

## Priedas Nr. 1 prie draudimo poliso LT24-BCAD-00010843-7

<b>1. Draudimo objektas ir apimtis / Object of Insurance and Scope</b>		
1.1.	<b>Savivaldybės įmonė Šiaulių oro uostas</b> (toliau tekste – Draudėjas) vadovų ir vadovaujančių asmenų atsakomybės draudimas	<i>Directors &amp; Officers Liability Insurance of <b>Municipal enterprise Šiaulių oro uostas</b> (hereinafter – Policyholder).</i>
1.2.	Vadovų ir vadovaujančių asmenų atsakomybės draudimo sutarties bendra draudimo suma – <b>1.000.000 €</b> kiekvienam įvykiui ir visam laikotarpiui, įskaitant žemiau 2 punkte nurodytus draudimo sumos apribojimus (sublimitus).	<i>Directors &amp; Officers Liability Insurance policy limit of liability- <b>1.000.000 €</b> each and every claim and in the aggregate, including sub-limits listed below in clause 2.</i>
1.3.	Draudimo sutarties trukmė – 12 mėnesių	<i>Policy period – 12 months</i>
<b>2. Draudimo apsaugos išplėtimai ir jiems taikomi draudimo sumos apribojimai (sublimitai)/ Coverage extensions and sub-limits</b>		
2.1.	Gynybos išlaidos: bendros draudimo sumos ribose (išskyrus draudimo sumos apribojimus (sublimitus), pateiktus žemiau)	<i>Defence costs: up to the policy limit (except sub-limits defined below)</i>
2.2.	Neatidėliotinos Gynybos išlaidos: ne daugiau kaip 20% bendros draudimo sumos	<i>Emergency Defence costs: not more than 20% of the policy limit of liability</i>
2.3.	Kelionės ir apgyvendinimo išlaidos (kaip apibrėžta prie Gynybos išlaidų: ne daugiau kaip 5.000 € bendroje draudimo sumoje visam draudimo sutarties galiojimo laikotarpiui	<i>Travel, accommodation and living expenses (as described in the definition of Defence costs): 5.000 € in the aggregate for the policy period</i>
2.4.	Papildomos ekstradicijos išlaidos: ne daugiau kaip 50.000 € bendroje draudimo sumoje visam draudimo sutarties galiojimo laikotarpiui	<i>Additional extradition expenses: 50.000 € in the aggregate for the policy period</i>
2.5.	Nuostolio sumažinimo išlaidos: ne daugiau kaip 500.000 € bendroje draudimo sumoje visam draudimo sutarties galiojimo laikotarpiui	<i>Mitigation costs: 500.000 € in the aggregate for the policy period</i>
2.6.	Išlaidos, susijusios su rizikos valdymu: ne daugiau kaip 10.000 € bendroje draudimo sumoje Apdraustam asmeniui ir 50.000 € bendroje draudimo sumoje visam draudimo sutarties galiojimo laikotarpiui	<i>Risk Management: 10.000 € per Insured Person and 50.000 € in the aggregate for the policy period</i>
2.7.	Civilinės ar administracinės baudos ir/ ar sankcijos: bendros draudimo sumos ribose	<i>Civil or administrative fines or penalties: up to the policy limit</i>
2.8.	Papildomai draudimo apsauga suteikiama valdybos nariams, nesusijusiems su Bendrove darbo santykiais: ne daugiau kaip 100.000 € bendroje draudimo sumoje visam draudimo sutarties galiojimo laikotarpiui.	<i>Additional limit of liability for non-executive directors: 100.000 € in the aggregate for all non-executive directors during the Policy period.</i>
<b>3. Išskaita (franšizė) / Deductible</b>		
3.1.	Netaikoma	<i>Nil</i>
<b>4. Draudimo sutarčiai taikoma teisė / Legislation applied to insurance contract</b>		
4.1.	Lietuvos Respublikos	<i>Republic of Lithuania</i>
<b>5. Draudimo apsaugos galiojimo teritorija / Territorial Scope</b>		
5.1.	Visas pasaulis, išskyrus JAV ir Kanadą	<i>Worldwide, except USA, Canada</i>
<b>6. Retroaktyvus draudimo sutarties galiojimo laikotarpis / Retroactive Period</b>		
6.1.	Neribotas	<i>Unlimited</i>
<b>7. Kitos sąlygos / Other conditions</b>		
7.1.	Kitos draudimo apsaugos sąlygos, šalių teisės ir pareigos, nustatomos žemiau pateiktose sąlygose (anglų kalba), kurios taps neatskiriama draudimo sutarties dalimi.	<i>Insurance coverage conditions, as well as rights and obligations of the parties are defined in terms and conditions (in in English) provided below which will become an integral part of the insurance contract.</i>

7.2. Kitos sąlygos:

## **DIRECTORS' & OFFICERS' LIABILITY INSURANCE**

**THIS IS A CLAIMS MADE POLICY.** Except as otherwise provided, this Policy covers only CLAIMS or INVESTIGATIONS first made during the POLICY PERIOD.

**Except as otherwise provided, coverage applies to CLAIMS and INVESTIGATIONS made anywhere in the world.**

### **SECTION I: INSURING CLAUSES**

Subject to all of the terms and conditions of the Policy, including but not limited to the provisions contained in the Schedule, and payment of the premium, the INSURER agrees as follows:

#### **INSURING CLAUSE A: INSURED PERSONS LIABILITY COVER**

The INSURER will pay on behalf of the INSURED PERSONS all LOSS reasonably incurred by or on behalf of INSURED PERSONS arising out of a CLAIM for a WRONGFUL ACT except when and to the extent that the COMPANY has indemnified the INSURED PERSONS for such LOSS.

#### **INSURING CLAUSE B: COMPANY REIMBURSEMENT COVER**

The INSURER will pay on behalf of the COMPANY all LOSS reasonably incurred by or on behalf of INSURED PERSONS arising out of a CLAIM for a WRONGFUL ACT for which and to the extent that the COMPANY has indemnified the INSURED PERSONS for such LOSS.

#### **INSURING CLAUSE C: INVESTIGATIONS COVER**

The INSURER will pay on behalf of the INSURED PERSONS, or the COMPANY in the event that the COMPANY has indemnified the INSURED PERSONS, all LOSS reasonably incurred by or on behalf of the INSURED PERSONS in respect of INVESTIGATIONS.

#### **INSURING CLAUSE D: ENTITY COVER FOR SECURITIES CLAIMS**

The INSURER will pay on behalf of the COMPANY all LOSS reasonably incurred by or on behalf of the COMPANY arising out of a SECURITIES CLAIM for a WRONGFUL ACT

### **SECTION II: DEFINITIONS**

As capitalised in this Policy or the Schedule the term:

**“ASSET AND LIBERTY PROCEEDING”** means any proceeding brought against an INSURED PERSON by any OFFICIAL BODY seeking:

- (i) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of an INSURED PERSON;
- (ii) a charge over real property or personal assets of an INSURED PERSON;
- (iii) a temporary or permanent prohibition on an INSURED PERSON from holding the office of or performing the function of a director or officer;
- (iv) a restriction of an INSURED PERSON's liberty to a specified domestic residence or an official detention; or
- (v) deportation of an INSURED PERSON following revocation of an otherwise proper, current and valid immigration status for any reason other than such INSURED PERSON's conviction of a crime.

**"CLAIM(S)"** means any of the following:

- (i) any suit or proceeding for monetary damages or other relief, including non-pecuniary relief;
- (ii) any written demand from any person or organisation that it is the intention of that person or organisation to hold an INSURED PERSON responsible for the results of any specified WRONGFUL ACT;
- (iii) any criminal proceedings;
- (iv) any arbitration or mediation proceeding
- (v) with respect to any EMPLOYMENT PRACTICE WRONGFUL ACT, tribunal proceedings, an application for injunctive or non-pecuniary relief, any request for reinstatement or re-engagement commenced by the service of notice of application, claim form, writ, summons or similar proceeding involving an INSURED PERSON;
- (vi) any EXTRADITION CLAIM
- (vii) any SECURITIES CLAIM
- (viii) any ASSET AND LIBERTY PROCEEDING
- (ix) any suit or proceeding brought or any investigation or inquiry by any insolvency administrator or receiver, bankruptcy trustee or liquidator or equivalent position in any jurisdiction.

Any CLAIM or CLAIMS arising out of, based upon or attributable to a single WRONGFUL ACT or a series of related WRONGFUL ACTS or which arise from the same originating source or cause shall be considered to be a single CLAIM for the purposes of this Policy.

**"CLEAN UP COSTS"** means expenses including but not limited to legal and professional fees incurred in testing for, monitoring, cleaning up removing, containing, treating, neutralising, detoxifying or assessing the effects of pollution.

**"COMPANY"** means the POLICYHOLDER and any SUBSIDIARY.

**"CORPORATE MANSLAUGHTER PROCEEDING"** means a formal criminal proceeding against an INSURED PERSON for involuntary manslaughter (including constructive manslaughter or gross negligence manslaughter) directly related to the business of the COMPANY.

**"DEDUCTIBLE"** means the amount(s) described in Item IV of the Schedule. The DEDUCTIBLE shall apply to any LOSS other than DEFENCE COSTS.

**"DEFENCE COSTS"** means any reasonable and necessary fees, costs, expenses or disbursements, including EXTRADITION COSTS, incurred during an INVESTIGATION or in the defence of CLAIMS and appeals therefrom as well as the cost of appeal, attachment and similar bonds including bail and penal bonds.

DEFENCE COSTS shall also include:

- (i) the reasonable fees, costs and expenses of accredited experts retained by the defence counsel to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in connection with an

INVESTIGATION or the defence of a CLAIM;

- (ii) the reasonable fees, costs and expenses incurred solely to facilitate the return of amounts required to be repaid by an INSURED PERSON pursuant to Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (US) or to Section 304(a) of the Sarbanes-Oxley Act of 2002 (US);
- (iii) the reasonable travel, accommodation and living expenses incurred by an INSURED PERSON when giving evidence to defend a CLAIM or to attend an INVESTIGATION provided that the INSURER has consented in writing before such expenses are incurred, such consent not to be unreasonably withheld or delayed, and subject to the relevant sub-limit amount stated in the Schedule (even if the LIMIT OF LIABILITY is thereby exceeded);
- (iv) the reasonable mitigation payments to a potential claimant to reduce the ultimate civil legal liability of an INSURED PERSON provided such liability is covered under this Policy;
- (v) solely with respect to cover under Insuring Clause D, the reasonable fees, costs and expenses of an expert witness consented to by the INSURER, which consent shall not be unreasonably withheld or delayed, incurred by a COMPANY to conduct an event study regarding price impact solely for the purpose of contesting the motion for class certification with respect to a SECURITIES CLAIM brought or maintained in the United States of America.

DEFENCE COSTS shall not include overhead or benefit expenses associated with salaries, wages and fees of INSURED PERSONS.

**“DISCOVERY PERIOD”** means a period of time immediately following the expiry of the POLICY PERIOD (detailed below under Extension A.) during which written notice may be given to the INSURER of:

- (i) a CLAIM, or a circumstance that might subsequently give rise to a CLAIM, for a WRONGFUL ACT committed or alleged to have been committed prior to the expiry of the POLICY PERIOD, or;
- (ii) an INVESTIGATION into conduct occurring prior to the expiry of the POLICY PERIOD.

**“EMPLOYEE(S)”** means any natural person in the regular service of the COMPANY in the ordinary course of the COMPANY’s business.

**“EMPLOYMENT PRACTICE WRONGFUL ACT”** means any actual or alleged:

- (i) unfair or wrongful dismissal, discharge or termination of employment whether actual or constructive, including breach of a contract (oral or written), or;
- (ii) employment related misrepresentations, or;
- (iii) failure to provide accurate job references, or;
- (iv) violation of any federal, state or local law in any jurisdiction concerning employment or discrimination in employment, or;
- (v) sexual or other harassment in the workplace, including the alleged creation of a harassing workplace, or;
- (vi) wrongful deprivation of career opportunity, employment or promotion or;
- (vii) wrongful discipline or evaluation, or;
- (viii) failure to adopt adequate employment or workplace policies and procedures or;
- (ix) breach of data protection laws, or;
- (x) failure to grant tenure, or;
- (xi) retaliatory action including but not limited to whistle-blowing or similar legally protected activities, or;
- (xii) infliction of emotional distress, or;
- (xiii) defamation, or;
- (xiv) disciplinary action, or;
- (xv) negligent evaluation, hiring, retention or referral, or;
- (xvi) any other employment related torts.

**“EXTRADITION CLAIM”** means:

- (i) a formal request, claim, warrant for arrest or other proceedings commenced against an INSURED PERSON located in one jurisdiction to be surrendered to another jurisdiction to stand trial or answer a criminal accusation.

- (ii) any contact or requests from governmental agencies to an INSURED PERSON seeking co-operation or information under threat of an extradition proceeding or other procedure listed in (i) above against an INSURED PERSON.

**“EXTRADITION COSTS”** shall mean reasonable fees, costs and expenses incurred by an INSURED PERSON with the written consent of the INSURER, such consent not to be unreasonably withheld or delayed, resulting from:

- (i) an INSURED PERSON opposing, challenging (by judicial review or otherwise), resisting or defending any EXTRADITION CLAIM; or appealing any order or other grant of extradition of that INSURED PERSON; or
- (ii) any bail application or bail bond in relation to an EXTRADITION CLAIM; or
- (iii) any accredited counsellor or tax advisor or public relations consultant retained by the INSURED PERSON directly in connection with an EXTRADITION CLAIM.

EXTRADITION COSTS shall also include ADDITIONAL EXTRADITION COSTS, being the costs of notifying close relatives, costs arising in connection with the involvement of any authorities (particularly embassies and consulates) and reasonable travelling and accommodation costs (including the shipping of any necessary medicines) of the INSURED PERSON, lawful spouse or domestic partner or children, occasioned because of an EXTRADITION CLAIM. The INSURER shall pay up to the relevant sub-limit amount stated in the Schedule in respect of ADDITIONAL EXTRADITION COSTS (even if the LIMIT OF LIABILITY is thereby exceeded).

**“FINAL ADJUDICATION”** shall mean the time and date when either the period in which an appeal must be brought against any conviction, judgement or refusal of relief by a judicial or arbitral tribunal has expired; or when such an appeal has been determined, abandoned or otherwise ceased.

**“INSURED PERSON(S)”** shall mean any natural person who was, now is or becomes during the POLICY PERIOD:

- (i) a director, including any NON-EXECUTIVE DIRECTOR or de facto director, officer, general manager or manager including a General Counsel or Risk Manager of a COMPANY (or equivalent position in any jurisdiction);
- (ii) a member of any internal committee including but not limited to compliance committee, audit committee, and remuneration committee;
- (iii) a shadow director of any COMPANY or OUTSIDE ENTITY as defined in Section 251 of the Companies Act 2006 (UK) or similar legislation in any other jurisdiction;
- (iv) a person acting for a COMPANY who is recognised or appointed as an approved or authorised person by any regulatory authority or requirement;
- (v) an OUTSIDE DIRECTOR;
- (vi) any EMPLOYEE, including an EMPLOYEE acting as a lawyer for and on behalf of any COMPANY;
- (vii) any prospective director or officer in any listing particulars, prospectus, circular or similar document issued by any COMPANY.

In addition, cover is extended to apply to the following persons and entities but only to the extent that they are involved in a CLAIM or INVESTIGATION covered hereunder:

1. the estates, heirs, legal representatives or assigns of any INSURED PERSON in the event of the INSURED PERSON's death, incapacity, insolvency or bankruptcy;
2. any person involved in a CLAIM or INVESTIGATION by reason of their status as a lawful spouse or domestic partner (including same sex partner) of an INSURED PERSON and their ownership or interest in property which is sought as recovery in a CLAIM or INVESTIGATION.

**“INSURER(S)”** means the Lloyd's Syndicate(s) and/or Insurance Company(ies) whose name(s) appears in Item VII of the Schedule.

**“INVESTIGATION(S)”** means any investigation, examination, disciplinary or other hearing, inquiry or other proceeding, whether criminal, civil, regulatory or administrative ordered, commissioned or carried out by any OFFICIAL BODY, including any preliminary meetings, interviews or requests for documents, records or electronic information instigated by the OFFICIAL BODY.

INVESTIGATION shall also mean an internal investigation by or on behalf of the COMPANY or an OUTSIDE ENTITY following a:

- (i) SELF REPORT; or
- (ii) a formal written notification to an OFFICIAL BODY by a COMPANY, INSURED PERSON or whistleblower informing them of an actual or suspected breach of an INSURED PERSON's legal or regulatory duties; or
- (iii) SHAREHOLDER DERIVATIVE ACTION

INVESTIGATION shall include a raid on, or on-site visit to any COMPANY or OUTSIDE ENTITY by an OFFICIAL BODY that involves the production, review, copying or confiscation of documents, records or electronic information or interviews of an INSURED PERSON.

INVESTIGATION shall not include any routine contact between a COMPANY and an OFFICIAL BODY as part of the OFFICIAL BODY's normal review or compliance process.

**"LIMIT OF LIABILITY"** means the amount described in Item III of the Schedule, which (except for the sub-limits listed in the Schedule) shall be the maximum amount payable by the INSURER under this Policy in the aggregate for all sections and irrespective of the number of CLAIMS or INVESTIGATIONS.

**"LOSS"** means any amount which the INSURED PERSONS are legally obliged to pay by reason of any CLAIM or INVESTIGATION for which coverage applies, or with respect to Insuring Clause D any amount which the COMPANY is obliged to pay by reason of any SECURITIES CLAIM for which coverage applies, including but not limited to:

- (i) settlements;
- (ii) awards of damages or compensation;
- (iii) pre- and post-judgement interest;
- (iv) a claimant's legal costs and expenses;
- (iv) DEFENCE COSTS;
- (v) civil or administrative fines or penalties where insurable by the law governing the CLAIM or INVESTIGATION;
- (vi) punitive, exemplary, aggravated and multiple damages awards, provided that this cover shall be governed by the law that most favours coverage for such damages, and that such law has a substantial connection or relationship to the relevant INSURED PERSONS, COMPANY, CLAIM or the WRONGFUL ACT giving rise to such damages.

LOSS also means unpaid corporate taxes of the COMPANY where, and only to the extent that, personal liability for such non-payment of tax is established by law against an INSURED PERSON in the jurisdiction in which the CLAIM is made, provided that:

- (a) such liability does not arise from the deliberate or intentional acts of such INSURED PERSON; and
- (b) the COMPANY is not able to pay the tax either by reason of insolvency or legal prohibition.

LOSS does not include criminal fines or criminal penalties or CLEAN UP COSTS.

Notwithstanding anything to the contrary herein, the INSURER shall not assert that in a SECURITIES CLAIM alleging violations of Section 11, 12 or 15 of the Securities Act of 1933 (US), as amended, the portion of any amounts incurred by the COMPANY or the INSURED PERSONS which is attributable to such violations constitutes uninsurable loss and, unless precluded from doing so in a court order, shall treat that portion of all such settlements, judgments and DEFENCE COSTS as constituting LOSS under this Policy.

**"NON-EXECUTIVE DIRECTOR(S)"** means any natural person serving as an INSURED PERSON at any time who is not also an EMPLOYEE.

**"OFFICIAL BODY"** means any government body, agency or department, or any regulator, official body,

authority or institution, or judicial agency that is legally empowered to investigate the COMPANY, an OUTSIDE ENTITY or the INSURED PERSONS acting in their capacity as such.

**“OUTSIDE DIRECTOR(S)”** means any INSURED PERSON who, at the specific request of the COMPANY, was, now is or becomes appointed during the POLICY PERIOD, a director, officer, observer, trustee, governor, council member or committee member, or any equivalent position in any jurisdiction, for any OUTSIDE ENTITY.

OUTSIDE DIRECTOR also means any INSURED PERSON deemed to be a shadow director, as defined in Section 251 of the Companies Act 2006 (UK), or similar legislation in any other jurisdiction, of any OUTSIDE ENTITY.

**“OUTSIDE ENTITY”** means any entity other than a COMPANY. If a new appointment is made during the POLICY PERIOD to an OUTSIDE ENTITY whose securities are listed on any exchange in the United States of America, coverage hereunder shall not apply unless otherwise agreed in writing by the INSURER and for which an additional premium may be charged.

**“POLICY PERIOD”** means the period named in Item II of the Schedule.

**“POLICYHOLDER”** means the entity named in Item I of the Schedule.

**“RETIRED INSURED PERSON(S)”** means an INSURED PERSON who at any time prior to the expiry of the POLICY PERIOD has ceased to act in their capacity as an INSURED PERSON for the COMPANY, other than by direct reason of a Run-Off Event described in Section VII. General Conditions B. Run-Off Provisions.

**“SECURITIES CLAIM(S)”** means any written demand, suit, or administrative, civil, criminal or regulatory proceeding or investigation alleging a breach of the securities laws of any country, state or jurisdiction, or alleging a WRONGFUL ACT in connection with the purchase or sale of, or an offer to purchase or sell, any securities, whether on the open market or arising from a public or private offering.

SECURITIES CLAIM also means any administrative or regulatory proceeding against or an INVESTIGATION of a COMPANY provided that such SECURITIES CLAIM is also made against an INSURED PERSON.

**“SELF REPORT”** means the actual report to any OFFICIAL BODY by a COMPANY, an OUTSIDE ENTITY or an INSURED PERSON pursuant to an obligation to inform such OFFICIAL BODY of matters giving rise to actual or potential regulatory issues, where failure to give such notification or delay in notifying can itself give rise to enforcement consequences.

**“SHAREHOLDER DERIVATIVE ACTION”** means any suit or proceeding brought or maintained by or on behalf of the COMPANY by a shareholder of the COMPANY, in his capacity as such, and not at the instigation or solicitation of an INSURED PERSON or the COMPANY, or any written demand by a shareholder of the COMPANY to commence such suit or proceeding

**“SUBSIDIARY”** means an entity which any COMPANY as at the date of inception of the POLICY PERIOD:

- (i) controls through holding 50% or more of the voting rights; or
- (ii) controls through the right to appoint or remove 50% or more of its board of directors; or
- (iii) controls alone, pursuant to a written agreement with other shareholders or members, 50% or more of the voting rights.

SUBSIDIARY also means any entity which ceased to be a SUBSIDIARY prior to the date of inception of the POLICY PERIOD, or ceases to be a SUBSIDIARY during the POLICY PERIOD, but only with respect to CLAIMS arising out of WRONGFUL ACTS or INVESTIGATIONS into conduct occurring during the time the entity was a SUBSIDIARY. (See also General Condition B. Run-Off Provisions)

**“WRONGFUL ACT”** means any actual or alleged error, misstatement, misleading statement, libel, slander

or defamation (including injurious falsehood), act, omission, neglect, breach of duty (statutory or otherwise), breach of contract, breach of trust, breach of confidentiality or breach of warranty of authority, or any EMPLOYMENT PRACTICE WRONGFUL ACT, attempted, or allegedly committed or attempted by the INSURED PERSONS acting in their capacity as INSURED PERSONS or any other matter claimed against the INSURED PERSONS by reason of their serving in such capacity, including allegations of insider trading where it is alleged that the INSURED PERSONS gained the inside knowledge in their capacity as INSURED PERSONS.

WRONGFUL ACT also means any breach of duty (statutory or otherwise), neglect, error, misstatement, misleading statement, omission or act by the COMPANY but only with respect to a SECURITIES CLAIM.

### **SECTION III: EXTENSIONS TO COVER**

#### **A. Discovery Period**

1. A DISCOVERY PERIOD of 30 days following the expiry of the POLICY PERIOD is automatically granted hereunder, at no additional premium, if this Policy is not renewed or is cancelled (other than for non-payment of premium) and the COMPANY or the INSURED PERSONS do not exercise the right to purchase any of the following DISCOVERY PERIODS described in point 2 below.
2. If upon the Policy's expiry, the INSURER refuses to offer renewal terms, the COMPANY and the INSURED PERSONS shall have the right to purchase a DISCOVERY PERIOD of 12 months at 100 per cent of the annual premium hereunder.
3. **Retired Insured Persons Cover**  
If the POLICYHOLDER does not renew this Policy and does not replace it with any other policy affording directors and officers liability cover and none of the above DISCOVERY PERIODS are purchased, then each RETIRED INSURED PERSON shall automatically have a DISCOVERY PERIOD of 72 months at Nil additional premium. Such cover shall apply only to WRONGFUL ACTS or INVESTIGATIONS into conduct occurring prior to the date they became a RETIRED INSURED PERSON.
4. The right to purchase one of the DISCOVERY PERIODS listed in point 2. above is conditional upon written notice of the DISCOVERY PERIOD required and payment of the applicable additional premium by the POLICYHOLDER or the INSURED PERSONS within 30 days of expiry of the POLICY PERIOD.
5. The acceptance by the POLICYHOLDER of the INSURER's offer of a new policy relieves the INSURER of any obligation they may have had to provide cover under this Policy during a DISCOVERY PERIOD.
6. The option to purchase one of the DISCOVERY PERIODS referred to in point 2. above is not available should one of the Run-Off Events set out in Section VII. General Conditions B. Run-off Provisions occur.

#### **B. Automatic Cover for New Subsidiaries**

This Policy is automatically extended to provide cover in respect of an entity that becomes a SUBSIDIARY (through merger, acquisition or otherwise) during the POLICY PERIOD.

If such new SUBSIDIARY has its securities listed on any exchange in the United States of America, automatic cover shall apply only for a period of 120 days from the date the entity first became a SUBSIDIARY or until the expiry date of the POLICY PERIOD, whichever period expires first.

The INSURER may cover such SUBSIDIARY beyond the period of automatic cover provided that the POLICYHOLDER:

- (i) notifies the INSURER in writing and provides full underwriting information as the INSURER may

- require within the period of automatic cover; and
- (ii) agrees to any additional premium and/or amendment of the provisions of this Policy required by the INSURER relating to such SUBSIDIARY.

Coverage under this extension only applies to WRONGFUL ACTS or to INVESTIGATIONS into conduct occurring on or after the date such entity becomes a SUBSIDIARY.

**C. Mitigation Costs Cover**

The POLICYHOLDER shall be entitled to employ the services of a suitable consultant in the event that:

- (i) it reasonably considers that urgent action is needed in order to avert or mitigate a potential CLAIM or INVESTIGATION; or
- (ii) it reasonably requires mitigation of the adverse effect on an INSURED PERSON from a covered CLAIM or INVESTIGATION by disseminating findings made in a final disposition of that CLAIM or INVESTIGATION in the INSURED PERSON's favour.

The POLICYHOLDER shall as soon as practicable give written notification to the INSURER that such action is required. Any fees or costs reasonably incurred by the POLICYHOLDER for the employment of the consultant will be reimbursed by the INSURER up to the relevant sub-limit amount stated in the Schedule (even if the LIMIT OF LIABILITY is thereby exceeded).

**D. Risk Management**

The INSURED PERSONS shall be entitled to request advice from the INSURER, upon giving notice of any circumstances which in their opinion might subsequently give rise to a CLAIM or INVESTIGATION for which coverage would apply, as to their legal position and any steps which may be appropriate to avert or minimise the risk of such a CLAIM or INVESTIGATION. The INSURER agrees to bear the cost of obtaining advice in relation to any such circumstances up to the relevant sub-limit amount stated in the Schedule (even if the LIMIT OF LIABILITY is thereby exceeded). Any costs borne by the INSURER under this provision will be paid separately from any payment which may become due hereunder upon a CLAIM or INVESTIGATION being made in respect of such circumstances and the INSURER retains the right to appoint or approve any lawyers or other advisors from whom advice is to be taken.

**E. Avoidance Waiver & Breach of the Claims Notification Provisions**

- (i) The INSURER(S) irrevocably agrees that it will waive any right that it may have to avoid, annul, or rescind the COMPANY's or an INSURED PERSON's interest in this Policy, other than for fraudulent or dishonest non-disclosure or misrepresentation.
- (ii) Where an INSURED PERSON or the COMPANY should have notified a CLAIM, a circumstance which might subsequently give rise to a CLAIM, or an INVESTIGATION, to the insurers of a prior policy offering directors and officers liability cover but failed to do so, and the insurers of the prior policy decline to provide cover on such grounds, then providing such failure to notify was not dishonest or fraudulent and in the event that such matter is notified to this Policy, cover will be provided for it hereunder, but only to the extent that:
  - a. Such matters would be covered by this Policy if they had first arisen during the POLICY PERIOD, and
  - b. If the cover to which the INSURED PERSON or the COMPANY would have been entitled under the prior policy was in any way more restrictive than that provided during this POLICY PERIOD then the INSURER shall only be liable to the extent available under such prior policy, and
  - c. If prejudice has been caused to the handling or settlement of such matter by the failure to notify the prior policy then the amount payable by the INSURER shall be reduced to such sum as in the INSURER's reasonable opinion would have been payable in the absence of such prejudice.

- (iii) Where an INSURED PERSON or the COMPANY has breached any condition of this Policy and has thereby prejudiced the handling or settlement of any LOSS the amount payable in respect of such LOSS shall be reduced to such sum as in the INSURER's reasonable opinion would have been payable in the absence of such prejudice.

Subject to the provisions of this extension the INSURER shall not deny payment or indemnity on the grounds of a breach of any of the provisions detailed in Section VI: Claims Notification and Handling.

**F. Additional Limit of Liability For NON-EXECUTIVE DIRECTORS**

In the event of and after the exhaustion of:

- (i) the LIMIT OF LIABILITY of this Policy; and
- (ii) the cover afforded to a NON-EXECUTIVE DIRECTOR by any and all other applicable directors' and officers' or management liability or indemnity insurance policies whether written specifically as excess cover over this Policy, or otherwise; and
- (iii) all other indemnification available to and collectible by the NON-EXECUTIVE DIRECTOR;

the INSURER will pay on behalf of the NON-EXECUTIVE DIRECTORS all LOSS reasonably incurred by or on behalf of the NON-EXECUTIVE DIRECTORS arising out of an INVESTIGATION, or a CLAIM for a WRONGFUL ACT, except when and to the extent that the COMPANY has indemnified the NON-EXECUTIVE DIRECTORS for such LOSS.

INSURER's maximum limit of liability under this Extension shall be the relevant sub-limit amount stated in the Schedule and shall be in addition to and not part of the overall LIMIT OF LIABILITY of this Policy.

**G. Offering of Securities during the POLICY PERIOD**

Cover is automatically provided in respect of CLAIMS or INVESTIGATIONS arising out of any:

- (i) private placement; or
- (ii) debt or bond offering; or
- (iii) public offering of shares, other than on any exchange in the United States of America, that does not increase the COMPANY's total market capitalisation by more than 50%.

In the event of a public offering of shares that increases the COMPANY's total market capitalisation by more than 50% or takes place on an exchange in the United States of America, the POLICYHOLDER shall provide the INSURER with any prospectus, listing particulars, offering memorandum or other offering statement or equivalent documentation in any other jurisdiction as soon as the information is publicly available and the INSURER shall have the right to amend the terms and conditions of this Policy relating to such offering and/or charge an additional premium reflecting the increase in exposure.

**H. Severability of the Policy**

This Policy is a severable policy in respect of each INSURED PERSON and the COMPANY. Subject to all of its terms and conditions, this Policy shall apply to each INSURED PERSON and to the COMPANY in the same manner and to the same extent as if a separate Policy had been issued to each.

The knowledge of, or the acts, omissions, conduct, representations statements or declarations of one INSURED PERSON or the COMPANY shall not be imputed to any other INSURED PERSON for the purpose of determining the existence or extent of cover for such other INSURED PERSON.

Only knowledge possessed by, or acts, omissions, conduct, representations statements or declarations jointly made or committed by any two or more out of the COMPANY's chief executive officer, chairman of the board, chief financial officer, company secretary, chief legal officer or chief operating officer (or equivalent positions) shall be imputed to the COMPANY for the purpose of determining the existence or extent of cover for the COMPANY.

I. **Emergency DEFENCE COSTS**

The INSURER agrees to give retrospective approval for an amount of up to 20% of the LIMIT OF LIABILITY for DEFENCE COSTS if the INSURER's prior written consent to the incurring of such DEFENCE COSTS cannot reasonably be obtained and provided that Extensions C and D do not apply.

**SECTION IV: EXCLUSIONS**

The INSURER shall not be liable to make any payment under this Policy:

A. **PRIOR NOTICE**

arising from or attributable to any CLAIMS, circumstances or INVESTIGATIONS notified before the inception date of this Policy and accepted under another directors and officers liability policy of which this Policy is a renewal or replacement or which it may succeed in time.

B. **CONDUCT**

arising from or attributable to:

- a. the committing of any deliberately dishonest or deliberately fraudulent act or omission by any of the INSURED PERSONS or:
- b. any personal profit or advantage gained by any of the INSURED PERSONS to which they were legally not entitled;

in the event that any of the above is established by FINAL ADJUDICATION against the INSURED PERSON or by formal written admission by the INSURED PERSON. Prior to FINAL ADJUDICATION or formal written admission the INSURER shall advance DEFENCE COSTS in accordance with the cover granted by this Policy.

Point b. above shall not apply to the proportion of LOSS in a SECURITIES CLAIM attributable to violations or alleged violations of Section 11 and 12 of the Securities Act 1933 (US)

C. **BODILY INJURY AND PROPERTY DAMAGE**

arising from or attributable to bodily injury, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, provided that this Exclusion shall not apply to DEFENCE COSTS or any CLAIM which is a SHAREHOLDER DERIVATIVE ACTION, a SECURITIES CLAIM, a CORPORATE MANSLAUGHTER PROCEEDING or involves emotional distress in connection with an EMPLOYMENT PRACTICE WRONGFUL ACT.

D. **WAR AND TERRORISM**

arising from or attributable to LOSS or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, terrorism, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

E. **SANCTIONS**

The Insurer will exclude any Loss which would expose Insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

F. **PROFESSIONAL INDEMNITY EXCLUSION (with carve out for failure to manage or supervise)**

arising from or attributable to the COMPANY or the INSURED PERSONS carrying out, or failing to carry out, professional services or any act, error or omission relating thereto.

It is understood and agreed that this exclusion shall be amended but not limited to provide coverage for CLAIMS alleging failure to supervise/manage.

#### **SECTION V: CALCULATION OF AMOUNTS PAYABLE BY THE INSURER**

- A. Subject to the provisions of subsection E: Allocation, below, the INSURER shall pay one hundred per cent (100%) of the LOSS in excess of the applicable DEDUCTIBLE (which shall apply separately with respect to each CLAIM or INVESTIGATION) up to the LIMIT OF LIABILITY which amount, regardless of the time of payment by the INSURER, shall be the maximum aggregate liability of the INSURER (unless otherwise stated herein) for all LOSS as a result of all CLAIMS and INVESTIGATIONS during the POLICY PERIOD or DISCOVERY PERIOD if applicable.
- B. In the event that a single CLAIM or INVESTIGATION is partially covered under more than one Insuring Clause, the DEDUCTIBLE shall be applied separately to that part of the CLAIM or INVESTIGATION covered by each Insuring Clause and the sum of the DEDUCTIBLES so applied shall constitute the DEDUCTIBLE for each single CLAIM or INVESTIGATION. The total DEDUCTIBLE per CLAIM or INVESTIGATION as finally determined shall in no event exceed the largest DEDUCTIBLE indicated in Item IV of the Schedule.
- C. Except as provided for in Extension C: Mitigation Costs Cover and I: Emergency DEFENCE COSTS, no DEFENCE COSTS shall be incurred without the INSURER's consent, such consent not to be unreasonably withheld or delayed.

The INSURER agrees to advance DEFENCE COSTS covered by this Policy on a current basis, but not later than 90 days from the date such DEFENCE COSTS were first submitted to the INSURER.

Unless otherwise stated herein, DEFENCE COSTS are part of and shall go to reduce the LIMIT of LIABILITY specified in Item III of the Schedule.

- D. The INSURER shall pay LOSS in the order LOSS is incurred. If, however, LOSS is incurred under more than one Insuring Clause at the same time, the INSURER shall first pay the LOSS payable under Insuring Clause A or non-indemnified LOSS under Insuring Clause C as applicable. The POLICYHOLDER may elect to decline or defer payment under the other Insuring Clauses. Unless otherwise stated herein, the INSURER shall have no obligation to pay LOSS after the exhaustion of the LIMIT OF LIABILITY regardless of whether payment has been declined or deferred.
- E. **Allocation**

(1) **CLAIMS (excluding SECURITIES CLAIMS) and INVESTIGATIONS jointly made against a COMPANY and INSURED PERSONS:**

If a COMPANY is the subject of any CLAIM (excluding SECURITIES CLAIMS) or INVESTIGATION together with one or more of the INSURED PERSONS then the INSURER will:

- (i) advance one hundred per cent (100%) of the DEFENCE COSTS jointly incurred by the COMPANY and the INSURED PERSONS; and
- (ii) pay only that proportion of LOSS not including DEFENCE COSTS that can be allocated to the INSURED PERSONS.

With respect to SECURITIES CLAIMS made against the COMPANY or the INSURED PERSONS or against a combination of both, the INSURER will pay 100% of LOSS including DEFENCE COSTS.

(2) **CLAIMS and INVESTIGATIONS involving both allegations that are covered and allegations that are not covered:**

If the INSURED PERSONS are party to any CLAIM or INVESTIGATION, or if the COMPANY is party to a SECURITIES CLAIM covered under Insuring Clause D, which includes both allegations that are covered by the Policy and allegations that are not covered, the INSURER will:

- (i) advance one hundred per cent (100%) of the DEFENCE COSTS; and
- (ii) pay only that proportion of LOSS not including DEFENCE COSTS pertaining to allegations coverable by the Policy.

Any allocation of LOSS described in point (1)(ii) or (2)(ii) above shall be agreed between the INSURER and the INSURED PERSONS or the COMPANY (as applicable) or, in the absence of such agreement, shall be determined by a member of the Bar Council (or local equivalent in the place of registration of the POLICYHOLDER) as arbitrator to be mutually agreed upon by the INSURER and the INSURED PERSONS or the COMPANY (as applicable) or in default of such agreement to be nominated by the Chairman of the Bar Council (or local equivalent). Such determination will be based upon the written submissions of the INSURER and the INSURED PERSONS or the COMPANY (as applicable) and will be final and binding. The fees charged by the arbitrator for providing such determination will be borne by the INSURER but each of the parties will bear their own legal costs if any.

#### **SECTION VI: CLAIMS NOTIFICATION AND HANDLING**

- A. The POLICYHOLDER or the INSURED PERSONS shall give notice in writing to the INSURER of any CLAIM or INVESTIGATION for which coverage may be afforded under this Policy as soon as practicable after the Risk Manager, General Counsel or Chief Legal Counsel (or equivalent management positions) of the COMPANY first becomes aware of such CLAIM or INVESTIGATION.

If, during the POLICY PERIOD or DISCOVERY PERIOD as applicable, a COMPANY or INSURED PERSON becomes aware of any circumstances which may in their opinion reasonably be expected to give rise to a CLAIM or INVESTIGATION, they may give written notice to the INSURER of those circumstances including, if available, full particulars as to dates, persons and entities involved. Any subsequent CLAIM or INVESTIGATION reported to the INSURER which alleges, arises out of, or is based upon or attributable to such circumstances, or alleges any WRONGFUL ACT which is the same as or related to any WRONGFUL ACT anticipated in those reported circumstances, shall be considered made at the time such notice of those circumstances was received by the INSURER.

- B. Every letter, claim form, summons and process shall be forwarded to INSURER immediately upon receipt.
- C. The INSURED PERSONS and the COMPANY shall give the INSURER all such information (including, but not limited to, all relevant documentation), co-operation and assistance as the INSURER may reasonably require to defend, settle or prosecute any CLAIM or INVESTIGATION and as shall be in the power of the INSURED PERSONS and the COMPANY to provide.

#### **SECTION VII: GENERAL CONDITIONS**

A. **Cancellation**

This Policy may be cancelled at the earliest of the following dates:

- (i) after receipt by the INSURER of a written notice of cancellation from the POLICYHOLDER;
- (ii) 30 days after receipt by the POLICYHOLDER of a written notice of cancellation from the INSURER for non-payment of premium;
- (iii) such other time as may be agreed upon by the INSURER and the POLICYHOLDER in writing.

However, notwithstanding the above this Policy shall not be cancellable by reason of insolvency of a COMPANY.

If, at the time of cancellation, no CLAIMS, circumstances which may give rise to a CLAIM or INVESTIGATIONS have been notified to the INSURER in accordance with the notification provisions in Section VI, the INSURER shall refund the unearned premium calculated pro rata if the Policy is cancelled by the INSURER, or pro rata less fifteen per cent (15%) if the Policy is cancelled by the POLICYHOLDER.

No premium is refundable if, at the time of cancellation, notice has been given of a CLAIM, circumstances which may give rise to a CLAIM or an INVESTIGATION.

#### **B. Run-off Provisions**

This Policy shall not apply to CLAIMS arising from or attributable to WRONGFUL ACTS or INVESTIGATIONS into conduct relating to a COMPANY occurring after the effective date of any of the following Run-Off Events:

- (i) the acquisition of securities by any entity (that is not also another COMPANY), person or group of persons or entities acting in concert, which acquisition results in the ownership of more than fifty per cent (50%) of the outstanding securities representing the present right to vote for the election of the board of directors of that COMPANY; or
- (ii) the merger of that COMPANY with another entity (that is not also another COMPANY), unless the COMPANY is the surviving entity; or
- (iii) consolidation of a COMPANY with another entity (that is not also another COMPANY); or
- (iv) the acquisition of substantially all of the assets of the COMPANY by another entity (that is not also another COMPANY), person or group of persons or entities acting in concert; or
- (v) the resignation of all or substantially all of the Board of Directors of the POLICYHOLDER as a direct result of the insolvency, bankruptcy or liquidation of the POLICYHOLDER.

The run-off cover described above shall continue to the natural expiry of the POLICY PERIOD. The POLICYHOLDER may elect to purchase from the INSURER additional run-off cover for up to 72 months subject to receipt, review and acceptance of sufficient information to allow the INSURER to assess the material changes to the POLICYHOLDER's situation and to rate the exposure accordingly. The run-off cover will take effect from the effective date of the Run-Off Event and the INSURER will refund the relevant unearned proportion of the premium calculated pro rata as at the effective date of the Run-Off Event (unless the premium is deemed fully earned by the INSURER due to their acceptance of a notification of a CLAIM, circumstance or INVESTIGATION).

#### **C. Subrogation & Recovery**

1. In the event of notification by the INSURED PERSONS or the POLICYHOLDER of a CLAIM or INVESTIGATION the INSURER may require from the INSURED PERSONS or the COMPANY as appropriate an assignment of all rights of recovery against any party for LOSS to the extent that payment of LOSS is made by the INSURER, and the INSURED PERSONS and the COMPANY shall execute all papers required and shall do everything that may be necessary to secure such rights.

Notwithstanding the above the INSURER agrees to waive rights of recovery against INSURED PERSONS except against those INSURED PERSONS who have been proved to be dishonest or fraudulent.

2. Any recovery received as a result of the assignment of rights referred into subsection C.1. above, shall, after expenses incurred by the INSURER are deducted, be applied first against any payments made by INSURED PERSONS or the COMPANY for loss excluded from or that

exceeds the amount of coverage provided by this Policy, then against any payment made by the INSURER to the INSURED PERSONS or to the COMPANY with any balance remaining thereafter being receivable by the INSURED PERSONS and the COMPANY.

**D. Other Insurance**

This Policy applies as excess over any more specific insurance policy available from any source, including but not limited to any other valid and collectible directors and officers liability insurance in force in respect of an OUTSIDE ENTITY as well as any indemnification provided by the OUTSIDE ENTITY.

**E. Representation**

The POLICYHOLDER has the right and duty to defend or contest any CLAIM or INVESTIGATION. The INSURER has the right to effectively associate with the POLICYHOLDER and/or the INSURED PERSONS and the COMPANY in the defence or settlement of such CLAIM or INVESTIGATION. The POLICYHOLDER may appoint lawyers to act for and/or represent the INSURED PERSONS or the COMPANY under Insuring Clause D subject to the prior written consent of the INSURER which shall not be unreasonably withheld or delayed.

For the avoidance of doubt it is agreed that should an actual or potential conflict of interest exist between any of the INSURED PERSONS or any COMPANY, then at their request and always subject to the written consent of the INSURER, which shall not be unreasonably withheld or delayed, separate lawyers may be appointed to protect their respective interests.

**F. Settlement**

If the POLICYHOLDER consents to a settlement that is recommended by the INSURER and acceptable to the claimant, the applicable DEDUCTIBLE amount shall be retroactively reduced by twenty-five per cent (25%) provided that the POLICYHOLDER agrees to such settlement within sixty (60) days of the settlement offer first being recommended by the INSURER.

**G. Governing Law and Jurisdiction**

This Policy shall be interpreted under, governed by and construed in all respects in accordance with the law of the jurisdiction of the place of registration of the POLICYHOLDER and for this purpose, the COMPANY, the INSURED PERSONS and the INSURER agree to submit to the exclusive jurisdiction of the courts within the territorial limits and jurisdiction of the place of registration of the POLICYHOLDER.

All references to specific legislation include amendments to and re-enactments of such legislation and similar legislation in any jurisdiction in which a CLAIM or INVESTIGATION is made.

**H. Notices**

1. Any notice or consent to be given under this Policy shall be in writing and shall be delivered personally or sent by prepaid courier service, post, facsimile machine or electronic mail. Any notice so given shall be deemed to have been given and received when so personally delivered or when sent by facsimile machine or computer, or on the second day following the sending thereof if sent by prepaid courier service or post.
2. Notice to the INSURER shall be deemed as having been given if sent at the postal, fax or e-mail address.
3. Notice to the COMPANY and/or the INSURED PERSONS shall be sent to the POLICYHOLDER at its address specified in Item I of the Schedule, unless there is a conflict of interest in which case notice shall be sent directly to the COMPANY and/or the INSURED PERSONS.
4. The POLICYHOLDER may change address by giving written notice to INSURER at the postal

or fax address or by electronic mail.

I. **Authorisation**

The INSURED PERSONS and the COMPANY agree that the POLICYHOLDER is hereby appointed and authorised to act as agent on behalf of the INSURED PERSONS and the COMPANY with respect to the giving and receiving of any notice under this Policy (apart from notice given under Section VI: Claims Notification and Handling), the payment of any premiums due under this Policy and the agreement of any additional endorsements that may form a part of this Policy during the POLICY PERIOD.

Such permission may be revoked by the INSURED PERSONS at any time during the POLICY PERIOD, provided that such decision was agreed by the majority of the Board of Directors.