

EXECUTIVE PLUS 2010

THIS IS A CLAIMS MADE CERTIFICATE OF INSURANCE

In consideration of the payment of premium, *We* agree to insure *You* in accordance with the terms of this Certificate.

Section 1: Standard Cover

We will pay *Loss* incurred by *You* or on *Your* behalf in respect of any *Claim* first made against *You* during the *Certificate Period* (or a *Discovery Period*, if applicable) for a *Wrongful Act*.

If the *Company* pays *Loss* on *Your* behalf in respect of any *Claim* first made against *You* for a *Wrongful Act* then *We* will pay such *Loss* on behalf of the *Company* instead. This also applies to any of the *Additional Covers* detailed in Section 2 below. However, the *Company* is not insured in its own right under this Certificate.

In addition, *We* will pay *Loss* incurred by the *Company* arising from any *Securities Claim* first made during the *Certificate Period*.

Section 2: Additional Cover

2.1 Emergency Costs

If *Our* written consent cannot be obtained within a reasonable time before *Costs* (save for the *Costs* of a Public relations consultancy referred to below) are incurred in respect of a *Loss* then *We* will give retrospective consent to such *Costs* up to the amount specified in Item 4 of the Schedule.

2.2 Public Relations Cover

In the event that *You* or the *Company* reasonably consider that the services of a public relations consultancy are required urgently:

- (a) in order to prevent or minimise the risk of a *Claim* which would be covered under this Certificate; or
- (b) to deal with any media coverage in relation to a *Claim* which would be covered under this Certificate

then *We* will reimburse reasonable fees and *Costs* incurred as a result of *You* instructing an appropriate consultancy up to a maximum limit of GBP 150,000 in the aggregate for all such *Claims*.

Please note that this limit shall be in addition to the *Limit of Liability* stated in Item 3 of the Schedule to this Certificate.

Please note that in place of Section 7.1 *Your* entitlement to this additional cover is conditional on *You* or the *Company* providing *Us* with full written details of the appropriate action taken no later than 30 days after *You* or the *Company* first become aware of any occurrence that requires the services of a public relations consultancy.

After the aforementioned 30 days *We* will only pay the *Costs* of a public relations consultancy to which *We* have consented prior to those *Costs* being incurred.

2.3 Retirement Cover

If:

- (a) the *Company* does not renew this Certificate or replace it with any other insurance providing directors and officers liability coverage; and
- (b) one of the *Discovery Period Options* detailed in Section 2.16 of this Certificate has not been purchased then

You will be automatically entitled to a 72 month *Discovery Period* at no additional premium after the expiry of the *Certificate Period* provided that *You* retired from *Your* position prior to the expiry of the *Certificate Period*.

Please note that cover will not be effective if *You* have retired from *Your* position as a result of the *Company* being placed into liquidation, receivership or administrative receivership (whether voluntarily or involuntarily).

2.4 Automatic Acquisition

If the *Company* creates or acquires a *Subsidiary* during the *Certificate Period* then *Wrongful Acts* committed after the effective date of acquisition will automatically attract coverage under this Certificate unless that other company:

- (a) has total assets that exceed the sum stated in Item 15 of the Schedule; or
- (b) is incorporated in, is domiciled in or has an office or subsidiary company in the *USA* or *Canada*; or
- (c) has, has had, or to the knowledge of any person insured under this Certificate intends to have its securities traded in the *USA*.

If any such newly created or acquired *Subsidiary* does not automatically attract coverage on account of condition (a) and/or (b) above, then there is automatic coverage for 60 days during which time the *Company* must provide *Us* with full information in respect of the new *Subsidiary* for our assessment of the increased exposure and *We* may then agree at our absolute discretion to extend cover in return for the payment of additional premium and/or amendments to the terms of this Certificate.

If any such newly created or acquired *Subsidiary* does not automatically attract coverage on account of condition (c) above, then no coverage will apply under this Certificate. It is agreed, however, that if the *Company* provides *Us* with full information in respect of the new *Subsidiary* for our assessment of the increased exposure, then *We* may agree at our absolute discretion to extend cover in return for the payment of additional premium and/or amendments to the terms of this Certificate.

Coverage as is afforded to *You* in relation to any such newly created or acquired *Subsidiary* shall apply solely in respect of a *Wrongful Act* committed on or after the effective date of creation or acquisition of such *Subsidiary*.

2.5 Outside Directorship Cover

We will pay *Loss* as incurred by *You* or on *Your* behalf in respect of a *Claim* made against *You* in *Your* capacity as a director or shadow director, officer, trustee (excluding a pension trustee) or governor of any other *Company*, corporation or organisation provided that *You* hold or held that position at the specific request of the *Company*.

This cover is specifically in excess of any other insurance protecting *You* while holding such position.

If both such covers are provided by *Us* then the indemnity of the Certificate with the higher limit will be reduced by the amount of the indemnity of the Certificate with the lower limit.

This additional cover does not apply to:

- (a) positions held in a company registered or headquartered in the *USA*; or
- (b) positions held in any other company, corporation or organisation which has, has had, or to the knowledge of any person insured under this Certificate intends to have, its securities traded in the *USA*.

If *You* hold any such positions then *You* can provide *Us* with further information relating to them and *We* may then agree at *Our* absolute discretion to extend cover in return for the payment of additional premium and/or amendments to the terms of this Certificate.

This additional cover also does not apply to any *Claim* brought against *You* for any *Employment Practices Claim*.

2.6 Non Executive Directors Additional Limit of Liability

In the event that the *Limit of Liability* under this Certificate becomes exhausted then *We* agree that *We* will provide an additional limit as specified in Item 5 of the Schedule per non executive director subject to the following:

- (a) this additional cover is only available to a non executive director who has not been involved in any *Claim* or *Claims* during the *Certificate Period*; and
- (b) the total of *Our* aggregate liability for all such additions shall not exceed a further 100% of the aggregate *Limit of Liability* under this Certificate; and
- (c) this additional cover will only operate in excess of the total indemnity available under any other policies in excess of this Certificate or of any other cover available to the individual director for the *Claim* for which indemnity is sought; and
- (d) provided that the non executive director by whom the additional *Limit of Liability* is sought is not directly or indirectly involved in any *Wrongful Act* or *Claim* under this Certificate that was responsible for or contributed to any *Claim* or *Claims* which was responsible for the erosion of the previous *Limit of Liability* on an individual or aggregate basis.

2.7 Official Investigation Costs

We will pay reasonable legal fees incurred by *You* up to the *Limit of Liability* under this Certificate in the aggregate for the *Certificate Period*;

- (a) resulting from any required attendance by *You* at any official investigation, examination, inquiry or other similar proceeding
- (b) ordered or commissioned by any official body or institution that is legally empowered to investigate the affairs of the *Company*

provided that *We* have consented in writing to *You* incurring such *Costs* before they are incurred. It is agreed that *We* will not unreasonably withhold such consent.

Please note that if *You* believe that as a result of the background to, or as a result of, any such official investigation, examination, inquiry or other similar proceeding, circumstances exist which may reasonably be expected to give rise to a *Claim*, notice must be given to *Us* in accordance with Section 7.1 of this Certificate which is a Condition Precedent.

2.8 Extension to the Certificate Period in the Event of Merger, Consolidation or Liquidation

In the event of any situation occurring as described in Section 7.6 of this Certificate, it is agreed that the *Certificate Period* shall be automatically extended by 90 days.

This does not otherwise affect the right of the *Company* to request a Discovery Period as described in Section 2.16.

In the event of such Merger, Consolidation or Liquidation then please note the effects of Condition 7.6.

2.9 Pre-Agreed Run-Off Coverage in the case of Merger or Acquisition or Liquidation

In the event of an occurrence taking place as described in Section 7.6. the *Company* shall be entitled to request from *Us* a replacement run-off Certificate for *You*. In such event *We* agree to offer a replacement run-off Certificate:

- (a) for a period of 12 months for a premium of no more than 100% of the annual or annualised equivalent of the premium stated at Item 8 of the Schedule; or

- (b) for a period of 24 months for a premium of no more than 125% of the annual or annualised equivalent of the premium stated at Item 8 of the Schedule; or
- (c) for a period of 36 months for a premium of no more than 150% of the annual or annualised equivalent of the premium stated at Item 8 of the Schedule; or
- (d) for a period of 72 months for a premium of no more than 175% of the annual or annualised equivalent of the premium stated at Item 8 of the Schedule; or
- (e) for any other period or premium as may be mutually agreed between the *Company* and *Us*.

It is agreed, however, that if *You* or the *Company* have provided *Notification* or have made *Us* aware of a *Wrongful Act* which may reasonably be expected to give rise to a *Claim*, then *We* are not bound to provide a replacement run-off Certificate for the premiums stated above. In this case, however, *We* may offer the *Company* a replacement run-off Certificate on such terms and conditions as *We* decide are appropriate and at *Our* discretion.

If any replacement Certificate is purchased under this Section of this Certificate, then:

- (i) it will have effect from the effective date of the appropriate occurrence as described in Section 7.6 of this Certificate or of the liquidation; and
- (ii) it will only apply to *Wrongful Acts* actually or allegedly committed by *You* prior to the effective date of the appropriate occurrence as described in Section 7.6 of this Certificate or of the liquidation; and
- (iii) *We* will refund the relevant proportion of the premium calculated pro rata as at the effective date of the appropriate occurrence as described in Section 7.6 of this Certificate (regardless of the provisions of Section 7.7 of this Certificate); and
- (iv) it may not be cancelled and the premium for it is not refundable (save that *We* may cancel it due to non-payment of premium in accordance with the terms of this Certificate by giving 30 days written notice to the *Company*); and
- (v) it will not provide Retirement Cover or a Discovery Period as provided for in this Certificate (unless agreed by *Us* to the contrary).

2.10 Mitigation Costs

You may request advice in relation to any *Circumstance* notified in accordance with this Certificate as to *Your* legal position in relation to the same and in relation to any steps that might be taken or be appropriate to avert or minimise the risk of a *Claim* arising from such *Circumstance*.

We agree to pay the cost of obtaining any such advice from a lawyer retained by you with *Our* consent up to the limit of GBP10,000 per request and subject to an aggregate limit of GBP 50,000 (the limit applicable to this cover is in addition to the *Limit of Liability* for this Certificate). Any such *Costs* will not be regarded as part of the defence *Costs* of any subsequent *Claim*.

2.11 Extradition Cover

We will pay reasonable *Costs* fees and expenses incurred by *You* up to the *Limit of Liability* of this Certificate in the aggregate with respect to any extradition proceedings in relation to:

- (a) Any lawyer retained by *You* with *Our* consent directly in relation to extradition proceedings against *You*; and
- (b) A public relations consultant to provide advice in relation to extradition proceedings against *You*.

We will also pay reasonable costs incurred by any member of *Your* immediate family for travel and hotel expenses to be near *You* during the extradition proceedings and any consequent trial in another jurisdiction up to GBP 10,000 per *Claim* against *You*.

Provided that *You* have complied with Section 7.1 which is a condition precedent to *Our* liability under this Certificate.

2.12 Witness Cover

We will pay reasonable travel costs and living expenses incurred by *You* when giving evidence to defend a *Claim* first made against *You* for a *Wrongful Act* during the *Certificate Period* provided that *We* have consented in writing before such costs are incurred and subject to a sub-limit of GBP 2,000 per individual and in the aggregate.

The limit applicable to this cover is in addition to the *Limit of Liability*.

2.13 Personal Liberty and Property Costs

We will pay *You* up to a limit of GBP 100,000 in respect of a *Claim* made against *You* in *Your* capacity as a director a director, officer, manager or trustee of the *Company* or the equivalent in any other jurisdiction for:

- (a) Any bail bond premium or civil bond premium in respect of any proceedings to prohibit *You* from holding the office of a director or of proceedings to deport *You* or to restrict *Your* liberty to a specified domestic property; and
- (b) The reasonable fees costs and expenses incurred by *You* in respect of any proceedings to confiscate property or to suspend or freeze *Your* rights of property ownership of either real or personal property or to impose a charge over *Your* real property or personal property; and
- (c) The reasonable fees *Costs* and expenses incurred by *You* in respect of any proceedings to prohibit *You* from holding the office of a director or of proceedings to deport *You* or to restrict *Your* liberty to a specified domestic property.

Provided that *You* have complied with Section 7.1 which is a condition precedent to *Our* liability under this Certificate.

The limit applicable to this cover is in addition to the *Limit of Liability*.

2.14 Interpretive Counsel

We will pay:

- (a) The reasonable costs fees and expenses incurred by *You* in appointing counsel in the jurisdiction in which *You* are based to interpret any advice received from counsel in a foreign jurisdiction for a *Wrongful Act* in response to a *Claim* made in that jurisdiction; and
- (b) The reasonable costs of any translation needed to obtain such advice.

Provided that *You* must obtain *Our* consent before appointing any such counsel and *You* have complied with Section 7.1 which is a condition precedent to *Our* liability under this Certificate.

2.15 Environmental Claims Extension

We will pay up to the *Limit of Liability* of this Certificate in the aggregate defence Costs incurred by *You* in accordance with the terms of this Certificate in relation to any environmental *Claim* against *You*.

An environmental *Claim* is one which:

- (a) Involves the actual alleged or threatened discharge, dispersal, release or escape of *Pollutants* including greenhouse gasses; or
- (b) Involves a direction by a regulator to test for, monitor or clear up *Pollutants* including greenhouse gases.

Provided always that the *Claim* arises from a *Wrongful Act*.

2.16 Discovery Period Options

If *We* refuse to offer to renew this Certificate for any reason other than non-payment of premium, then the *Company* shall be entitled to purchase one of the following Discovery Periods Options:

- (a) 12 months upon payment of 75% of the annual premium stated at Item 8 of the Schedule; or
- (b) 24 months upon payment of 125% of the annual premium stated at Item 8 of the Schedule.

If *We* refuse to offer to renew this Certificate and the *Company* does not purchase a Discovery Period of 12 or 24 months, then *You* shall be entitled to a 30 day Discovery Period for no additional premium.

If at any time during the *Certificate Period* the *Company* is:

- (c) merged, consolidated with or acquired by another entity which thereby obtains ownership or control of 50% or more of the share capital or securities which include the right to vote for the election of board members; or
- (d) is placed into liquidation (whether voluntarily or involuntarily), receivership or administrative receivership

then the *Company* is not entitled to purchase a Discovery Period.

However, in such circumstances *We* may offer the *Company* a Discovery Period on such terms and conditions as *We* decide are appropriate and at *Our* absolute discretion.

If such a Discovery Period is purchased by the *Company* then:

- (e) it will take effect from the effective date on which either of the above situations occurs provided that this is during the *Certificate Period*; and
- (f) *We* will refund the relevant proportion of the premium calculated pro rata as at the effective date of the merger, consolidation or acquisition.

The provision of a Discovery Period is conditional upon:

- (g) *You* or the *Company* giving *Us* written confirmation of the Discovery Option required within 30 days of the expiry of the *Certificate Period*; and
- (h) payment of the additional premium within 30 days of the purchase agreement.

The cover granted during a Discovery Period only extends to a *Wrongful Act* committed prior to the expiry of the *Certificate Period* or, in the case of Paragraph 7.6 prior to the effective date of the merger, consolidation or acquisition of the *Company*.

Any offer by *Us* of renewal terms, conditions, limits of liability or premium different from those in this Certificate does not constitute a refusal to renew.

If a Discovery Period is purchased, the *Limit of Liability* (which is in the aggregate) shall not be increased in any way.

A Discovery Period may not be cancelled (except for non payment of the premium). The additional premium for a Discovery Period is not refundable.

2.17 Bribery Proceedings

If *You* are the subject of prosecution under the Bribery Act 2010 or any similar statutory provision in any other jurisdiction *We* will pay the reasonable Costs (incurred with *Our* written consent) of any lawyer retained by *You* with *Our* consent directly in relation to the defence of those proceedings up to the *Limit of Liability* in the aggregate. *We* will not pay any fine or penalty imposed as a result of such proceedings.

We will also pay reasonable costs incurred by any member of *Your* immediate family for travel and hotel expenses to be near *You* during the prosecution, in your capacity as such, and any consequent trial up to GBP 10,000 per prosecution against *You*.

Provided that *You* have complied with Condition 7.1 which is a condition precedent to *Our* liability under this Certificate.

2.18 Corporate Manslaughter Extension

We shall pay the *Loss* of *You* with respect to any proceeding brought against them for *Corporate Manslaughter*

Section 3: Optional Coverage (subject to agreement)

3.1 Automatic Renewal Extension

If the Schedule to this Certificate so provides (Item 13 of the Schedule) then *We* will automatically renew this insurance on the same terms as at expiry of this Certificate unless during the *Certificate Period* any one of the following events has taken place:

- (a) A *Claim* or *Circumstance* has been notified
- (b) The law has changed to prevent *Us* providing this cover
- (c) The premium has not been paid
- (d) The *Company* has become insolvent or entered into administration

We reserve the right to delete this Section of this Certificate from any future Certificates at any time after a period of 2 years from the date shown in Item 14 of the Schedule by giving notice in writing to *You*.

Section 4: Definitions

4.1 Certificate Period means:

The period of time specified in Item 2 of the Schedule, or any other period agreed in writing by the *Company* and *Us*.

4.2 Claim means:

- (a) any written demands made against *You* for monetary damages or other relief, including non-pecuniary relief arising from a *Wrongful Act*; or
- (b) any allegation of a *Wrongful Act* communicated to *You* or the *Company*; or
- (c) any criminal, civil or arbitration proceedings (including extradition proceedings) against *You* relating to a *Wrongful Act*; or
- (d) any regulatory or administrative proceedings or any other official investigation with regard to any allegation of a *Wrongful Act* committed by *You*; or
- (e) any *Employment Practices Claim*

Any number of *Claims* which arise out of or are attributable to or are in any way connected with a single *Wrongful Act* shall constitute a single *Claim* for the purposes of this Certificate.

4.3 Circumstance means a specific situation the details of which should be provided to *Us* where there is:

- (a) An intimation of a *Claim* against *You*
- (b) Any known direct or indirect criticism or dispute whether expressed or implied relating to *Your* performance (whether justified or not) which may give rise to a *Claim* against *You*
- (c) Any awareness that *You* have or should reasonably be expected to have of a failing of *Your* performance or of any act which may give rise to a *Claim* against *You*

4.4 Company means:

The organisation named in Item 1 of the Schedule and any *Subsidiary* thereof.

4.5 Corporate Manslaughter means a gross breach of duty of care causing the death of another person.

4.6 Costs means:

All reasonable fees, including disbursements, incurred by *You* or on *Your* behalf in the investigation, mitigation, defence, adjustment and appeals of any *Claim* or in the mitigation or investigation of any *Circumstance* provided that *We* have consented in writing to *You* incurring such *Costs* before they are incurred. *We* will not unreasonably withhold that consent.

Costs does not mean overhead or benefit expenses associated with *Your* salary, wages or fees.

4.7 Deductible means:

The amount stated in Item 7 of the Schedule. For the purposes of determining the applicable *Deductible* the *Company* shall be deemed to have indemnified *You* to the extent that it is permitted to do so.

4.8 Employment Practices Claim means:

Any *Claim* against *You* involving actual or alleged wrongful dismissal, termination or discharge of employment (either actual or constructive, including breach of an implied contract), employment-related misrepresentation, wrongful failure to employ or

promote, failure to grant tenure, discrimination, harassment, retaliation (including lockouts), employment-related humiliation, defamation, invasion of privacy, wrongful deprivation of career opportunity, wrongful demotion or negligent employee evaluation (including the provision of negative or defamatory statements in connection with an employee reference) which relate solely to the *Company*, its employees or applicants for employment by the *Company* or any actual or alleged violation of an individual's civil rights in relation to any of the above.

4.9 *Limit of Liability* means:

The amount stated in Item 3 of the Schedule.

4.10 *Loss* means:

- (a) damages, judgement awards, settlement awards and costs;
- (b) punitive or exemplary damages or civil fines or penalties but only where these are legally insurable in the jurisdiction in which a *Claim* is made;
- (c) exemplary damages for libel and slander in respect of a *Claim* brought or maintained entirely outside the *USA*.

Loss, however, does not mean:

- (i) criminal fines or penalties; or
- (ii) taxes; or
- (iii) matters which are uninsurable in the jurisdiction where a *Claim* is made.

4.11 *Notification* means:

Written notice of any *Claim* given to *Us* or the nominee named in the Schedule by *You* or the *Company* within the *Certificate Period* or during a *Discovery Period*.

4.12 *Pollutants* means:

Any substance, solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste materials. Waste materials include, but are not limited to, recycled, reconditioned or reclaimed materials.

4.13 *Security* means:

Any security representing debt of or equity interests in the *Company*.

4.14 *Securities Claim* means:

Any *claim* made against the *Company*:

Alleging a breach of any law whether statutory or common law, rules or regulations regulating any *Securities* or the purchase or sale or offer or solicitation of an offer to purchase or sell *Securities* or relating to the registration of such *Securities* either

- (a) brought by any person or entity and arising out of or based upon or attributable to the purchase or sale, offer or solicitation of an offer to purchase or sell any *Securities*; or
- (b) brought by a security holder of the *Company* in relation to that security holder's interest in securities of the *Company*.

However a *Securities Claim* shall not include

- (i) any administrative or regulatory proceeding or an investigation of the *Company* except for the time that any such proceeding is commenced and maintained against *You*; or
- (ii) any *Claim* by an employee or director or officer of the *Company* alleging or arising out of or attributable to the loss of or failure to receive or obtain the benefit of any *Securities* (including any warrants or options).

4.15 *Subsidiary* means:

Any *Company* which the *Company* or a *Subsidiary* controls:

- (a) through holding a majority of the voting rights alone or pursuant to a written agreement with other shareholders or members; or
- (b) through having the right to appoint or remove the majority of its board of directors; or
- (c) through the composition of the board of directors

Coverage is provided for any entity which, prior to the date of inception of this *Certificate*, was a *Subsidiary* but is no longer a *Subsidiary* at the date of inception but only in respect of acts committed whilst such entity was a *Subsidiary*.

Coverage will cease as at the effective date of the sale or dissolution of any *Subsidiary* for any *Wrongful Act* committed after that date.

4.16 *USA* means the United States of America, its territories, possessions and any state or political sub-division thereof.

4.17 *We, Us* or *Our* means:

The Insurers named in Item 17 of the Schedule.

4.18 *Wrongful Act* means:

Any actual or alleged libel, slander, error, misstatement, misleading statement, misrepresentation, omission, neglect, breach of duty, breach of warranty of authority or other act attempted or committed or proposed by *You* when acting or serving in any capacity included in the definition of *You* below.

Wrongful Act includes any matter Claimed against *You* solely by reason of *You* acting or serving in any capacity included in the definition of *You* below.

4.19 *You* means:

Any natural person who is, was prior to or becomes during the *Certificate Period*:

- (a) a director, officer, manager or trustee of the *Company* or the equivalent in any other jurisdiction; or
- (b) a shadow director of the *Company*, as defined in Section 250 of the Companies Act 2006 or the equivalent legislation in any other jurisdiction; or
- (c) a person employed by the *Company* exercising a controlled function as provided for in FSA Full Handbook Regulation Sup 10.4.5 (or any equivalent or similar statute in any jurisdiction) whilst they are performing such functions; or
- (d) an employee of the *Company* who:
 - (i) carries out a managerial or supervisory function for the *Company*; or
 - (ii) has a *Claim* made against them for an *Employment Practices Wrongful Act*; or
 - (iii) is joined as a party to any *Claim* against any other person defined in (a) to (c) above.
- (e) the legal representatives, heirs, assigns or estate of a person defined in another sub-paragraph of this Section in the event of that person's death, incapacity, insolvency or bankruptcy; or
- (f) the lawful spouse or domestic partner of a person defined in another sub-paragraph of this Section where recovery is sought solely because joint property is held or owned by or on behalf of the spouse or domestic partner (the spouse or domestic partner, however, is not insured under this Certificate in his or her own right) or
- (g) A de facto director named in any prospectus.

The above definition does not include external auditors of the *Company*.

Section 5: Exclusions

We shall not be liable for *Loss* on account of any:

5.1 Prior Claims

Claims arising from or attributable to any *Claims* or *Circumstances* notified to any certificate of insurance which inception prior to the inception of this Certificate or which arise from matters substantially the same as alleged or established in such *Claim* or *Circumstance*; or

Claims arising from or attributable to proceedings which existed prior to or were pending at the earlier of;

- (a) the inception date of this Certificate; or
- (b) the date of the first Certificate effected with *Us* and continually maintained with *Us* up to the inception date of this Certificate; or
- (c) the date of any prior certificate of insurance providing like coverage to this Certificate continually maintained up to the inception date of this Certificate

which arise from matters substantially the same as alleged or established in such proceedings.

5.2 Trustee and Pension Fund Claims

Claims for any actual or alleged violation of the responsibilities, obligations or duties imposed by any retirement or pension legislation anywhere in the world including but not limited to the Employee Retirement Income Security Act 1974 (*USA*) or *Claims* against *You* acting in the capacity as trustee, fiduciary or administrator of any pension or employee benefit scheme. It is agreed, however, that this exclusion shall apply only to a *Claim* that relates to any pension or employee benefit scheme that has been or is established, arranged, maintained or sponsored by the *Company* for the benefit of its own employees.

5.3 Crime Fraud and Personal Benefit

Claims arising from or attributable to:

- (a) any criminal act or omission; or
- (b) any act or omission committed with the knowledge that it was in breach of any statute, contract, duty or other legal obligation; or
- (c) the gain of any personal profit, remuneration or advantage to which *You* were not legally entitled including, but not limited to, profits made from the purchase or sale of the *Company's* securities within the meaning of Section 16(b) of the Securities Exchange Act 1934 (*USA*) and/or any amendment to or re-enactment thereof; or
- (d) the committing of any deliberately dishonest or fraudulent act.

This Exclusion shall only apply if the act, omission or profit is established by a court, tribunal or any other final adjudication or by admission.

5.4 Bodily Injury and Property

Claims arising from or attributable to:

- (a) bodily injury, sickness, mental anguish or emotional distress or disturbance, disease or death of any person howsoever caused; or
- (b) damage to or destruction of any tangible property, including Loss of Use thereof

however, this Exclusion shall not apply to *Costs* on account of a *Corporate Manslaughter* proceeding.

Please note that in relation to an *Employment Practice Claim* only, this Exclusion shall not apply to *Claims* in respect of mental anguish or emotional distress or disturbance.

5.5 Pollution

Claims arising directly or indirectly caused by or contributed to by or arising from:

- (a) the actual, alleged or threatened discharge, dispersal, release or escape of *Pollutants* whether such discharge, dispersal, release or escape is intentional or accidental; or
- (b) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *Pollutants*.

It is agreed, however, that this exclusion shall not apply to:

- (c) *Costs*; or
- (d) *Claims* made against *You* by any shareholder of the *Company* either directly or derivatively.

Provided, however that

- (e) on or before the date specified in Item 15 of the Schedule, the *Company*, *You* or any person insured under this Certificate did not know of nor could have reasonably foreseen that there existed any situation, *Circumstance* or *Wrongful Act* which could give rise to a *Claim*; and
- (f) the incident(s) giving rise to the *Claim* occurred entirely outside the *USA* and the *Claim* is brought or maintained entirely outside the *USA*.

5.6 Insured versus Insured - USA

Claims brought by or on behalf of the *Company* or any person insured under this Certificate in the USA except:

- (a) any *Claim* by a person who is no longer employed by the *Company* against *You* provided that *You* remain employed by the *Company*;
- (b) any *Claim* brought or maintained by a liquidator, receiver or administrative receiver without the instigation, assistance or participation of the *Company* or any person insured under this Certificate;
- (c) any *Claim* brought or maintained by a person insured under this Certificate for contribution or indemnity if the *Claim* directly results from another *Claim* covered under this Certificate;
- (d) any shareholder derivative action brought by or maintained on behalf of the *Company* by any legally empowered entity or person, which is brought without the solicitation, assistance or participation or co-operation of any person insured under this Certificate;
- (e) any *Employment Practices Claim*;
- (f) any *Claim* for *Costs*.

5.7 Professional Services

Claims arising from or attributable to *You*, the *Company* or any person insured under this Certificate carrying out, or failing to carry out, professional services other than a failure to manage or supervise such services.

5.8 Offering of Securities

Claims arising from, or attributable to any public offering of *Securities* by the *Company* during the *policy period*.

It is agreed, however, that this exclusion shall not apply to:

- (a) any debt offering outside the *USA*; or
- (b) any offering outside the *USA* where the total value of the placement or offering is less than the sum shown in Item 6 of the Schedule.

Section 6: Limit of Liability

- 6.1 The *Limit of Liability* set out in Item 3 of the Schedule is the total aggregate limit of *Our* liability in respect of all *Loss* in respect of all *Claims* made during the *Certificate Period* (including any *Discovery Period*, if applicable) with the exception of any payments made which are provided hereunder to be in addition to the *Limit of Liability*.

- 6.2** We are only liable to pay *Loss* as incurred by *You* insofar as it exceeds the amount of the *Deductible*. However if there is:
- (a) a judgement which determines that no person insured under this Certificate is liable and all avenues of appeal have been waived or exhausted; or
 - (b) a dismissal of the proceedings without any payment being made by or on behalf of any person insured under this Certificate,

then no *Deductible* will apply and *We* agree to reimburse any payments made in respect of the *Deductible* within 60 days.

Section 7: Conditions

7.1 Claim Reporting - Condition Precedent

As a condition precedent to *Our* liability, *You* or the *Company* must provide *Notification* within 45 days of a *Claim* being made against *You* or the *Company*. However if a *Claim* is made against *You* in the 7 days prior to the expiry of the *Certificate Period* written notice can be given to *Us* within 14 days after the expiry of the *Certificate Period*.

If during the *Certificate Period* *You* first become aware of a *Wrongful Act* or first become aware of a situation or *Circumstance* that *You* consider may become a *Claim*, *You* or the *Company* must provide *Notification* within 45 days of *Your* becoming aware of the *Wrongful Act* or *Circumstance* (as opposed to a *Claim*) or from when *You* should reasonably have done so, in which case any *Claim* that is subsequently made will be treated as having been made during the *Certificate Period*. However if *You* become aware of any *Circumstance* in the 7 days prior to the expiry of the *Certificate Period* written notice can be given to *Us* within 14 days of the expiry of the *Certificate Period*.

7.2 Defence and Settlement

We will pay *Costs* on an as incurred basis in excess of the *Deductible* prior to final determination or final adjudication or up until the time that a *Claim* is withdrawn. If at any time a *Claim* is deemed not to be covered under this Certificate or is found to be excluded then all such *Costs* must be returned to *Us* on demand.

We will pay defence *Costs* within 21 days after sufficiently detailed invoices for those *Costs* being received and accepted by *Us*.

You shall have the right and duty to defend and contest any *Claim* (subject to clause 7.4 below). *We* shall have the right to effectively associate with *You* and the *Company* in the defence and settlement of any *Claim* that appears reasonably likely to involve *Us*. This will include, but not be limited to, effectively associating in the negotiation of any settlement.

You shall not admit or assume any liability, enter into any settlement agreement, consent to any judgement or incur any *Costs* (save as is provided for in the cover Section of this Certificate) without *Our* written consent as a condition precedent to *Our* liability for *Loss* arising out of the *Claim*. Only those settlements, stipulated judgements and *Costs* to which *We* have consented shall be recoverable as *Loss* under this Certificate. *Our* consent shall not be unreasonably withheld provided that *We* shall be entitled to effectively assess the defence and negotiation of any settlement of any *Claim* in order to reach a decision as to reasonableness.

7.3 Co-operation

You and the *Company* shall give *Us* full co-operation and any information that *We* may reasonably require as a condition precedent to *Our* liability for *Loss* arising out of a *Claim*.

7.4 Queen's Counsel Clause

In the event that a dispute arises as to whether or not to contest any legal proceedings, neither *We* nor *You* (or the *Company*) shall be required to contest any legal proceedings unless a Queen's Counsel (or an equivalent or like person) to be mutually agreed upon or, in default of agreement, to be nominated by the then Chairperson of the Bar Council) (or an equivalent or like person to be mutually agreed upon) shall advise that the proceedings should be contested. *We* will bear the cost of obtaining the advice of the Queen's Counsel (or an equivalent or like person to be mutually agreed upon). Such determination will be based upon written submissions only and will be final and binding.

7.5 Allocation

Where a *Claim* involves matters which give rise to *Loss* covered by this Certificate and matters which do not, or where a *Claim* is made against both *You* and any parties other than *You*, then *We* agree with *You* that *We* shall both use *Our* best efforts to agree upon a fair and proper allocation of the proportion of the *Loss* covered under this Certificate.

Only *Loss* incurred by *You*, and in the case of *Costs* those which are directly attributable to *Your* defence, are covered. *Loss* incurred by, or attributable to the defence of, the *Company* is not covered as part of any allocation.

If an allocation cannot be agreed then it shall be determined by a Queen's Counsel (or an equivalent or like person) to be mutually agreed upon or, in default of agreement, to be nominated by the then Chairperson of the Bar Council (or an equivalent or like person). Such determination will be based upon written submissions only and will be final and binding. Pending that determination *We* may at *Our* sole discretion meet the *Loss* on an interim basis.

After the allocation has been determined, *You* or the *Company* (whichever is appropriate) will refund to *Us* any *Loss* which *We* have paid that exceeds the entitlement under this Certificate.

The costs of any reference to a Queen's Counsel under this clause shall be borne by *Us*.

7.6 Merger/Consolidation/Liquidation

If during the *Certificate Period* the *Company* is:

- (a) merged, consolidated with or acquired by another entity which thereby obtains ownership or control of 50% or more of the share capital or securities which include the right to vote for the election of board members; or
- (b) placed into liquidation, receivership or administrative receivership (whether voluntarily or involuntarily)

then this Certificate will only apply to any *Claim* for a *Wrongful Act* committed prior to the effective date on which either of the above situations occurs.

If such Merger or Acquisition occurs then the *Company* may provide *Us* with full information in respect of the new *Company* for *Our* assessment and *We* may agree at our absolute discretion to provide terms to extend cover in return for the payment of premiums and or amendments to this Certificate.

7.7 Termination/Cancellation

The *Company* may cancel this Certificate by giving notice in writing to *Us* at any time. If the *Company* cancels this Certificate, *We* will retain the proportion of the premium calculated pro rata as at the date of cancellation plus fifteen per cent of that amount.

We may cancel this Certificate due to non-payment of premium in accordance with the terms of this Certificate by giving 30 days written notice to the *Company*.

This Certificate may otherwise be cancelled in writing by mutual agreement of the *Company* and *Us*.

This Certificate shall otherwise terminate at the expiry of the *Certificate Period* stated in Item 2 of the Schedule.

7.8 Other Insurance

This Certificate shall apply only in excess of any other valid and collectible insurance, with the sole exception of any certificate written as specific excess insurance over the *Limit of Liability* provided by this Certificate.

7.9 Governing Law and Jurisdiction

This Certificate shall be governed by the law of England and Wales.

7.10 Assignment of Certificate

This Certificate and any rights hereunder cannot be assigned without *Our* written consent.

7.11 Severability of Exclusions

For the purposes of determining the application of the exclusions, no fact pertaining to or knowledge possessed by *You* shall be imputed to any other person insured under this Certificate and vice versa.

7.12 Severability of Proposal

The Proposal for this insurance shall be construed as a separate proposal by each person insured under this Certificate. With respect to the declarations and statements contained in the Proposal, no statement in the Proposal or knowledge possessed by *You* shall be imputed to any other person insured under this Certificate and vice versa.

7.13 Unintentional Non-Disclosure and Late Notification

In the event of non-disclosure or misrepresentation of information to *Us*, then *We* agree not to avoid this Certificate unless such non disclosure or misrepresentation was fraudulent or with intent to deceive.

However in the absence of any such fraud or intent to deceive *We* shall be entitled to amend the terms, conditions and premium for this Certificate upon review of any information that has not (but should have) been disclosed to *Us* or upon review of any information that has been misrepresented to *Us*.

In the event that *You* or the *Company* fail to comply with the provisions of Section 7.1, then *We* agree not to repudiate a *Claim* provided that if *We* believe that such failure has prejudiced *Our* right to effectively associate with *You* and/or the *Company* in the defence and settlement of any *Claim*, then *We* reserve the right to deduct from any *Loss* an amount that *We* believe would have been payable had such prejudice not occurred.

In such event, *We* agree with *You* that *We* shall both use *Our* best efforts to agree upon a fair and proper amount of the proportion of any *Loss* that shall be deducted. If, however, such an amount cannot be agreed then it shall be determined by a Queen's Counsel (or an equivalent or like person) to be mutually agreed upon or, in default of agreement, to be nominated by the then Chairperson of the Bar Council (or an equivalent or like person). Such determination will be based upon written submissions only and will be final and binding.

The costs of any reference to a Queen's Counsel under this clause shall be borne by *Us*.

7.14 Subrogation and Assignment of Rights

If any payments are made under this Certificate, *We* shall be subrogated to all rights of recovery in respect of such payments. In addition, *You* or the *Company* shall upon request execute all documentation that may be necessary to enable *Us* to bring an action or suit in *Your* name or that of the *Company*. Any recovery received shall be applied first against any *Loss* insofar as it exceeds the *Limit of Liability*, then against any payment made by *Us*, and finally against the *Deductible*. *We* will not subrogate against any person insured under this Certificate unless that person is found to have committed a criminal act by final determination or by final adjudication.

7.15 Singular and Plural

Any reference to the singular shall include the plural and vice versa.

7.16 Authorisation of the Company

The *Company* shall act as agent on *Your* behalf in respect of all matters of any nature relating to or affecting this Certificate. *We* shall be entitled to treat the *Company* as having such authority for all purposes connected with this Certificate.

7.17 Several Liability of Insurers

The obligations of the Insurers (where there is more than one) subscribing to this contract of insurance are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

7.18 Currency Equivalent

It is agreed that wherever an amount appears in this Certificate in GBP it shall be deemed to have the following words added after the amount "(or the equivalent amount in any other currency)".

7.19 Contracts (Rights of Third Parties) Act 1999 Clause

The contract evidenced by this Certificate does not, and is not intended to, confer or create any right enforceable under the Contracts (Rights of Third Parties) Act 1999 (or any equivalent or similar statute in any jurisdiction) by any person who is not a party to the contract and the parties to the contract evidenced by this Certificate reserve the right to amend or rescind the contract without giving notice to, or requiring the consent of, any third party.

Section 8: Declarations

It is agreed that all statements and declarations made to *Us* have been relied upon by *Us* and are the basis of this Certificate and shall be deemed to be incorporated into and form part of this Certificate.