunder.

- (b) A single **Retention** amount will apply:

1. to each and every single **Claim** in respect of INSURING AGREEMENTS 1.1(B) and 1.3 and EXTENSIONS applicable thereto; and
2. to each and every single **Wrongful Act** in respect of EXTENSIONS 4.17 and **Error! Reference source not found.**

- (c) No **Retention** shall apply to **Non-Indemnifiable Loss** covered under INSURING AGREEMENT 1.1(A). All other **Loss** covered under INSURING AGREEMENT 1.1(A) shall be subject to a **Retention** to be repaid by the **Company** to the **Insurer** but not to be applied against the **Director or Officer**.

(iii) Multiple cover:

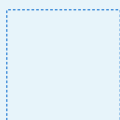
In the event that one or more **Insureds** is or are entitled to indemnity under more than one INSURING AGREEMENT or EXTENSION then no more than one **Retention, Limit of Liability** or Sub-Limit shall apply (as the case may be). Subject to the **Limit of Liability**, the applicable **Retention** or Sub-Limit or shall, in each case, be:

- (a) the highest one of any applicable **Retentions**;
- (b) the highest one of any applicable Sub-Limits set out in ITEM 5 of the SCHEDULE.

### 6.3 CHANGES IN RISK DURING THE POLICY PERIOD

- (a) In the event of a **Change in Control** during the **Policy Period**, then coverage under this Policy will continue in full force and effect until the end of the **Policy Period** with respect to:

- (1) **Claims** for **Wrongful Acts** actually or allegedly committed,



- (2) **Investigations** in relation to events that actually or allegedly occurred or took place,
- (3) **Mitigation Amounts** resulting from **Wrongful Acts** actually or allegedly committed.

before the effective date of such **Change in Control**.

Coverage will cease with respect to **Claims, Investigations** and **Mitigation Amounts** in respect of or resulting from any **Wrongful Acts** actually or allegedly committed or acts, omissions or events which occurred or took place after the effective date of the **Change in Control** (unless otherwise agreed to by the **Policyholder** and the **Insurer**) and the premium will be considered fully earned in consideration of the coverage provided.

- (b) The provisions of (a) above shall apply:
  - (1) in case of a **Change in Control** of a **Fund** or **Subsidiary**, solely in respect of the relevant **Fund** or **Subsidiary** and to all **Insured Persons** employed or instructed thereby; and
  - (2) in case of a **Change in Control** of the **Policyholder**, to all **Insureds**.
- (c) The **Policyholder** shall give the **Insurer** written notice of the **Change in Control** as soon as practicable after first becoming aware thereof and in any event prior to the effective date of the **Change in Control**. However, no delay in notification or awareness shall prejudice the effectiveness of (a) and (b) above.
  - (i) This Policy insures severally each **Insured**.
  - (ii) In case of breach of the duty of fair presentation in the **Proposal**, the **Insurer** shall not exercise any remedy provided by the Insurance Act 2015 unless the Insurer establishes that such breach of the duty of fair presentation was deliberate or reckless.
  - (iii) For the purposes of determining the entitlement to cover under or avoidance of this Policy in respect of an **Insured**:
    - (a) No knowledge possessed by any **Insured Person** will be imputed to any other **Insured Person**;
    - (b) With respect to **Insured Organisations**, the knowledge possessed by any individual who is part of the senior management of the **Insured Organisation** or responsible for the insurance of the **Insured Organisation** shall be imputed to such **Insured Organisations**.

#### 6.4 BREACH OF THE DUTY OF FAIR PRESENTATION AND SEVERABILITY

#### 6.5 PAYMENT OF

The **Insurer** may cancel from inception any coverage under this



## PREMIUM

Policy granted in consideration of the payment or the agreement to pay a premium for non-payment of premium within sixty (60) days from the Inception Date stated in ITEM 3(a) of the SCHEDULE, by sending not less than thirty (30) days' notice to the **Policyholder** at the address stated in ITEM 1(b) of the SCHEDULE or via the insurance broker.

Except where provided by this GENERAL CONDITION 6.5 or elsewhere in this Policy, the **Insurer** may not cancel the Policy or any coverage hereunder.

## 6.6 NOTICES AND AUTHORITY

- (1) The **Policyholder** shall act on behalf of all **Insureds** with respect to the giving and receiving of any notice required under this Policy, the payment of all premiums, the allocation of **Loss**, the declaration of risk and execution of this Policy and any amendments thereto.
- (2) In the event of a **Claim** by the **Policyholder** or where, in relation to a **Claim**, the **Policyholder** has some other conflict of interest, an **Insured Person** may withdraw their consent to the **Policyholder** acting on their behalf with regard to the handling of such **Claim**, and elect to communicate directly with the **Insurer**; the **Insurer** shall have no obligation to communicate with any other **Insured** concerning such **Claim**.

## 6.7 INTERPRETATION

- (i) Any reference in this Policy to:
  - (a) the singular shall include the plural and vice versa; and
  - (b) the masculine shall include the feminine and vice versa; and
  - (c) a position or title or legal status of an individual shall include the equivalent position in any other relevant jurisdiction.
- (ii) Policy headings and titles are for reference only and shall have no interpretational value.

## 6.8 APPLICABLE LAW AND JURISDICTION

This Policy is to be governed by, and its terms are to be construed in accordance with the applicable law stated in ITEM 11(a) of the SCHEDULE. Any dispute or difference arising under or in respect of this Policy is to be subject to the exclusive jurisdiction stated in ITEM 11(b) of the SCHEDULE.

## 6.9 ENTIRE AGREEMENT

The **Insured** and the **Insurer** agree that this Policy and any written endorsements attached hereto constitute the sole and entire agreement between the parties with respect to this insurance. Any prior agreement or understanding between the parties is therefore no longer valid

## 6.10 ASSIGNMENT

This Policy shall not be assigned without the prior written consent of the **Insurer**, and any other purported assignment shall be null and void.

## 6.11 OTHER INSURANCE

Unless otherwise required by law:



## AND OTHER INDEMNIFICATION

- (1) The cover provided under this Policy shall apply only in excess of any other valid and collectable insurance policy or indemnity available to the **Insured**.
- (2) The cover provided under INSURING AGREEMENT 1.2 of this Policy for **Claims** against an **Outside Director** shall also apply only in excess of, and will not contribute with:
  - (a) any insurance policy purchased by the **Outside Entity** that provides similar coverage to such **Outside Director** (if such other insurance is provided by the **Insurer**, then the **Limit of Liability** for **Loss** under this Policy shall be reduced by the amount paid for the benefit of the **Outside Entity** and/or the **Outside Director** under the other insurance provided by the **Insurer** to the **Outside Entity**); and
  - (b) any other indemnification from any other source to such **Outside Director**.
- (3) The cover provided under INSURING AGREEMENT 1.4 of this Policy for **Claims** alleging **Breach of Warranty** shall apply only in excess of, and will not contribute with:
  - (a) any transaction risk insurance available; and
  - (b) any other indemnification from any other source.

## 6.12 TERRITORY

This Policy applies to **Wrongful Acts** and events actually or allegedly taking place, and to **Claims** made anywhere in the world.

## 6.13 COMPLAINTS PROCEDURE

TM HCC is dedicated to providing a high-quality service at all times to the **Insurer's** clients. Should the **Policyholder** or the **Insureds** not be satisfied, please contact us as follows:

The Head of International Compliance,  
HCC INTERNATIONAL INSURANCE COMPANY PLC  
1 Aldgate, London,  
EC3N 1RE - United Kingdom

Should we be unable to resolve any difficulty directly with you to your satisfaction, you may be entitled to refer the dispute to the United Kingdom Financial Ombudsman Service who will review your case and who may be contacted at:

The Financial Ombudsman Service  
Exchange Tower  
London E14 9SR  
United Kingdom  
Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)  
Telephone: +44(0)300 123 9123

## 6.14 PERSONAL DATA PROTECTION

The interested party is hereby informed that any personal data, including all data provided in this document and all subsequent data provided related to the fulfilment of the insurance contract, will be



included in a data file controlled by HCC International Insurance Company plc. The data will be processed for the purpose of fulfilling the insurance contract. The **Insured** hereby provides its express consent for the data to be transferred to other entities for co-insurance, reinsurance, portfolio assignment or management or for the adoption of anti-fraud measures. The **Insured** also provides its express consent for the data to be transferred to other companies belonging to the same group as TM HCC and HCC International Insurance Company plc located in countries outside the European Union, with the exclusive purpose that these may provide data processing services. The **Insured** may at any time exercise its right to access, rectify, cancel or object to its data being held, by notifying HCC International Insurance Company plc, 1 Aldgate, London, EC3N 1RE, United Kingdom, pursuant to the provisions of the United Kingdom's Data Protection Act 1998 .

Should the **Insured** provide HCC International Insurance Company plc with information related to the **Insured**, any damaged parties or any third person, the **Insured** hereby declares that all the data related to the **Insured**, the damaged parties or any third person given to the **Insurer** have been provided by them, and that the **Insured**, the damaged parties or any third person have provided their consent for their data to be transferred by the **Insured** to the **Insurer** for the fulfilment of the insurance contract in the terms established in this clause.

#### 6.15 RIGHTS OF THIRD PARTIES

Nothing in this Policy is intended to confer any directly enforceable benefit on any third party other than an **Insured**, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 of England and Wales or otherwise.



## Why Tokio Marine HCC

Tokio Marine HCC is a leading specialty insurance group conducting business in approximately 180 countries and underwriting more than 100 classes of specialty insurance. The company is made up of highly entrepreneurial teams equipped to underwrite special situations, companies and individuals, acting independently to deliver effective solutions. Our products and capabilities set the standard for the industry, as many of our nearly 2,600 employees are industry-leading experts.

Tokio Marine HCC's major domestic insurance companies have financial strength ratings of "AA- (Very Strong)" from Standard & Poor's Financial Services LLC, "A++ (Superior)" from A.M. Best Company, Inc., and "AA- (Very Strong)" from Fitch Ratings; its major international insurance companies have financial strength ratings of "AA- (Very Strong)" from Standard & Poor's Financial Services LLC.\*

Tokio Marine HCC is part of Tokio Marine, a premier global company with a market cap of approximately \$31 billion.\*\*

\*At the time of printing.

\*\*As at 31.12.2016

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