



# Policy Wording

Tour Operators and  
Travel Agents  
Combined Liability



**Touchstone**  
Underwriting

Insured by



# Tour Operators and Travel Agents Combined Liability Insurance

Underwritten and arranged by



# Touchstone Underwriting Tour Operators and Travel Agents Combined Liability Insurance

## Policy

THIS POLICY (AND THE SCHEDULE WHICH FORMS AN INTEGRAL PART OF THE POLICY) IS A LEGAL CONTRACT. IT NEEDS TO BE EXAMINED THOROUGHLY TO ENSURE IT MEETS THE POLICYHOLDER'S REQUIREMENTS. IF IT DOES NOT MEET THE POLICYHOLDER'S REQUIREMENTS THE INSURANCE ADVISER NEEDS TO BE CONTACTED WITHOUT UNDUE DELAY

ANY FACTS WHICH THE COMPANY HAS TAKEN INTO ACCOUNT IN THE ASSESSMENT OR ACCEPTANCE OF THIS INSURANCE, AND ANY SUBSEQUENT CHANGES TO THOSE FACTS, NEED TO BE DECLARED. FAILURE TO DO SO MAY INVALIDATE YOUR POLICY OR RESULT IN CERTAIN COVERS NOT OPERATING FULLY IF YOU ARE IN ANY DOUBT AS TO WHETHER A FACT IS MATERIAL OR NOT, THE INSURANCE ADVISER NEEDS TO BE CONTACTED WITHOUT UNDUE DELAY

XL Catlin Insurance Company UK Limited. The registered office of XL Catlin Insurance Company UK Limited. (incorporated and registered in England and Wales with company number 5328622) is 20 Gracechurch Street, London, EC3V 0BG Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (herein called the Company) and the Policyholder agree that

This Policy the Schedule (including any Schedule issued in substitution) and any Memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears

The Proposal or any information supplied by the Policyholder shall be incorporated in the contract

The Company will provide the insurance described in this Policy subject to the terms and conditions for the Period of Insurance shown in The Schedule and any subsequent period for which the Policyholder shall pay and the Company shall agree to accept the premium

## Contents

General Conditions	3	Section 1 - Employers' Liability	8
Claims Conditions applicable to Liability Insurance	4	Exclusions	9
Claims Conditions applicable to Professional Indemnity Insurance	4	Extensions	9
Claim Notification & Crisis Numbers	5	Employers' Liability Tracing Office	10
Liability Insurance Definitions	6	Section 2 - Public/Products Liability	11
Complaints Procedure	34	Exclusions	12
Fair Processing Notice	35	Extensions	14
		Section 3 - Legal Defence Costs	16
		Section 4 - Professional Indemnity	17
		Exclusions	17
		Extension	18
		Interpretations	19
		Section 5 - Emergency Assistance	20
		Section 6 - Directors and Officers	21
		Definitions	21
		Interpretations	24
		Insuring Clause	25
		Extensions	25
		Exclusions	27
		Conditions	28
		Subsidiaries	32
		Retention	32
		Allocation	32
		Section 7 - Crisis Public Relation	33
		Definitions	33

# General Conditions

## 1 Observance

Liability of the Company is conditional upon observance of the terms of this Policy relating to anything to be done or complied with by the Policyholder except in so far as is necessary to comply with the requirements of any legislation enacted in Great Britain Northern Ireland the Channel Islands or the Isle of Man relating to compulsory insurance of legal liability to employees

## 2 Reasonable Precautions

The Policyholder at his own expense shall

- A) take reasonable precautions to prevent or diminish loss destruction or damage or to prevent any circumstances or to cease any activity which may give rise to liability under this Policy and to maintain all buildings furnishings ways works machinery plant and vehicles in a sound condition
- B) as soon as reasonably practical after discovery cause any defect or danger to be made good or remedied and in the meantime shall cause such reasonable additional precautions to be taken as the circumstances may require

## 3 Action by the Policyholder

The Policyholder shall without undue delay give to the Company immediate written notice with full particulars of any claim or circumstances which may give rise to a claim (regardless of the Policyholder's Contribution)

Every letter claim writ summons and process in connection with such circumstances shall be forwarded to the Company without undue delay on receipt

Written notice shall also be given without undue delay by the Policyholder to the Company immediately the Policyholder shall have knowledge of any prosecution inquest or inquiry in connection with any circumstances which may give rise to liability under this Policy

No admission offer promise payment or indemnity shall be made or given by or on behalf of the Policyholder without the written consent of the Company which shall be entitled to take over and conduct in the name of the Policyholder the defence or settlement of any claim or to prosecute any claim in the name of the Policyholder for its own benefit and shall have full discretion in the conduct of any proceedings and in the settlement of any claim

The Policyholder shall give all such assistance as the Company may reasonably require

## 4 Law Applicable

Under the laws of the United Kingdom (England, Scotland, Wales and Northern Ireland) both parties may choose the law which applies to this contract to the extent permitted by those laws

Unless the parties agree otherwise in writing the Company has agreed with the Policyholder that the law which applies to this contract is the law which applies to the part of the United Kingdom in which the Policyholder is based or if based in the Channel Islands or the Isle of Man the law of whichever of those two places in which the Policyholder is based

The parties have agreed that any legal proceedings between them in connection with this contract will only take place in the courts of the part of the United Kingdom in which the Policyholder is based or if the Policyholder is based in either the Channel Islands or the Isle of Man the courts of whichever of those two places in which the Policyholder is based

## 5 Cancellation

This Policy may be cancelled

- A) by the Company, if there is a valid reason for doing so (including, but not limited to, any failure by the Policyholder to pay the premium) giving 30 days' notice in writing to the Policyholder at their last known address.
- B) by the Policyholder by giving 30 days' notice in writing to the Company at the address shown in the Schedule during the period of insurance the annual premium is noted as being a minimum premium and no refund is due in the event of cancellation.

Any return of premium due to the Policyholder will be calculated at a proportional daily rate depending on how long the Policy has been in force unless the Policyholder has made a claim in which case the full annual premium is due

## 6 USA or Canada Costs Inclusive Limit of Indemnity

Notwithstanding anything contained in this Policy to the contrary it is hereby noted and agreed that in respect of claim(s) made against the Policyholder in the United States of America and or Canada arising out of the Policyholder's legal liability any costs fees and expenses incurred with the Company's prior consent in the investigation defence or settlement of any claim made against the Policyholder and the costs of representation at any inquest inquiry or other proceeding which have direct relevance to any claim made or which might be made against the Policyholder in the United States of America and or Canada shall be included in the Limit of Indemnity stated in The Schedule

## 7 Data Protection Act

Any information provided to the Company regarding the Policyholder, any person insured or any Employee will be processed by the Company, in compliance with the provisions of the Data Protection Act 1998 or Data Protection Act 2018. and any legislation amending or re-enacting the Act, for the purpose of providing insurance and handling claims or complaints, if any. This may necessitate providing such information to third parties

## 8 Third Party Rights

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

## 9 Sanctions

The Company shall not provide any benefit under this contract of insurance to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

## 10 Renewal Procedure

Prior to Renewal Date each year the Company will either request the Insured to complete a renewal declaration form or review a Disclosure Document

The renewal premium (and if applicable any adjustment of premium for the past year) will be calculated on the information provided by the Insured

Renewal will not be invited unless a renewal declaration form has been submitted or a Disclosure Document issued prior to renewal.

## General Exclusion

**This Exclusion applies to all policy sections except Section 4 Employers Liability**

### CORONAVIRUS ABSOLUTE EXCLUSION

Despite any other provision, no cover is provided under this policy for any claim, loss, liability, cost or expense of whatever nature directly or indirectly arising out of, contributed to by or resulting from coronavirus disease (COVID-19), severe acute respiratory syndrome coronavirus 2 (SARS-cov-2), or any mutation or variation thereof.

This exclusion also applies to any claim, loss, cost or expense of whatever nature directly or indirectly arising out of, contributed to by or resulting from:

- I. Any fear or threat (whether actual or perceived) of; or
- li. Any action taken in controlling, preventing, suppressing or in any way relating to any outbreak of;

Coronavirus disease (COVID-19), severe acute respiratory syndrome coronavirus 2 (SARS-cov-2), or any mutation or variation thereof.

## Claims Conditions applicable to Liability Insurance

### 1 Contribution

Other than in respect of Extension 3 to Section 2 if at the time of any claim there is or but for the existence of this Policy there would be any other insurance covering the same legal liability the indemnity will not apply except in respect of any amount beyond that which would have been payable under such other insurance had this Policy not been effected

### 2 Notification

The Policyholder shall advise the Company immediately of any incident that involves 5 or more passengers sustaining bodily injury, disease illness or death irrespective of whether a formal claim has been made against the Policyholder

### 3 Cooperation

The Policyholder will assist the Company in the collection of documentation and evidence as the Company may require

## Claims Conditions applicable to Professional Indemnity Insurance

- 1 If during the Period of Insurance the Insured receives any claim the Insured shall as a condition precedent give written notice of such claim to the Company as soon as reasonably possible. All claims must be notified to the Company prior to the expiry of the Period of Insurance

If during the Period of Insurance the Insured becomes aware of any circumstance which might reasonably be expected to produce a claim against the Insured the Insured shall as a condition precedent give written notice of such circumstance to the Company as soon as reasonably possible irrespective of either the Insured's views as to whether such claim will succeed or as to whether the amount of the claim will exceed the Insured's Contribution All circumstances must be notified to the Company prior to the expiry of the Period of Insurance Any claim arising from any circumstance notified to the Company in accordance with this Condition shall be deemed to have been made in the Period of Insurance

The Company will have no liability under this Insurance in respect of any matter which the Insured does not notify to the Company in accordance with the requirements of this Condition

- 2 The Insured shall give all such assistance as the Company may require but the Insured shall not be required to contest any legal proceedings unless a Queen's Counsel (or by mutual agreement between the Insured and the Company a similar authority) shall advise that such proceedings could be contested with the probability of success
- 3 In connection with any claims against the Insured the Company may at any time pay to the Insured the Limit of Indemnity (after deduction of any sums already paid during the Period of Insurance) or any less amount for which such claims can be settled and thereupon the Company shall relinquish the control of such claims and be under no further liability in connection therewith except for costs and expenses for which the Company may be responsible under this insurance in respect of matters prior to the date of such payments
- 4 If at the time any claim arises under this insurance the Policyholder is or would but for the existence of this insurance be entitled to indemnity under any other policy or policies the Company shall not be liable except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this insurance not been effected

## Claim Notification

Conditions that apply to this policy in the event of a claim are set out in the Claims Conditions pages of this policy. It is important that you comply with all policy conditions and you should familiarise yourself with their requirements.

Directions for claim notification are included in the Claims Conditions. Please remember that events that may give rise to a claim under this insurance must be notified as soon as reasonably possible although there are some situations where immediate notification is required.

In the first instance you should contact:

### **Your nominated/appointed Insurance Advisor/Broker**

You should provide

- Your name, address and contact phone number(s)
- Policy number
- The date of the incident
- The circumstances of the incident
- Names and addresses of any other parties involved or responsible for the incident (including details of injuries) and names and addresses of any witnesses (if known)

Your Insurance Advisor/Broker will then forward the claim details on to Touchstone Underwriting Limited and the Company

## Claims Crisis & Emergency

24/7 Crisis and Emergency calls. For all current contact details and advice:

Scan:



Visit: [t-u-l.co.uk/travel-crisis-line/](https://t-u-l.co.uk/travel-crisis-line/)

# Liability Insurance

## Definitions

- 1 Person Entitled to Indemnity shall mean
- A) the Policyholder
  - B) the personal representatives of the Policyholder in respect of legal liability incurred by the Policyholder
  - C) at the request of the Policyholder
    - 1) any principal
    - 2) any director or partner of the Policyholder
    - 3) any Person Employed
- against legal liability in respect of which the Policyholder would have been entitled to indemnity under this Policy if the claim had been made against the Policyholder
- 4) the officers committees and members of the Policyholder's canteen social sports and welfare organisations and first aid fire ambulance medical and security services in their respective capacities as such but this shall not include medical or dental practitioners in relation to medical services provided
  - 5) any director or partner of the Policyholder or Employee in respect of private work undertaken by any Person Employed for such director partner or Employee with the prior consent of the Policyholder
- each of whom shall as though the Policyholder be subject to the terms of this Policy so far as they can apply
- 2 Employee shall mean any individual under a contract of service or apprenticeship with the Policyholder
- 3 Person Employed shall mean any
- A) Employee whilst under the direct control and supervision of the Policyholder
  - B) labour master and individuals supplied by him whilst under the direct control and supervision of the Policyholder
  - C) individual employed by labour only sub-contractors whilst under the direct control and supervision of the Policyholder
  - D) self-employed individual (not being in partnership with the Policyholder) whilst under the direct control and supervision of the Policyholder
  - E) individual hired to or borrowed by the Policyholder whilst under the direct control and supervision of the Policyholder
  - F) individual undertaking study or work experience whilst under the supervision of the Policyholder
  - G) any voluntary helper whilst engaged in activities for the benefit of the Policyholder against legal liability in respect of which the Policyholder would have been entitled to indemnity under this policy if the claim had been made against the Policyholder
- 4 Injury shall mean bodily injury mental injury death disease illness
- 5 Property shall mean material property but shall not include Data
- 6 Data shall mean information represented or stored electronically including but not limited to code or series of instructions operating systems software programs and firmware
- 7 Business shall mean that which is specified in the Schedule and conducted solely from premises in Great Britain Northern Ireland the Channel Islands or the Isle of Man and shall include
- A) ownership repair and maintenance of the Policyholder's own property
  - B) provision and management of canteen social sports and welfare organisations and first aid ambulance and medical services for the benefit of any Person Employed
  - C) fire and security services maintained solely for the protection of premises owned or occupied by the Policyholder
  - D) private work undertaken by any Person Employed for any director or partner of the Policyholder or Employee with the prior consent of the Policyholder
  - E) attendance at or participation in trade fairs shows and exhibitions by any Employee or director in connection with their employment
- but in respect of Section 1 shall not include any work undertaken Offshore
- 8 Offshore shall mean embarkation on to a vessel or aircraft for conveyance to an offshore rig or platform until disembarkation from the conveyance on to land upon return from such offshore rig or platform
- 9 Event shall mean one occurrence or all occurrences of a series consequent on or attributable to one source or original cause
- 10 Policyholder's Contribution shall mean the amount or amounts specified in the Schedule which the Policyholder agrees to pay
- 11 Intellectual Property Rights shall mean any patent trade mark copyright registered design technical or commercial information or other intellectual property
- 12 Terrorism shall mean acts of persons acting on behalf of or in connection with any organisation which carries out activities directed towards the overthrowing or influencing by force or violence of Her Majesty's government in the United Kingdom or any other government de jure or de facto



- 13 Asbestos shall mean crocidolite amosite chrysotile fibrous actinolite fibrous anthophyllite or fibrous tremolite or any mixture containing any of those minerals
- 14 Asbestos Dust shall mean fibres or particles of Asbestos
- 15 Asbestos Containing Materials shall mean any material containing Asbestos or Asbestos Dust
- 16 Failure of a System shall mean the complete or partial failure or inability whether in terms of availability functionality including performance or otherwise of a System whether or not owned by the Policyholder to operate at any time as desired as specified or as required in the circumstances of the Policyholder's business activities
- 17 System shall include computers other computing and electronic equipment linked to computer hardware electronic data processing equipment Microchips and anything which relies on a Microchip for any part of its operation
- 18 Microchip shall mean a unit of packaged computer circuitry manufactured in small scale and made for program logic including computer memory purposes and expressly including integrated circuits and microcontrollers
- 19 Virus shall mean programming code or series of instructions designed to achieve an unexpected unauthorised undesirable effect or operation when loaded onto a System transmitted between Systems by transfer between computer systems via networks extranets internet or electronic mail or attachments thereto or via floppy diskettes or CD-ROMs or otherwise and whether involving self-replication or not
- 20 Employment-Related Practices shall mean any error misstatement misleading statement act omission neglect or breach of duty actually or allegedly committed or attempted by the Insured in connection with any actual or alleged
- A) unlawful or unfair dismissal discharge or termination of employment
  - B) breach of any written or oral employment contract or quasi-employment contract
  - C) employment-related misrepresentation
  - D) violation of employment discrimination laws (including sexual or other workplace harassment and discrimination on the grounds of racial or national origin sex sexual orientation religion maternity pregnancy age and disability)
  - E) violation or non-compliance with legislation regulating working hours
  - F) failure to employ or promote
  - G) demotion
  - H) discipline
  - I) deprivation of a career opportunity
  - J) failure to grant tenure
  - K) failure to adopt adequate workplace or employment policies and procedures
  - L) retaliatory treatment of whistleblowers and others
  - M) negligent evaluation
  - N) employment-related invasion of privacy
  - O) employment-related breach of data protection legislation
  - P) employment-related libel slander humiliation and defamation
  - Q) failure to furnish job references or accurate job references
  - R) employment-related infliction of mental anguish or emotional distress
- 21 Crisis shall mean any Event which involves
- A) death
  - or
  - B) serious injury which is life threatening or involves emergency hospitalisation
- 22 CVA Abuse shall mean
- A) acts of hurting or injuring mentally or physically by maltreatment or ill-use
  - B) acts of forcing sexual activity rape or molestation or
  - C) repeated or continuing contemptuous coarse or insulting words or behaviours
- of any Child or Vulnerable Adult.
- 23 Child shall mean a person under the age of 18
- 24 Vulnerable Adult shall mean any person aged 18 or over who
- A) is in need of assistance by reason of mental, physical or learning disability, age or illness and who
  - B) is unable to take care of him or herself or unable to protect him or herself against significant harm or serious exploitation which may be occasioned by the acts or omissions of other people
- 25 Statement of Fact shall mean the document setting out information provided by the Policyholder or their representative as being relevant to the cover applied for and assumptions the Company has made about factual circumstances relevant to the cover and which are confirmed by the Policyholder as true and correct

THIS SECTION APPLIES ONLY WHERE SHOWN AS INSURED IN THE SCHEDULE

The insurance provided by Section I is on a costs inclusive basis whereby the costs and expenses of the claimant and the costs and expenses (incurred by the Company or with the Company's written consent) of any Person Entitled to Indemnity are included within the Limit of Indemnity stated in the Schedule

## Section I - Employers' Liability

The Company will provide indemnity to any Person Entitled to Indemnity

- 1 against legal liability for damages in respect of Injury of any Person Employed caused during any Period of Insurance
  - A) in Great Britain Northern Ireland the Channel Islands or the Isle of Manor
  - B) while temporarily outside these territoriesarising out of and in the course of employment by the Policyholder in the Business
- 2 against legal liability for claimant's costs and expenses in connection with 1 above 3 in respect of
  - A) costs of legal representation at
    - 1) any coroner's inquest or inquiry in respect of any death
    - 2) the defence of any criminal proceedings brought or in appeal against the Policyholder director or partner or Employee of the Policyholder for an offence of manslaughter
    - 3) proceedings in any court arising out of any alleged breach of statutory duty (including the Corporate Manslaughter and Corporate Homicide Act 2007) resulting in Injury

which may be the subject of indemnity under this Section

- B) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under I above

incurred with the Company's written consent

### General Provisions

Provided that in respect of any one Event

- 1 the total amount payable under this Section (including all Extensions Additional Clauses and Memoranda) shall not exceed the Limit of Indemnity
- 2 the Company may at any time pay the Limit of Indemnity (less any sums already paid or incurred) or any less amount for which at the absolute discretion of the Company the claims arising out of such Event can be settled

The Company will then relinquish control of such claims and be under no further liability in respect thereof

- 3 the total amount payable by the Company in respect of all damages costs and expenses arising out of all claims during any Period of Insurance consequent on or attributable to one source or original cause irrespective of the number of Persons Entitled to Indemnity having a claim under this Policy consequent on or attributable to that one source or original cause shall not exceed the Limit of Indemnity stated in the Schedule

For the purposes of the Limit of Indemnity all of the Persons Entitled to Indemnity under this Policy shall be treated as one party or legal entity so that there will be only two parties to the contract of insurance namely the Company and the Policyholder both as defined herein

- 4 the total amount payable under this Section shall not exceed £5,000,000 in respect of any one Event arising directly or indirectly out of Terrorism

## Exclusions to Section I

The indemnity will not apply to legal liability

### I Radioactive Contamination

of whatsoever nature directly or indirectly caused by or contributed to by or arising from

- A) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- B) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof where such legal liability is

- 1) that of any principal
- 2) accepted under agreement and would not have attached in the absence of such agreement

### 2 Road Traffic Legislation

in respect of Injury for which the Policyholder is required to arrange motor insurance or security in accordance with any road traffic legislation within the European Union

### 3 Fines and Penalties

- A) fines or penalties
- B) compensation ordered or awarded by a Court of Criminal Jurisdiction
- C) aggravated exemplary or punitive damages awarded by any court outside Great Britain Northern Ireland the Channel Islands or the Isle of Man

## Extensions to Section I

(each of which is subject otherwise to the terms of this Policy)

### I Unsatisfied Court Judgments

In the event of a judgment for damages being obtained

- A) by any Employee or the personal representatives of any Employee in respect of Injury of the Employee caused during any Period of Insurance and arising out of and in the course of employment by the Policyholder in the Business

- B) against any company or individual operating from premises within Great Britain Northern Ireland the Channel Islands or the Isle of Man

in any court situate in the territories specified in B) above and

- C) remaining unsatisfied in whole or in part six months after the date of such judgment

at the request of the Policyholder the Company will pay to the Employee or the personal representatives of the Employee the amount of any such damages and any awarded costs to the extent that they remain unsatisfied

Provided that

- A) there is no appeal outstanding
- B) if any payment is made under the terms of this Extension the Employee or the personal representatives of the Employee shall assign the judgment to the Company

### 2 Compensation for Court Attendance

In the event of any of the undermentioned persons attending court as a witness at the request of the Company in connection with a claim in respect of which the Policyholder is entitled to indemnity under this Section the Company will provide compensation to the Policyholder at the following rates per day for each day on which attendance is required

- A) any director or partner of the Policyholder £500
- B) any Employee £250

## Employers' Liability Tracing Office Notice

Certain information relating to this section, namely:

- A) the Policy Number
- B) employers' names and addresses, including subsidiaries and any relevant changes of name
- C) coverage dates and
- D) if relevant, the employer's reference numbers provided by Her Majesty's Revenue and Customs and Companies House Reference numbers

will be provided to the Employers' Liability Tracing Office, (the "ELTO") and added to the Employers' Liability Database (ELD).

It is understood by the Policyholder that the above named information provided to the Company will be processed by the Company for the purpose of providing the ELD, in compliance with the provisions of the Employers' Liability Insurance Disclosure by Insurers Instrument 2010.

The ELTO may provide such information to third parties to assist individuals with claims arising out of their course of employment in the United Kingdom for employers carrying on, or who carried on, business in the United Kingdom, to identify an insurer or insurers that provided employers' liability insurance

THIS SECTION APPLIES ONLY WHERE SHOWN AS INSURED IN THE SCHEDULE

## Section 2 - Public/Products Liability

The Company will provide indemnity to any Person Entitled to Indemnity

1 up to the Limit of Indemnity against legal liability for damages in respect of

- A) accidental Injury of any person
- B) accidental loss of or damage to Property
- C) nuisance trespass to land or trespass to goods or interference with any easement right of air light water or way other than legal liability for damages which result from a deliberate act or omission of the Policyholder or which is a natural consequence of the ordinary conduct of the Business and which could reasonably have been expected by the Policyholder having regard to the nature and circumstances of such act or omission

happening during any Period of Insurance in connection with the Business

2 against legal liability for claimant's costs and expenses in connection with 1 above

3 in respect of

- A) costs of legal representation at
  - 1) any coroner's inquest or inquiry in respect of any death
  - 2) the defence of any criminal proceedings brought or in appeal against the Insured director or partner or Employee of the Insured for an offence of manslaughter
  - 3) proceedings in any court arising out of any alleged breach of statutory duty (including the Corporate Manslaughter and Corporate Homicide Act 2007) resulting in any occurrence specified in 1 above

which may be the subject of indemnity under this Section

- B) 1) other costs and expenses reasonably incurred in relation to a Crisis
- 2) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under 1 above

incurred with the Company's written consent

### General Provisions

Provided that in respect of

- A) any one Event
- B) all Events happening during any Period of Insurance in respect of products supplied
- C) all incidents considered by the Company to have occurred during any Period of Insurance in respect of pollution or contamination of buildings or other structures or of water or land or of the atmosphere

the following shall apply

- 1 the total amount payable by the Company in respect of 1 above and all Extensions additional clauses and memoranda shall not exceed the Limit of Indemnity
- 2 the Policyholder's Contribution in respect of damages and claimant's costs and expenses will be payable before the Company shall be liable to make any payment
- 3 the Company may at any time pay the Limit of Indemnity (less any sums already paid as damages) or any less amount for which at the absolute discretion of the Company the claims arising out of such Event can be settled the Company will then relinquish control of such claims and be under no further liability in respect thereof except for costs and expenses for which the Company may be responsible prior to the date of such payment
- 4 where the Company is liable to indemnify more than one person the total amount of indemnity in respect of damages shall not exceed the Limit of Indemnity
- 5 the total amount payable by the Company in respect of all damages arising out of all claims during any Period of Insurance consequent on or attributable to one source or original cause irrespective of the number of Persons Entitled to Indemnity having a claim under this Policy consequent on or attributable to that one source or original cause shall not exceed the appropriate Limit of Indemnity stated in the Schedule

The total amount payable by the Company in respect of all damages arising out of all claims during any Period of Insurance irrespective of the number of sources or original causes of such claims and irrespective of the number of Persons Entitled to Indemnity having claims under this Policy in respect of those sources or original causes shall not exceed the appropriate Limit of Indemnity stated in the Schedule

For the purposes of the Limit of Indemnity all of the Persons Entitled to Indemnity under this Policy shall be treated as one party or legal entity so that there will be only two parties to the contract of insurance namely the Company and the Policyholder both as defined herein

## Exclusions to Section 2

The indemnity will not apply to legal liability

### 1 Mechanical Vehicles

arising from or out of the ownership possession or use by or on behalf of the Policyholder or any Person Entitled to Indemnity of any

- A) mechanically propelled vehicle other than legal liability arising out of
- 1) the use of plant as a tool of trade on site
  - 2) the use of plant at the premises of the Policyholder
  - 3) the loading or unloading of any vehicle

except where indemnity is provided by any motor insurance contract or where insurance or security is required by law

- B) aircraft or other aerial device
- C) aerospace device
- D) hovercraft
- E) water-borne craft (other than hand-propelled or sailing craft in inland or territorial waters)

### 2 Employers' Liability

for bodily injury or mental injury to or death disease or illness of any Person Employed arising out of and in the course of employment by the Policyholder in the Business

### 3 Property in the Policyholder's Custody or Control

for or arising from loss of or damage to any Property which at the time of the Event giving rise to such legal liability is owned by or held in trust by or in the custody or control of the Policyholder other than

- A) Employees' directors' partners' or visitors' personal effects including vehicles and their contents
- B) premises and their contents not owned by or leased or rented to the Policyholder at which the Policyholder is undertaking work in connection with the Business
- C) premises and their fixtures and fittings leased or rented to the Policyholder unless such legal liability
- 1) has been accepted by agreement in which case the indemnity will only be provided to the extent that such liability would have attached in the absence of such agreement
  - 2) arises from an agreement to maintain in force insurance in respect of loss of or damage to such premises and their fixtures and fittings

4 Pollution or Contamination caused by or arising out of pollution or contamination of buildings or other structures or of water or land or the atmosphere unless the pollution or contamination is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific moment in time and place during any Period of Insurance

Provided that all pollution or contamination which arises out of one incident shall be considered by the Company for the purposes of this Policy to have occurred at the time such incident takes place

### 5 Product Defects and Recall

- A) in respect of loss of or damage to any
- 1) product supplied by the Policyholder
  - 2) contract work executed by the Policyholder
- caused by any defect therein or the unsuitability thereof for its intended purpose
- B) for the costs of recall removal repair alteration replacement or reinstatement of any
- 1) product supplied by the Policyholder
  - 2) contract work executed by the Policyholder
- necessitated by any defect therein or the unsuitability thereof for its intended purpose

### 6 Professional Risks

arising out of or in connection with any breach of professional duty

### 7 Contractual Liability

arising from or in connection with any

- 1) product supplied by the Policyholder
- 2) contract work executed by the Policyholder

where such legal liability has been accepted by agreement except to the extent that such liability would have attached in the absence of such agreement

### 8 Disposed Premises

for the costs of remedying

- A) any defect or alleged defect
- B) the presence of Asbestos Asbestos Dust or Asbestos Containing Materials in premises disposed of by the Policyholder

### 9 Fines or Penalties

for

- A) fines or penalties
- B) compensation ordered or awarded by a Court of Criminal Jurisdiction
- C) aggravated exemplary or punitive damages awarded by any court outside Great Britain Northern Ireland the Channel Islands or the Isle of Man

10 Radioactive Contamination

of whatsoever nature directly or indirectly caused by or contributed to by or arising from

- A) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- B) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

11 War and Allied Risks

arising from any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power

12 Fear of Asbestos

for mental injury or fear of suffering bodily injury death disease or illness arising out of actual or suspected exposure to Asbestos Asbestos Dust or Asbestos Containing Materials

13 Asbestos Removal Costs

for the costs of management (including those of any persons under any statutory duty to manage) removal repair alteration recall replacement or reinstatement of any property or part thereof arising out of the presence of Asbestos Asbestos Dust or Asbestos Containing Materials

14 Overseas Premises

arising out of any premises owned or occupied by the Policyholder outside Great Britain Northern Ireland the Channel Islands or the Isle of Man

15 CVA Abuse

arising from CVA Abuse

16 pollution or Contamination United States or America or Canada

in respect of

- A) accidental Injury
- B) accidental loss of or damage to Property

happening during any Period of Insurance within the United States of America or Canada directly or indirectly caused by or arising from pollution or contamination



## Extensions to Section 2

(each of which is subject otherwise to the terms of this Policy)

### 1 Cross Liabilities

If the Policyholder comprises more than one party the Company will provide indemnity to each in the same manner and to the same extent as if a separate Policy had been issued to each

Provided that the total amount payable in respect of damages shall not exceed the Limit of Indemnity

### 2 Compensation for Court Attendance

In the event of any of the undermentioned persons attending court as a witness at the request of the Company in connection with a claim in respect of which the Policyholder is entitled to indemnity under this Section the Company will provide compensation to the Policyholder at the following rates per day for each day on which attendance is required

- |    |   |      |
|----|---|------|
| A) | any director or partner of the Policyholder | £500 |
| B) | any Employee                                | £250 |

### 3 Contingent Motor Liability

Notwithstanding Exclusion I A) the Company will provide indemnity to the Policyholder against legal liability arising out of the use in the course of the Business by any Employee of any mechanically propelled vehicle not the property of nor provided by the Policyholder

The indemnity will not apply to legal liability

- A) in respect of loss of or damage to such vehicle or to property conveyed therein
- B) arising while such vehicle is being driven by the Policyholder
- C) in respect of which the Policyholder is entitled to indemnity under any other insurance
- D) arising outside Great Britain Northern Ireland the Channel Islands or the Isle of Man

### 4 Overseas Personal Liability

The Company will provide indemnity to the Policyholder and if the Policyholder so requests any Employee or director or partner of the Policyholder against legal liability incurred in a personal capacity while temporarily outside Great Britain Northern Ireland the Channel Islands or the Isle of Man in connection with the Business

The indemnity will not apply

- A) to legal liability arising out of the ownership or occupation of land or buildings
- B) where indemnity is provided by any other insurance

### 5 Data Protection

The Business shall include the provision of any reciprocal arrangement for the storage or processing of computer data or for use of computer facilities Provided that the indemnity will not apply to legal liability in respect of any loss or damage sustained by any party to such an arrangement

The Company will also provide an indemnity to the Policyholder and if the Policyholder so requests any Employee or director or partner of the Policyholder against legal liability to pay damages and claimant's costs and expenses for damage or distress as described in Section 13 of the Data Protection Act 1998 and any legislation amending or re-enacting the Act

Provided that the Policyholder is registered in accordance with the terms of the Act or has applied for such registration which has not been refused or withdrawn and has taken all reasonable care to comply with the requirements of the Data Protection Act 1998 or any legislation amending or re-enacting the Act

This Extension shall not apply in respect of

- A) the payments of fines or penalties
- B) the costs of replacing reinstating rectifying erasing blocking or destroying any personal data
- C) liability arising from or caused by a deliberate or intentional act by or omission of any person eligible for indemnity by this Extension if the result thereof could reasonably have been expected by the Policyholder or any other person having regard to the nature and circumstances of such act or omission
- D) claims which arise out of circumstances notified to previous insurers or known to the Policyholder at inception of this Extension
- E) legal liability where indemnity is provided by any other insurance

### 6 Tour Operator Liability

Notwithstanding Exclusion I the Company will provide indemnity to the Policyholder against legal liability arising from or out of the ownership or use of mechanically propelled vehicles aircraft hovercraft or water-borne craft by independent carriers in connection with the Policyholder's Business

Provided that

- A) the Policyholder shall have no control over the driving or navigation of such mechanically propelled vehicles aircraft hovercraft or water-borne craft
- B) indemnity is not provided by any other insurance
- C) legal liability is limited in accordance with relevant international conventions
- D) the indemnity will not apply to legal liability arising directly or indirectly
  - 1) out of Terrorism
  - 2) where the Policyholder has reduced amended waived or in any way compromised any rights of recovery against any owner or user or aircraft or provider of air services or operator of hovercraft or water-borne craft

### 7 "Code Civile" Extension

This section is extended to indemnify the Policyholder for contractual liability and obligations in respect of Recours de Voisin (articles 1382, 1383 and 1385 of the French Code Civile) and Risque Locatif (articles 1733, 1734 and 1735 of the French Code Civile).



8 Legionella Extension

The Public Liability Section extends to include the Policyholder's legal liability to pay damages (including claimants' costs, fees and expenses) for and/or arising out of Injury happening during the Period of Insurance and caused by the release of any disease or disease carrying pollutants or water droplets or water vapour into the atmosphere or water courses from air conditioning or water or air heating or cooling systems.

Provided that any Claim for Injury is first made against the Policyholder during the Period of Insurance and is notified to the Insurer before or within sixty (60) days after the expiry date of the policy.

The Insurer's liability under this extension shall be limited to GBP 1,000,000 any one Occurrence and in the aggregate which shall be part of and not in addition to the limit of liability stated in the Schedule.

It is a condition of this extension that if the Policyholder owns, operates or is responsible for any water or air systems or installations including air conditioning or water or air cooling or heating systems:

- A) A written risk assessment must be undertaken, and controls put in place, to prevent the growth of biological agents that may cause disease or illness,
- B) An independent inspection of such systems must be undertaken at least annually and all recommendations from such inspections must be implemented; and
- C) The policyholder must comply with all local regulations and requirements in relation to the inspection and maintenance of such systems.

If this condition is not complied with the insurer will have no liability under this extension unless the policyholder can show that non-compliance did not increase the risk of the claim happening in the way in which it happened

## Section 3 - Legal Defence Costs

The Company will provide indemnity to the Policyholder and if the Policyholder so requests any Employee or director or partner of the Policyholder

up to the Limit of Indemnity in respect of

- A) legal costs and other expenses incurred with the Company's written consent
- B) costs awarded against the Policyholder or any director partner or Person Employed

in connection with the defence of criminal proceedings brought or in appeal against a conviction arising from such proceedings relating to an offence alleged to have been committed during any Period of Insurance in the course of the Business but only in respect of proceedings brought as stated in Parts A and B below

### Part A

In respect of a breach of

- 1 the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 where the proceedings relate to the health safety and welfare of any Person Employed director or partner of the Policyholder

### Part B

In respect of a breach of

- 1 the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 where the proceedings relate to the health safety and welfare of any person other than a Person Employed director or partner of the Policyholder
- 2 Part II of the Consumer Protection Act 1987
- 3 the Trade Descriptions Act 1968
- 4 The Package Travel Package Holidays and Package Tours Regulations 1992 or The Package Travel and Linked Travel Arrangements Regulations 2018

## General Provisions

Provided that in respect of Part A and B

- 1 the indemnity will not apply
  - A) to fines or penalties of any kind
  - B) to compensation ordered or awarded by a Court of Criminal Jurisdiction
  - C) where Injury of any person or loss of or damage to Property has occurred
  - D) where indemnity is provided by any other insurance
  - E) to proceedings consequent upon any deliberate act or omission by
    - 1) the Policyholder
    - 2) any partner or director of the Policyholder
    - 3) any Employee with any specific responsibility for compliance with the legislation specified in this Section
      - which could reasonably have been expected to constitute a breach of the legislation specified in this Section
  - F) to any costs or expenses incurred arising out of or in connection with criminal proceedings relating in any way to Asbestos Asbestos Dust or Asbestos Containing Materials
- 2 the indemnity will apply only where shown in The Schedule
- 3 the Company may at any time pay the Limit of Indemnity (less any sums already paid) or any less amount for which at the absolute discretion of the Company the claims arising can be settled but including any amount for which the Company may be responsible prior to the date of such payment
  - The Company will then relinquish control of such claims and be under no further liability in respect thereof
- 4 where the Company is liable to indemnify more than one person the total amount of indemnity shall not exceed the Limit of Indemnity

## Special Provision

The Company shall pass notification to an independent third party service provider with whom the Company has an agreement which shall thereafter administer claims settlement on the Company's behalf

THIS SECTION APPLIES ONLY WHERE SHOWN AS INSURED IN THE SCHEDULE

## Section 4 - Professional Indemnity Insurance

### This is a 'claims made' insurance

This insurance covers claims first made against the Insured and notified to the Company during the Period of Insurance

The Company will indemnify the Insured against liability at law for damages and claimant's costs and expenses in respect of claims arising out of the conduct of the Business made against the Insured and notified to the Company during any Period of Insurance for

- I. breach of professional duty by reason of any neglect error or omission occurring or committed in good faith by
  - A) the Insured
  - B) any Employee
  - C) any Agent

Limit of Indemnity applying to Insurance Clause I. above

The liability of the Company shall not exceed the Limit of Indemnity specified in The Schedule Provided that where the Company is liable to indemnify more than one person firm company or body the total amount of indemnity payable under this insurance shall not exceed the Limit of Indemnity

However the liability of the Company for damages and claimant's costs and expenses and all other costs and expenses incurred by the Company or by the Insured with the Company's written consent arising out of claims made and suits brought against the Insured in a court of the United States of America its territories and possessions or Canada shall not exceed the Limit of Indemnity Provided that the Company shall not be liable

- 1) for punitive and exemplary damages
- 2) to indemnify the Insured against any claim or claims based upon or arising out of or relating directly or indirectly to or in consequence of or in any way involving
  - A) any actual or alleged violation of any responsibilities obligations or duties imposed by the Employee Retirement Income Security Act of 1974 or any amendment thereof
  - B) any actual or alleged violation of any of the provisions of the Securities Act of 1933 the Securities Exchange Act 1934 or any similar Federal or State Law or any common law relating thereto
  - C) any actual or alleged violation of the Racketeer Influenced and Corrupt Organisations Act 18 USC Section 1961 ET SEQ and any amendments thereto or any rules or regulations promulgated thereunder
  - D) seepage pollution or contamination of any kind

- 2 Compensation for court attendance

In the event of the legal advisers acting on behalf of the Insured with the consent of the Company requiring any of the Insured to attend court as a witness in connection with a claim made against the Insured and notified under this insurance the Company will provide compensation at the following rates for each day on which attendance is required

- |   |      |
|---|------|
| A) Any principal partner or director of the Insured | £500 |
| B) Any Employee                                     | £250 |

### Other costs

Other than as detailed above the Company will in addition pay all other costs and expenses which are incurred by the Company or by the Insured with the Company's written consent in connection with any claim made against the Insured and notified under this insurance

Provided that if the amount of such claim exceeds the amount available under this insurance the liability of the Company for other costs and expenses shall be only that proportion which the amount available bears to the total amount payable to dispose of such claim

The Insured's Contribution shall not apply to Other costs

## Exclusions to Section 4

The Company shall not be liable in respect of

- 1 Insured's Contribution
 

the Insured's Contribution
- 2 Death, Disease, Illness or Bodily Injury to Employees
 

any liability arising out of the death disease or illness of or bodily injury to an Employee arising out of and in the course of his employment for or on behalf of the Insured
- 3 Death, Disease, Illness or Bodily Injury to Others or Damage to Property
 

any liability arising out of the death disease or illness of or bodily injury to any other person or loss of or damage to property unless arising out of the Insureds failure to arrange adequate travel insurance

The above exclusion shall not apply provided the Sale of Insurance Extension is specified in the schedule as Insured
- 4 Design and Construct/Supply
 

any claim arising from the provision of advice design or specification where the Insured contracts to

A) manufacture construct erect or install
or
B) supply materials or equipment

**5 Penalties and Liquidated Damages**

any claim arising from an agreement by the Insured to pay penalties or liquidated damages in so far as liability under such agreement exceeds the amount of the Insured's liability in the absence of such agreement

**6 Employment**

any claim arising from any liability to any Employee former employee or prospective employee in respect of employment related libel slander humiliation or defamation wrongful dismissal repudiation or breach of any employment contract or arrangement termination of a training contract or contract of apprenticeship harassment discrimination or like conduct

**7 Previous Claims or Circumstances**

the consequence of any circumstance

A) notified under any policy which was in force prior to the inception of this insurance or

B) known to the Insured at the inception of this insurance which might reasonably be expected to produce a claim

**8 Nuclear and Pressure Waves**

A) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any other loss that arises directly or indirectly or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from

1) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel

2) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

B) loss destruction or damage directly occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds

**9 Insolvency of the Insured**

any claim or costs or expenses arising from

A) the insolvency or bankruptcy of the Insured

B) the insolvency or bankruptcy of any other tour operator or any travel agent or any supplier of services

**10 Dishonesty**

any claim or costs or expenses arising out of any dishonest or fraudulent act or omission on the part of any partner or principal of the Insured or any Employee or Agent

**11 Libel Slander and Intellectual Property Rights**

any claim or costs or expenses arising out of any libel or slander or passing off or infringement of patent copyright registered design trademark or trade name committed by any partner former partner or principal of the Insured or any Agent Employee or any other person firm or company acting jointly with the Insured

**12 Pollution**

any claim or claims based upon or arising out of or relating directly or indirectly to or in consequence of or in any way involving seepage pollution or contamination of any kind.

**13 Transportation or Property**

any claim or expenses arising out of or relating directly or indirectly from the ownership possession or use by or on behalf of the Insured of any land buildings aircraft watercraft vessel or mechanically propelled vehicle This exclusion shall not apply to liability arising from deficiency in services provided by the Insured which relate to the ownership possession or use by or on behalf of the Insured of any land buildings aircraft watercraft vessel or mechanically propelled vehicle.

**14 War Risks and Terrorism**

any claim arising directly or indirectly out of War Risks or Terrorism

**15 Overseas Booking Offices**

the operations of any director employee agent branch subsidiary or parent company in respect of any booking office owned or operated other than in the United Kingdom

**16 Any claim arising out of or connected to refunds of any nature****17 Any claim or cost or expense arising out of or based upon or attributable to trading debt or personal debt of the policyholder**

## Extension to Section 4

### Sale of Insurance Extension

Section 4 of the policy shall extend in respect of any claim or claims based upon or arising out of or relating directly or indirectly to or in consequence of or in any way involving mediation activities of general insurance for which the Insured has been granted permission by the Financial Conduct Authority or is an Appointed Representative

- the liability of the Company for damages claimant's costs and expenses and all other costs and expenses incurred by the Company or by the Insured with the Company's written consent arising out of all claims in the aggregate notified during any Period of Insurance shall not exceed the limit as stated in the Policy Schedule

In the event of any reduction in the Limit of Indemnity on account of any claim the Limit of Indemnity shall be automatically reinstated subject to the Company's liability for any one claim not exceeding the Limit of Indemnity and the maximum payable under this insurance during any Period of Insurance being limited to twice the amount of the Limit of Indemnity

All claims attributable to the same act error or omission or series of acts errors or omissions consequent upon or attributable to the same original cause or source will be regarded as one claim

- the Insured's Contribution is £1,000

- the Company shall not be liable in respect of any claims or costs and expenses arising out of

1. the failure to provide finance

2. the provision of financial or investment advice

3. the insolvency or bankruptcy of the Insured any Agent of the Insured or any insurance company

4. the Company's liability shall be limited to that stated in the schedule under Sale of Insurance Extension.

#### Extensions to Section 4 (continued)

##### Special Benefit to Section 4

1. In the event of the Company being entitled to avoid this insurance from inception or from the time of any variation in cover (including at renewal) the Company may at its discretion maintain this insurance in full force but exclude the consequences of any matter which ought to have been disclosed at inception or at the time of any variation in cover (including at renewal)
2. In the event of non-disclosure or misrepresentation at any renewal the Company will waive its rights to avoid this insurance provided that
  - a) the Policyholder is able to establish to the satisfaction of the Company that such non-disclosure or misrepresentation was innocent and free from any fraudulent conduct or intent to deceive
  - b) the Premium and terms shall be adjusted at the discretion of the Company to those which would have applied had such circumstances been disclosed
  - c) where the Policyholder should have notified during a preceding Period of Insurance either a claim made against the Policyholder or circumstances which could give rise to a claim and the indemnity or cover to which the Policyholder would have been entitled was in any way more restricted than that provided at the date of notification the Company shall be liable only to the extent applicable during such preceding Period of Insurance

For the purposes of this Special Benefit this insurance shall be deemed to be a renewal of any immediately preceding Professional Indemnity policy issued by the Company under which the Policyholder was entitled to indemnity

## Interpretations

For the purposes of Professional Indemnity Insurance

### 1 Insured's Contribution

the amount for which the Insured is responsible under Insurance Clause I of this insurance in respect of any one claim made against the Insured for damages and claimant's costs and expenses All claims attributable to the same act error or omission or series of acts errors or omissions consequent upon or attributable to the same original cause or source will be regarded as one claim

### 2 Employee

any person including any trainee or consultant under a contract of service with the Insured at the time of any neglect error or omission giving rise to a claim against the Insured

### 3 Agent

Any person or firm including sub-consultants directly appointed by the Insured to act on their behalf

### 4 The Insured

the Policyholder as named in the Schedule Each of the following parties will in addition be deemed the Insured in respect of claims arising out of the conduct of the Business provided that each shall be subject to the terms of this insurance so far as they can apply

A) any director partner or former director partner of the Insured or if deceased incapacitated insolvent or bankrupt the legal representatives thereof in respect of liability at law incurred by such director partner or former partner

B) at the Insured's request any Employee or if deceased incapacitated insolvent or bankrupt the legal representatives

### 5 Business

The Business as stated in the schedule

### 6 War Risks

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

### 7 Terrorism

any act of any person acting on behalf of or in connection with any individual or organisation which carries out activities directed towards the overthrowing or influencing by force or violence of Her Majesty's government in the United Kingdom or any government whether legally established or not

THIS SECTION APPLIES ONLY WHERE SHOWN AS INSURED IN THE SCHEDULE

## Section 5 - Emergency Assistance

The Company will provide indemnity to the Policyholder to the Limit of Indemnity in respect of Regulation 15 (7) of The Package Travel, Package Holidays and Package Tours Regulations 1992 or The Package Travel and Linked Travel Arrangements Regulations 2018 Clause 18.2 or the assistance requirements stated in the current ABTA Code of Conduct

- A) general assistance provided to passengers
- B) legal costs incurred by passengers with the prior agreement of the Policyholder

in connection with illness injury or death through misadventure whilst outside Great Britain Northern Ireland the Channel Islands or the Isle of Man in the course of an activity which does not form part of the travel package arrangement nor an excursion or other services sold or supplied by the Policyholder during any Period of Insurance

provided that

- A) the liability of the Company under this Section for all sums payable by the Policyholder in respect of costs and expenses incurred in respect of all passengers on any one booking form shall not exceed the Limit of Indemnity shown in The Schedule
- B) any amount payable under this Section shall be recoverable from any policy of insurance in force at the time of the event giving rise to the claim under this Section for which the passenger is entitled to indemnity
- C) in respect of B) legal costs are requested within 90 days of the event giving rise to a claim under this Section

### Conditions

The Company shall be entitled to take over and prosecute for its own behalf any claim for the recovery of any sums which have been paid under the terms of this section against any person including the passenger or in the event of the death of the passenger his legal personal representatives and the Policyholder shall give all information and assistance required

Limit of Indemnity £5,000 per event

THIS SECTION APPLIES ONLY WHERE SHOWN AS INSURED IN THE SCHEDULE

## Section 6 - Directors & Officers Insurance

### Definitions

- A. asbestos means crocidolite, amosite, chrysotile, fibrous actinolite, fibrous anthophyllite, or fibrous tremolite or any mixture containing any of those minerals.
- B. asbestos Containing Materials means any material containing Asbestos or Asbestos Dust.
- C. asbestos Dust means fibres or particles of Asbestos.
- D. Circumstance means an incident, occurrence, fact, matter, act or omission which is likely to give rise to a Claim under the Policy.
- E. Claim means:
1. service of a Claim Form, Counterclaim, Other Additional Claim, Application Notice, Notice of Appeal, Witness Summons or similar legal document (including an application for any related injunction) served upon any Insured in respect of a Wrongful Act;
  2. any arbitration proceeding or request to nominate an arbitrator served upon any Insured in respect of a Wrongful Act;
  3. any written communication (including electronic communications), whether or not containing a demand for compensation or damages, received by any Insured threatening commencement of proceedings in respect of a Wrongful Act, and any written demand against any Insured Person for monetary damages, reinstatement or other non-monetary relief;
  4. any criminal prosecution of an Insured Person resulting from a Wrongful Act; or
  5. any notice of an Investigation commenced by the filing of a notice of charge, formal investigative order, questionnaire or similar document:
    - a) into the affairs of the Company or the affairs of an Outside Entity as provided in sub-section II. A and where an Insured Person is required to attend or give evidence; or
    - b) involving a Wrongful Act alleged to have been committed by an Insured Person or in respect of which an Insured Person is required to attend or give evidence by reason of his acting in the capacity of a Director or Officer;

provided that it is first made against, or received by, any Insured Person during the Policy Period.
- F. Company means the Policyholder and its Subsidiaries.
- G. defence Costs includes that part of Loss consisting of reasonable and necessary costs, charges, fees (including but not limited to lawyers' and agents' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of the Directors, Officers or employees of the Company) incurred by the Insurer or (with the Insurer's prior written consent) the Insured:
1. in respect of the attendance or giving of evidence by any Insured Person at an Investigation into the affairs of the Company or the affairs of an Outside Entity as provided in sub-section II. A; or
  2. in respect of any Investigation involving a Wrongful Act alleged to have been committed by an Insured Person or in respect of which an Insured Person is required to attend or give evidence by reason of his acting in the capacity of a Director or Officer
- H. director means any natural person who was, is, or becomes during the Policy Period:
1. a director of the Company including a de facto or shadow director (as defined under section 741(2) of the Companies Act 1985 or any equivalent provision in the jurisdiction in which the Company is incorporated) including any person named in any prospectus issued by the Company as a prospective director; or
  2. a shadow director of any company directly as a result of his activities as a Director or Officer of the Company.
- I. discovery Period means the period following the expiry of the Policy Period during which the Insureds may continue to notify Claims or Circumstances but only in relation to Wrongful Acts committed prior to the expiry of the Policy Period. Any Claim made during the Discovery Period shall be deemed to have been made during the immediately preceding Policy Period.
- J. employment Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect or breach of duty actually or allegedly committed or attempted by any one or more Insured Persons in their capacities as such against any past, present or prospective employee, Director or partner of the Company, in connection with any actual or alleged:
1. wrongful, unlawful or unfair dismissal, discharge or termination of employment;
  2. breach of any written or oral employment contract or quasi-employment contract;
  3. employment-related misrepresentation;
  4. violation of employment discrimination laws (including sexual or other workplace harassment and discrimination on the grounds of racial or national origin, sex, sexual orientation, religion, maternity, pregnancy, age and disability);
  5. violation or non-compliance with legislation regulating working hours;
  6. wrongful failure to employ or promote;
  7. wrongful demotion;
  8. wrongful discipline;
  9. wrongful deprivation of a career opportunity;



10. failure to grant tenure;
11. failure to adopt adequate workplace or employment policies and procedures;
12. Retaliatory treatment of whistleblowers and others;
13. negligent evaluation;
14. employment-related invasion of privacy;
15. employment-related breach of data protection legislation;
16. employment-related libel, slander, humiliation and defamation;
17. failure to furnish accurate job references;
18. employment-related wrongful infliction of mental anguish or emotional distress; or
19. breach of any obligation which has been transferred to the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 1981 or the EC Acquired Rights Directive, save for any obligation which existed at or prior to the date of transfer.
- K. Full Annual Premium means the annual premium payable by the Policyholder, including any additional premium which becomes payable subsequent to renewal pursuant to the provisions of this Policy, immediately prior to the expiry of the Policy Period in question.
- L. insured Persons means any natural person who was, is, or becomes during the Policy Period, a Director or Officer.
- M. insured means the Insured Persons and the Company.
- N. insurer means XL Catlin Insurance Company UK Limited.
- O. investigation means any formal or official investigation (other than the Company's own internal investigation), examination or other proceedings made or commenced during the Policy Period by a governmental body, professional body or other institution duly authorised to carry out such investigation, including, without limitation, any such proceedings initiated by the Department of Trade and Industry, London Stock Exchange Limited, the Bank of England, The Panel on Take-overs and Mergers, the Financial Services Authority, the Health and Safety Executive, and the Commission for Racial Equality.
- P. investment shall mean any asset or right or interest falling within Part I of Schedule I to the Financial Services Act 1986.
- Q. limit of Liability means the limit specified in the Policy Schedule. Any reference to Limit of Liability shall mean an aggregate limit for All Claims or Loss, as applicable.
- R. Loss means:
1. damages, compensation, contributions, judgements or (if concluded with the Insurer's prior written consent) settlements;
  2. claimant's legal costs and expenses;
  3. punitive, exemplary and aggravated damages, save for:
    - (a) such damages awarded in respect of an Employment Wrongful Act;
    - (b) such damages awarded in respect of any North American Claim;
  4. all other costs and expenses ordered by a court or other legally authorised tribunal, or incurred with the Insurer's prior written consent; and
  5. Defence Costs,
- in respect of a Claim made against, or received by, any Insured Person, jointly or severally.
- Loss shall not include taxes, fines, penalties or any other form of loss which is uninsurable under the law of the state or country to which the Claim is subject or the multiple portion of any multiplied damage award.
- The Insurer shall advance Defence Costs in accordance with sub-section IV.C.2.(b).
- S. merger means the occurrence of any of the following events:
1. the Policyholder consolidating with or merging into or selling all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert;
- or
2. any person or entity, whether individually or together with any other person or entity, acquiring an amount of share capital representing more than fifty per cent. (50%) of the voting power for the election of Directors of the Policyholder, or acquiring the voting rights for such an amount of the shares.
- T. north America means the United States of America and Canada and in each case its territories and possessions and any state or political sub-division thereof.
- U. north American Claim means any investigation made or commenced in North America or any Claim in any way relating to North America.
- V. Officer means:
1. any natural person who was, is, or becomes during the Policy Period an officer of the Company, other than its external auditor, liquidator, administrator, receiver or solicitor;
  2. any employee of the Company whilst acting in a managerial or supervisory capacity, including any employee of the Company who at the specific written request of the Company is appointed to a managerial or supervisory position within any entity established for the sole purpose of any profit sharing, share option, sporting, social or welfare purpose and which exists predominantly for the benefit of any or all of the Insured Persons and employees of the Company and their families and dependants;



3. any employee of the Company who is named as a co-defendant in respect of a Claim made against a Director or Officer (and for the purpose of this sub-section V.3 "Officer" shall bear the meaning set out in sub-sections V.1 and V.2 above);
4. any employee of the Company in respect of an Employment Wrongful Act.
- W. original Inception Date means the date from which the Company has maintained uninterrupted directors and officers liability cover with the Insurer.
- X. outside Entity means any company or non-profit organisation (other than a Subsidiary).
- Y. parent Company means any holding, intermediate holding or ultimate holding company of the Policyholder or any company with a controlling interest in the Policyholder or any subsidiary of the Parent Company (other than the Policyholder).
- Z. policy means, collectively, the Proposal and the Terms and Conditions of the Policy (including any memoranda and endorsements thereto) and the Policy Schedule.
- AA. policyholder means the organisation designated in the Policy Schedule and, where there is only one Insured, a reference to the Policyholder shall be deemed to be a reference to the Insured.
- BB. policy Period means the period of time specified in the Policy Schedule.
- CC. policy Schedule means the schedule attaching to the terms & conditions.
- DD. pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the United States Environmental Protection Agency or a country, state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. Pollutants shall also mean any other air emission, odour, waste water, oil or oil products, infectious or medical waste, biological contaminants, asbestos or asbestos products, electric or magnetic or electromagnetic fields and noise, and any ionising radiations or contamination by radioactivity.
- EE. pollution means the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of Pollutants into or on real or personal property, water or the atmosphere.
- FF. proposal means, the Statement of Fact or any information supplied by or on behalf of the Insured which relates to the risk or risks for which cover is being sought.
- GG. related Claims means all Claims based on, arising out of, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.
- HH. retaliation means a Wrongful Act of an Insured relating to, or alleged to be in response to, the treatment of any employee less favourably than others, or the victimisation of that person, because that person threatens to bring proceedings, give evidence or information, take any action or make any allegation concerning his employer with reference to legislation relating to sex, race, or disability discrimination, whistleblowing and, subject to the provisions of this Policy, any employment protection law generally; or where the Insured has already done any of the foregoing; and Retaliatory shall be construed accordingly.
- II. retention means that part of each and every Claim or Loss, as applicable, which is payable by the Insured, the amount of which is specified in the Policy Schedule.
- The Retention does not form part of the Limit of Liability and it shall be payable by the Insured before the application of the Limit of Liability.
- JJ. securities means shares, stocks, bearer instruments, derivatives, bonds, warrants, debentures, rights under a depositary receipt or other securities (or interests therein) of whatever nature.
- KK. statement of Fact means the document setting out information provided by the Policyholder as being relevant to the cover applied for and assumptions the Insurer has made about factual circumstances relevant to the cover and which are confirmed by the Policyholder as true and correct
- LL. spouse means a lawful spouse or any person deriving similar status by reason of the common law.
- MM. subsidiary means any company in which the Policyholder:
1. holds directly or indirectly more than fifty per cent. (50%) of the voting rights; or
  2. has the right to appoint or remove a majority of the board of directors; or
  3. holds more than half of the issued share capital,
- and where the Policyholder is a partnership, a company shall be a Subsidiary of the partnership where such holding or right is held for the benefit of the partnership.
- NN. Terrorism means any act including but not limited to the use of force for violence or the threat thereof of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for political religious ideological or similar purposes including the intention to influence any government or to put the public or any section of the public in fear.
- OO. wrongful Act means
1. any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty, breach of trust, libel, slander, breach of contract, breach of warranty of authority, Wrongful Trading, Employment Wrongful Act or other act actually or allegedly committed or attempted by
    - a Director or Officer; or
    - a director, officer, trustee, governor or occupying a position of equivalent status of any Outside Entity, or
  2. any matter claimed against the Insured Person solely by reason of his serving in the capacities set out in OO.A or OO.B above.
- PP. wrongful Trading shall bear the meaning set out in section 214 of the Insolvency Act 1986 (or equivalent situation in any jurisdiction in which the Company is incorporated).

## Interpretations

In this Policy the singular includes the plural and vice versa. The male gender includes the female and neutral genders. Person includes bodies corporate.

A reference in this Policy to any statute, statutory provision or subordinate legislation (whether of the United Kingdom or elsewhere) shall be construed as including a reference to any such enactment which that enactment has directly or indirectly replaced (whether with or without modification) and that enactment as re-enacted, replaced or modified from time to time.

The titles and headings to the various parts, sections, sub-sections and endorsements of the Policy are included solely for ease of reference and do not in any way limit or expand or otherwise affect the provisions of such parts, sections, sub-sections or endorsements.

# Directors & Officers Liability Policy

## Terms and Conditions

NOTICE: THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED AND CIRCUMSTANCES FIRST NOTIFIED TO THE INSURER DURING THE POLICY PERIOD OR ANY APPLICABLE DISCOVERY PERIOD.

THE LIMITS OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY DEFENCE COSTS

## I. Insuring Clauses

### a. Directors and Officers Liability Coverage

The Insurer shall pay, on behalf of the Insured Persons, Loss arising from Claims first made during the Policy Period for which the Company has not provided indemnity.

### B. Company Reimbursement Coverage

The Insurer shall pay, on behalf of the Company, Loss arising from Claims first made during the Policy Period if, and to the extent that, the Company is required or permitted to indemnify the Insured Persons for such Loss.

### C. Shareholder Claim Coverage

The Insurer shall pay, on behalf of the Company, costs and expenses incurred by a shareholder in pursuing a Claim against a Director or Officer and which the Company is liable to pay pursuant to an order of court, provided such Claim was first made during the Policy Period.

## II. Extensions of Cover

### A. Outside Entities

The Insurer shall pay Loss on behalf of any Insured Person and any employee of the Company, who at the specific request of the Company was, is, or becomes during the Policy Period a director (including a de facto and shadow director), officer, trustee, governor or occupies a position of equivalent status, of any Outside Entity, for Claims against them in respect of a Wrongful Act committed or attempted by such Insured Persons or employees in their respective capacities as directors, officers, trustees, governors or positions of equivalent status, of such Outside Entity.

Any Outside Entity coverage afforded by this Policy shall be specifically excess of any indemnity or insurance available from or provided to the Insured Person or employee by the Outside Entity.

In the event that the other insurance referred to above is provided by the Insurer or any member of its group, the total liability of the Insurer in respect of any Claim shall not exceed the greater of the Limit of Liability or the limit of liability available under such other insurance.

### B. Employment Wrongful Acts

The Insurer shall pay, on behalf of the Insured Persons, Loss resulting from Claims for Employment Wrongful Acts against the Insured Persons.

### C. Pollution

The Insurer shall pay that part of the Loss which relates to Defence Costs only on behalf of the Insured Persons, subject to the aggregate limit specified in the Policy Schedule (such limit being part of and not in addition to the Limit of Liability) incurred by the Insured Persons in defending themselves against criminal or regulatory proceedings in respect of Pollution of any kind which results from a Wrongful Act.

The Insurer shall pay Loss on behalf of the Insured Persons, subject to the aggregate limit specified in the Policy Schedule (such limit being part of and not in addition to the Limit of Liability) in respect of civil proceedings brought by any shareholder or bondholder of the Company, either directly or derivatively, alleging loss in the value of the share capital of the Company by reason of Pollution of any kind which results from a Wrongful Act, unless on or before the Original Inception Date any Insured or any employee of the Company whose responsibilities include environmental control or compliance knew or should reasonably have foreseen that a situation or circumstance existed which could have given rise to a Claim against the Company or any Insured Person.

### D. Retired and Former Directors and Officers

I. In the event that any Insured Person retires as a Director or Officer during the Policy Period, such Insured Person shall be entitled to a free Discovery Period for a period of 72 months after the expiry of the Policy Period, provided always that this Discovery Period shall not apply where the Policyholder renews or replaces this Policy (whether with the Insurer or otherwise) or where a Discovery Period has been activated pursuant to sub-section II. G of this Policy.

2. In the event that any Insured Person ceases to be a Director or Officer during the Policy Period (for a reason other than retirement), such Insured Person shall be entitled to a free Discovery Period for a period of 180 days after the expiry of the Policy Period, provided always that this Discovery Period shall not apply where the Policyholder renews or replaces this Policy (whether with the Insurer or otherwise) or where a Discovery Period has been activated pursuant to sub-section II. G of this Policy.

**E. Retention Reimbursement**

Any Retention borne by the Company or the Insured Persons in respect of any Claim shall be reimbursed by the Insurer if final judgement or adjudication is given in favour of the Company or the Insured Persons by a court or tribunal of competent jurisdiction. For the purposes of this sub-section, final judgement or adjudication shall only be adjudged to have been given when all rights of appeal to higher courts or tribunals have been foregone or exhausted.

**F. Transactions Changing Coverage - Acquisitions**

1. Subject to sub-section II.F.2 below, if any Company creates or acquires, during the Policy Period, a new Subsidiary (either directly or indirectly), the new Subsidiary shall be automatically covered under this Policy in relation to Wrongful Acts committed or alleged to have been committed after the date the new Subsidiary was created or acquired by the Company. The Company shall not have to provide the Insurer with any particulars of the new Subsidiary until the next Renewal Date following creation or acquisition of the Subsidiary.
2. Automatic coverage pursuant to sub-section II.F.1 above shall not apply where a new Subsidiary created or acquired by any Company has gross consolidated assets that increase the gross consolidated assets of the Company by more than twenty five per cent. (25%) (by reference to the Company's most recent consolidated annual accounts).
3. If any Company acquires or creates a Subsidiary that falls within the parameters specified in sub-section II.F.2 above, then cover shall be extended to such new Subsidiary in relation to Wrongful Acts committed or alleged to have been committed after the date the new Subsidiary was created or acquired by the Company, provided that, and as a condition precedent to such cover being provided, the Policyholder:
  - (a) gives the Insurer written notice of any such creation or acquisition as soon as possible, together with such additional information as the Insurer may require;
  - (b) accepts any notified alteration in the terms of this Policy; and
  - (c) pays any additional premium required by the Insurer.

Subject to these conditions precedent having been met, the Insurer shall include the new Subsidiary within the scope of this Policy by way of endorsement. In addition, the Insurer shall consider the provision of retroactive cover for any new Subsidiary in respect of Wrongful Acts committed, or alleged to have been committed, prior to the date of any such acquisition or creation, upon specific request. If the Insurer agrees to provide such cover, it shall be recorded by way of endorsement.

**G. Discovery Period**

If the Insurer declines to offer any terms for renewal of this Policy either the Insured Persons or the Policyholder shall be entitled to elect a Discovery Period on the terms set out below. The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute the Insurer declining to renew.

The terms of the Discovery Period shall be 12 months for fifty per cent. (50%) of that part of the Full Annual Premium payable in respect of this Policy.

The application to elect any Discovery Period must be received by the Insurer within 15 days from the expiry of the Policy Period, and payment of the premium, must be made within 30 days of the same date (such premium being non-refundable). For the avoidance of doubt, any time delay between the expiry of the Policy Period and the election of any Discovery Period shall be part of and not in addition to the Discovery Period elected.

If a Merger takes place, the Policyholder shall not be entitled to purchase a Discovery Period on the terms set out above. However the Policyholder shall have the right within 15 days of the expiry of the Policy Period to request an offer from the Insurer of a Discovery Period of up to 72 months. The Insurer may offer a Discovery Period on such terms as it reasonably considers appropriate.

During the 15 day application period referred to above and during any Discovery Period and without prejudice to sub-section IV.D.1.(a).(ii), the Insured Persons and the Policyholder may continue to notify Claims to the Insurer but only in respect of Wrongful Acts committed prior to the expiry of the Policy Period.

**H. Legal Representatives**

This Policy shall afford coverage for Claims made against natural person Insureds which are pursued against the estates, heirs, executors or other legal representatives of such Insureds who are deceased, or against the legal representatives or trustees in bankruptcy of such Insureds who are incompetent, incapacitated or bankrupt to the extent that in the absence of such death, incompetence, incapacity or bankruptcy, such Claims would have been covered by this Policy.

**I. Spouses**

If a Claim against a natural person Insured includes a claim against the Insured's Spouse solely by reason of (i) such Spouse's legal status as a spouse of the Insured, or (ii) such Spouse's ownership interest in property which the claimant seeks as recovery for Claims made against the Insured, all loss which such Spouse becomes legally obliged to pay by reason of such Claim shall be treated for the purposes of this Policy as Loss which the Insured becomes legally obliged to pay on account of the Claims made against the Insured. All terms and conditions of this Policy, including without limitation the Retention, applicable to Loss incurred by such Insured in the Claim shall also apply to such spousal loss. This coverage extension does not apply to the extent the Claim alleges any wrongful act or omission by the Insured's Spouse.

**J. Post Winding-Up Protection**

If the Policyholder (but not, for this purpose, any Subsidiary) is wound-up during the Policy Period, this Policy shall remain in force until the expiry of the Policy Period but only with respect to Loss where the events causing Loss occurred prior to the winding-up of the Policyholder.

### III. Exclusions

#### A Exclusions Applicable to all Loss

The Insurer shall not be liable for Loss:

##### 1. prior Knowledge of Fact, Circumstance or Situation

directly or indirectly based on, arising out of, or in any way involving any fact, circumstance or situation:

- (a) which has been or should have been the subject of any written notice given under any policy which this Policy is a direct or indirect renewal or replacement; or
- (b) alleged in, relating to or underlying any written demand for monetary damages or other relief or any civil, criminal or administrative or regulatory proceeding (including arbitration) pending on or prior to the Original Inception Date;

##### 2. bodily Injury

for bodily injury, mental anguish or emotional distress, illness, disease or death of any person, or damage to or destruction of any tangible property including loss of use thereof; except where:

- (a) this exclusion shall not apply in relation to any actual or alleged mental anguish or emotional distress by a past, present or prospective employee or non-executive Director of the Company for any Employment Wrongful Act;

and

- (b) the Insurer shall provide cover in respect of that part of Loss which relates to Defence Costs only incurred in respect of any criminal proceedings, including those for corporate killing or manslaughter (or other similar criminal offence in any jurisdiction in which the Company operates) resulting from a Wrongful Act or Investigation;

##### 3. pension Trustee Liability

directly or indirectly based on, arising out of, or in any way involving the trusteeship or administration by an Insured of any pension plan, programme or scheme or other employee benefit programme or an Insured acting in a fiduciary capacity in respect thereof, including any obligation incurred under the Pensions Act 1995 or of any similar law or regulation, provided that this exclusion shall not apply to Loss arising from a Claim for Retaliation;

##### 4. insured vs Insured Exclusion (Outside Entity Claim)

in respect of a Claim for a Wrongful Act by an Insured Person serving as a director, officer, trustee, governor of, or holding a position of equivalent status in, an Outside Entity if such Claim is brought or maintained by or on behalf of the Outside Entity in which the Insured Person serves or by or on behalf of any director, officer, trustee, governor of, or person of equivalent status in, such Outside Entity except:

- (a) a Claim that is a derivative action brought or maintained on behalf of such Outside Entity by one or more persons who are not directors, officers, trustees or governors of such Outside Entity and who bring and maintain the Claim without the

solicitation, assistance or active participation of such Outside Entity or such directors, officers, trustees or governors;

- (b) a Claim brought or maintained by a director, officer, trustee or governor of such Outside Entity for any actual or alleged Employment Wrongful Act or for a contribution or indemnity in respect of a claim made against them;
- (c) a Claim brought or maintained by an external auditor appointed by the Outside Entity; or
- (d) a Claim brought or maintained by a liquidator, receiver or administrative receiver or equivalent in any jurisdiction, on behalf of any Outside Entity without the solicitation, assistance or active participation of any Insured Person or by or on behalf of any director, officer, trustee, governor of, or person of equivalent status in, such Outside Entity;

##### 5. professional Services

directly or indirectly based on, arising out of or in anyway involving any breach of professional duty to a client, customer or other third party who relies on advice, design, specification or other professional services provided by or on behalf of the Insured;

##### 6. sale of an Investment in the Company

directly or indirectly based on arising out of, or in any way involving any issue or offer for sale, or sale, of an Investment in the Company or in its holding company. However, the Insurer may consider providing such cover upon written request. If the Insurer agrees to provide such cover, it shall be recorded by way of endorsement;

##### 7. Terrorism

directly or indirectly based on, arising out of, or in any way involving Terrorism;

##### 8. parent Company

directly or indirectly based on arising out of or in any way involving any Claim made (whether in the name of the Company or not) or instigated by, or on behalf of, or for the benefit of, any Parent Company;

##### 9. north American Claim

directly or indirectly based on, arising out of or in any way involving:

- (a) any North American Claim;
- (b) the actual or attempted enforcement, upholding or registration against the Insured by any arbitrator, tribunal or court outside North America of any damages or other monetary awards, order judgement or negotiated settlements, claimant's costs and expenses and other costs and expenses connected with or arising out of any North American Claims; or
- (c) any Claim brought against the Insured as a consequence of the operation of any branch or Subsidiary or Outside Entity in North America;



## 10. pollution

directly or indirectly based on, arising out of, or in any way involving:

- (a) Pollution;
- (b) any direction or request that the Company or the Insured Persons test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants, or any voluntary decision to do so, including without limitation any claim for financial loss to the Company, its shareholders, bondholders or its creditors based on, arising out of, or in any way involving the matters described in sub-sections (a) or (b) of this sub-section III.A.10,

provided that this exclusion shall not apply insofar as such Loss is covered by sub-section II. C;

## 11. asbestos

directly or indirectly based on, arising out of, or in any way involving Asbestos, Asbestos Dust or Asbestos Containing Materials.

## B additional Exclusions Applicable to Loss, other than Defence Costs

The Insurer shall not be liable for Loss, other than Defence Costs, directly or indirectly based on, arising out of, or in any way involving:

1. any dishonesty or fraud found by way of any judgement or other final adjudication to have been committed by an Insured Person;
2. an Insured Person found by way of judgement or other final adjudication to have gained any profit or advantage or to have received any remuneration to which he was not legally entitled.

For the purposes of this section III, Loss shall include any costs and expenses otherwise covered under sub-section I. C.

## C Severability of Exclusions

No fact pertaining to or knowledge possessed by any Insured Person shall be imputed to any other Insured Person for the purposes of applying the exclusions set forth in this section III.

## IV. Conditions

## A Limits of Liability and Retentions

## 1. Aggregate Limit

The maximum aggregate liability of the Insurer for all Loss resulting from all Claims first made during the Policy Period shall be the Limit of Liability set forth in the Schedule, regardless of the number of Insureds the Insurer is liable to indemnify.

## 2. Retentions

The Insurer's liability for Loss arising from any single Claim shall apply only to that part of such Loss which is excess of the applicable Retention set forth in the Schedule. If different parts of any single Loss arising from a single Claim are subject to different Retentions, the applicable Retentions shall be applied separately to each part of such Loss, but the sum of such Retentions shall not exceed the largest applicable Retention. The Insureds shall bear at their own risk the amount of any applicable Retention.

## 3. Discovery Period

The purchase of any Discovery Period shall not increase or reinstate the applicable Limit of Liability, which shall be the Insurer's maximum liability for the Policy Period and Discovery Period, combined.

## 4. Related Claims

All Related Claims shall be deemed one Claim, and such Claim shall be deemed to be first made on the date the earliest of such Claims is first made, regardless of whether such date is before or during the Policy Period or the Discovery Period.

## 5. Defence Costs

Defence Costs incurred by the Insurer, or by the Insured with the written consent of the Insurer, are part of and not in addition to the applicable Limit of Liability and the payment by the Insurer of Defence Costs reduces the Limit of Liability.

## B Proposal, Representations and Severability

1. In granting coverage under this Policy, the Insurer has relied upon the statements and representations in the Proposal and it is agreed that the Proposal shall form the basis of and is incorporated into the Policy. The Insureds shall not conceal or misrepresent any material fact or circumstance when completing the Proposal.
2. The Proposal shall be construed as a separate application for cover by each of the Insureds with respect to the declarations and statements contained therein. Other than with respect to sub-section B.3 below, no fact relating to, or statement of, or knowledge possessed by, any Insured shall be imputed to any other Insured for the purpose of determining the availability of cover.
3. The Insureds agree that in the event that any statements or representations made in the Proposal are inaccurate or incomplete, the Insurer shall be entitled to avoid the Policy with respect to any of the following Insureds:

- (a) any natural person Insured who knew the facts that were not fully and accurately disclosed in the Proposal;
- (b) any Insured that is a corporation, to the extent it indemnifies any natural person Insured referenced in sub-section B.3.(a) above.

#### C Defence and Cooperation

1. The Insurer shall have the right but is not obliged to conduct in the name of the Insured the defence and settlement of any Claim covered by this Policy, and to appoint lawyers or other representatives for this purpose even if any of the allegations are groundless, false or fraudulent. The Insurer's right to defend shall cease upon exhaustion of the Limit of Liability.
2. With respect to any Claim or Circumstance notified:
  - (a) the Insured shall execute all papers required and shall do everything necessary to defend such Claim and provide the Insurer with all information, documentation, assistance and co-operation as the Insurer reasonably requests;
  - and
  - (b) the Insurer shall advance Defence Costs excess of any applicable Retention, provided that if and to the extent it is finally established that any such Defence Costs are not covered under this Policy, the Insureds, severally according to their interests, hereby agree to repay the Insurer such non-covered Defence Costs.
3. The Insured shall not settle or offer to settle any Claim, incur any Defence Costs or otherwise assume any contractual obligation or admit any liability with respect to any Claim, without the Insurer's prior written consent. The Insurer shall not be liable for, and any applicable Retention shall not be depleted or exhausted by, any settlement, Loss or Defence Costs, assumed obligation or admission to which it has not consented.
4. The Insurer shall not unreasonably withhold any consent referred to in this section.
5. The Insured agrees that in the event of a Claim the Insured shall do nothing that shall prejudice the Insurer's position or its potential or actual rights of recovery. The Insured shall at all times use reasonable endeavours to do, and concur in doing, all such things as are reasonably possible to avoid or diminish any Loss and to assist with the defence or settlement of any Claim. The Insurer may make any investigation it deems necessary.

#### D. Notice

1. Claims
  - (a) The Policyholder shall, as a condition precedent to its rights under this Policy, give to the Insurer written notice as soon as possible after receipt of notice of any Claim or after the Policyholder becomes aware of any Circumstances and in any event notice shall be given to the Insurer:

- i) during the Policy Period or any applicable Discovery Period;
- or
- ii) (in respect of any Claim) within 60 days after the end of the Policy Period or any applicable Discovery Period.

The Insurer will have no liability under the Insuring Clauses in respect of any matter which the Policyholder does not notify to the Insurer in accordance with the requirements of this Condition

- (b) Notification of any Claim or Circumstances must be sent to the Company at:

Travel Specialist Claims  
 Touchstone Underwriting Limited  
 Meridien House  
 71 Clarendon Road  
 Watford WD 17 1DS  
 Tel: 01923 298431  
 Email: [tul\\_claims@t-u-l.co.uk](mailto:tul_claims@t-u-l.co.uk)

Each notification shall so far as possible provide full details of the Claim or Circumstances including, but not limited to:

- i) the identity of the claimant or potential claimant;
- ii) the nature of the Claim;
- iii) the likely quantum of the Claim; and
- iv) the Policyholder's preliminary views (if any) on the merits of such Claim

and the Policyholder shall provide the Insurer with such further information and documentation as it may reasonably require.

- (c) Any Claim arising from any notification of Circumstances shall be deemed to have been made in the Policy Period (including any applicable Discovery Period) in which the Circumstances were first notified to the Insurer.
- (d) Subject to the provisions of sub-section IV. L, the Insurer shall not avoid any Claim on the grounds of the breach of this section but where in the opinion of the Insurer the Policyholder has prejudiced the handling or settlement of any Claim the amount payable in respect of such Claim (including costs and expenses) shall be reduced to such sum as in the Insurer's opinion would have been payable in the absence of such prejudice.

#### 2. Other

Any other communications under this Policy or notices pursuant to the Discovery Period provisions of this Policy shall be in writing and given by first class post or fax properly addressed to the appropriate party. Notice to the Insureds may be given to the Policyholder at the address shown in Item 1 of the Policy Schedule. Any notice to the Insurer shall be given to the Insurer at the address stated in the Policy Schedule. Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee or one business day following the date such notice is sent, whichever is earlier.

#### E. Subrogation and Recoveries

1. In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all the Insured's rights of recovery. The Insured shall do everything necessary to secure and preserve such rights, including the execution of such documents as are necessary to enable the Insurer effectively to bring proceedings in the name of the Insured.
2. Provided however that in no event shall the Insurer exercise its rights of subrogation against an Insured save where such Insured has been fraudulent, committed a criminal act or obtained any profit or advantage to which he was not legally entitled.
3. All recoveries obtained by the Insured from other parties shall be allocated, after the settlement of any claim under this Policy as follows:
  - (a) firstly, to the benefit of the Insured to reduce or extinguish the amount of the Insured's Loss to the extent that it would have been paid but for the fact that such Loss exceeds the Limit of Liability together with any Retention where applicable;
  - (b) secondly, to the benefit of the Insurer for all sums paid in settlement of Loss;
  - (c) thirdly, to the benefit of the Insured for the amount of the Retention.

All recoveries shall be applied as herein only after deduction of the reasonable cost of obtaining such recovery. All recoveries made prior to settlement of any claim shall be held for the benefit of the Insurer and applied as stated herein after settlement if any is made.

#### F. Authorisation Clause

It is a condition of this Policy that the Policyholder shall act on behalf of all Insureds with respect to the giving and receiving of notice of any Claim, Circumstance or Loss, the payment of premiums and the receiving of any return premiums that may become due under this Policy, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this Policy (except the giving of notice to apply for the Discovery Period), and the Insureds agree that the Policyholder shall so act on their behalf.

#### G. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy which is signed by an authorised signatory of the Insurer.

#### H. Changes of Control

##### 1. Acquisition of Policyholder

If, during the Policy Period, any of the following events occur:

- (a) the acquisition of the entire issued share capital of the Policyholder or of all or substantially all of its assets, by another entity, or the merger or consolidation of the Policyholder into or with another entity such that the Policyholder is not the surviving entity; or
- (b) the obtaining by any person, entity or affiliated group of persons or entities of the right to elect, appoint or designate at least fifty per cent. (50%) of the directors of the Policyholder

cover shall continue in full force and effect until the expiry of the Policy Period, but only with respect to Loss where the events causing Loss occurred prior to such event.

##### 2. Cessation of Subsidiaries

If during the Policy Period an organisation ceases to be a Subsidiary, cover with respect to such Subsidiary shall continue in full force and effect until the expiry of the Policy Period but only with respect to Loss where the events causing Loss occurred prior to the date such organisation ceased to be a Subsidiary.

Any Claim arising pursuant to sub-sections H.1 or H.2 may be notified during the Policy Period and any applicable Discovery Period.

#### I. Other Insurance

This Policy shall be specifically excess of any other valid and collectible insurance (including but not limited to any insurance which is stated to be primary, contributory, excess, contingent or otherwise), unless such other insurance is specifically excess of this Policy.

For the avoidance of doubt, a Loss which is covered partly by this Policy and partly by another policy (including policies of which this is a renewal) issued by the Insurer to the Insured for which any previous applicable discovery period has not expired, shall be limited to the larger amount of cover under the previous policy or this Policy and shall on no account be cumulative.

#### J. Arbitration

Any dispute arising out of or in connection with this Policy shall be referred to a sole arbitrator, who shall be a Queen's Counsel specialising in insurance law. The sole arbitrator shall be appointed by agreement between the parties or, failing such agreement within 30 days of one party receiving written notice of a nomination being made by the other party, by the Chairman for the time being of the Bar Council. The arbitration shall be held in London and in the English language.



**K** disputes as to contesting to Legal Proceedings

1. Subject to the provisions of sub-section K.2 below, in the event of a disagreement arising between the Insurer and the Insured as to whether or not to contest or settle legal proceedings or proceed with appeals, the issue shall be remitted to a Queen's Counsel whose decision on the probability of successfully defending the Claim or the acceptability of the proposed terms of settlement or the probability of succeeding on appeal shall be final. The identity of such Queen's Counsel shall be agreed by the parties or, failing such agreement within 30 days of one party receiving written notice of a nomination being made by the other party, by the Chairman for the time being of the Bar Council.
2. In the event that Queen's Counsel or Junior Counsel is instructed in connection with the defence of a Claim, the parties shall remit any issue between them to the said Counsel as to whether or not to contest or settle legal proceedings or proceed with appeals.
3. Any appointment under the provisions of this section shall be as expert and not as arbitrator.
4. The costs of the said expert determination shall be deemed to form part of the Defence Costs.
5. All references to Queen's Counsel in this section include, where proceedings have been commenced in jurisdictions outside England and Wales, a lawyer of similar status.
6. Reference to the Chairman for the time being of the Bar Council in this section include, where proceedings have been commenced in jurisdictions outside England and Wales, a similar appointee.

**L** Insurer's Waiver to Rights

1. Save where the circumstances set out in sub-section L.2 below apply, in the event of the Insurer being entitled to avoid this Policy from inception or from the time of any variation in cover (including at renewal) the Insurer may at its discretion maintain this insurance in full force but exclude the consequences of any matter which ought to have been disclosed at inception or at the time of any variation in cover (including at renewal).
2. In the event of non-disclosure or misrepresentation at any renewal the Insurer shall waive its rights to avoid this Policy provided that:
  - (a) the Insured is able to establish to the satisfaction of the Insurer that such non-disclosure or misrepresentation was innocent and free from any fraudulent conduct or intent to deceive;
  - (b) the premium and terms shall be adjusted at the discretion of the Insurer to those which would have applied had such circumstances been disclosed; and
  - (c) where the Policyholder should have notified during a preceding policy period a Claim, Circumstance or Loss, and the indemnity or cover to which the Insured would have been entitled was in any way more restricted than that provided at the date of notification, the Insurer shall be liable only to the extent applicable during such preceding policy period.

**M** Partial Invalidity

Should any provision of this Policy be, or become, invalid or unenforceable pursuant to the law to which this Policy is subject, such provision shall be deemed to be deleted and all other terms and conditions of this Policy shall remain in full force and effect.

**N** Territory

Unless otherwise endorsed, cover shall extend worldwide excluding North America.

## V. Subsidiaries

If a Subsidiary has been acquired by the Company prior to the Policy Period, such Subsidiary shall be covered under this Policy in relation only to Wrongful Acts committed or alleged to have been committed after the date on which such Subsidiary was acquired by the Company.

## VI. Retention

### 1. Retention

Any Retention shall be borne by the Company or the Insured Persons, as applicable, in respect of each and every Claim.

### 2. Company Failure to Indemnify

If the Company is permitted or required to indemnify the Insured Persons in respect of any Loss suffered by them but fails to do so, the Insurer shall pay such Loss directly to the Insured Persons on behalf of the Company, provided that the Company shall be liable to pay any applicable Retention

## VII. Allocation

If an Insured incurs both Loss covered by this Policy and loss not covered by this Policy (either because a Claim is made against both Insured Persons and the Company or because a Claim includes both Loss which is covered and that which is not) the Insurer shall negotiate in good faith with the Insured to determine a fair and reasonable allocation of the Loss taking into account the relative legal exposures of the parties with respect to covered and uncovered matters.

If the Insured and the Insurer cannot agree on an allocation in respect of Loss, the Insured and the Insurer agree to remit the issue of allocation to a Queen's Counsel, (whose identity shall be agreed between the parties and in default of agreement within 30 days of one party receiving written notice of a nomination being made by the other party, shall be chosen by the Chairman for the time being of the Bar Council) whose decision shall be binding. The Queen's Counsel shall be directed to apportion all costs of the determination, and shall act as an expert and not as an arbitrator.

All references to Queen's Counsel in this section include, where proceedings have been commenced in jurisdictions outside England and Wales, a lawyer of similar status.

Reference to the Chairman for the time being of the Bar Council or his nominee include, where proceedings have been commenced in jurisdictions outside England and Wales, a similar appointee.

THIS SECTION APPLIES ONLY WHERE SHOWN AS INSURED IN THE SCHEDULE

## Section 7 - Crisis Public Relation Consultants Fees (Crisis Plus)

### Definitions

- 1 Disaster
 

An event which involves :

  - a) death, or
  - b) serious injury which is life threatening (involving emergency hospitalisation), or
  - c) kidnap or hijack

and where the Policyholder considers there to be a risk to their business as a consequence of adverse publicity.
- 2 Public Relations Consultancy Fees
 

Public Relations Consultancy Fees shall mean fees, costs and expenses payable to the Public Relations Consultants solely to provide guidance to minimise any adverse publicity following a Disaster
- 3 Public Relations Consultants
 

Kennedys Law LLP or their appointed advisers acting on authority of Kennedys Law LLP
- 4 Company
 

XL Catlin Insurance Company UK Limited.

### Insurance

In the event of a Disaster and the Company being liable for claims under:

- a) Section 1 Employers' Liability or
- b) Section 2 Public/Products Liability or
- c) Section 6 Directors & Officers Liability Insurance for Loss

the Company shall pay reasonable costs and expenses with its prior written consent (such consent not to be withheld unreasonably) in respect of Public Relations Consultancy Fees necessarily incurred by the Policyholder to employ the services of the Public Relations Consultants solely to provide guidance to minimise adverse publicity following such disaster

The liability of the Company for all Public Relations Consultancy Fees necessarily incurred by the Policyholder under this Section of the Policy during any Period of Insurance shall not exceed the amount stated in the Schedule.

### Policyholder's Contribution

The Policyholder shall be responsible under this Section of the policy for the first £100 of each and every claim

## Complaints Notice

If the Insured has any questions or concerns about this insurance or the handling of a claim, please contact the broker/intermediary named in the Schedule through whom this insurance was arranged.

If the Insured wishes to make a complaint, the Insured can do so at any time by referring the matter to:

Complaints Manager  
XL Catlin Insurance Company (UK) Ltd  
20 Gracechurch Street  
London EC3V 0BG  
United Kingdom

Email: [axaxlukcomplaints@axaxl.com](mailto:axaxlukcomplaints@axaxl.com)

Telephone Number: +44 (0) 20 7743 8487

Complaints that cannot be resolved by the Complaints Manager may in certain circumstances be referred to the Financial Ombudsman Service at:

Financial Ombudsman Service  
Exchange Tower  
London E14 9SR  
United Kingdom

Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

FOS web address: <http://www.financial-ombudsman.org.uk/>

### From within the United Kingdom

Telephone Number:

0800 0234 567 (free for people phoning from a "fixed line", for example, a landline at home)

0300 1239 123 (free for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02)

### From outside the United Kingdom

Telephone Number: +44 (0) 20 7964 1000

Fax: +44 (0) 20 7964 1001

If the Insured is a consumer under the Consumer Rights Act 2015 and has purchased the policy online, the Insured can also make a complaint via the EU's online dispute resolution (ODR) platform. The website for the ODR platform is: <http://ec.europa.eu/odr>

### **Financial Services Compensation Scheme**

XL Catlin Insurance Company (UK) Ltd is covered by the Financial Services Compensation Scheme. You may be entitled to compensation from the Scheme if we are unable to meet our obligations to you under this contract. If you were entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this contract. Further Information about the Scheme is available from the Financial Services Compensation Scheme (7<sup>th</sup> floor Lloyd's Chambers, Portsoken Street, London E1 8BN) and on their website: <http://fscs.org.uk>

# Fair Processing Notice

## How Touchstone Underwriting Limited use your Information

Please read the following carefully as it contains important information relating to the details that you have given us. You should show this notice to any other party related to this insurance.

### Who we are

Touchstone Underwriting Limited are a Managed General Agency who underwrite risks on behalf of Insurance carriers

You are giving your information to Touchstone Underwriting Limited, which is a member of the Seventeen Group Limited group of companies (the Group). In this information statement, we us and our refers to the Group unless otherwise stated.

### How your information will be used and who we share it with

Your information comprises of all the details we hold about you and your transactions and includes information obtained from third parties.

If you contact us electronically, we may collect your information identifier, e.g. Internet Protocol (IP) Address or telephone number supplied by your Service Provider.

We may use and share your information with other members of the Group to help us and them:

- Assess financial and insurance risks;
- Recover debt;
- Prevent and detect crime;
- Develop our services, systems and relationships with you;
- Understand our customers' requirements;
- Develop and test products and services

We do not disclose your information to anyone outside the Group except:

- Where we have your permission; or
- Where we are required or permitted to do so by law; or
- To credit reference and fraud prevention agencies and other companies that provide a service to us, our partners or you; or
- Where we may transfer rights and obligations under this agreement.

We may transfer your information to other countries on the basis that anyone we pass it to, provides an adequate level of protection. In such cases, the Group will ensure it is kept securely and used only for the purpose for which you provided it. Details of the companies and countries involved can be provided on request.

From time to time we may change the way we use your information. Where we believe you may not reasonably expect such a change we shall write to you. If you do not object, you will consent to that change.

We will not keep your information for longer than is necessary.

### Sensitive Information

Some of the information we ask you for may be sensitive personal data, as defined by the Data Protection Act 1998 and / or Data Protection Act 2018 (such as information about health or criminal convictions). We will not use such sensitive personal data about you or others except for the specific purpose for which you provide it and to carry out the services described in your policy documents. Please ensure that you only provide us with sensitive information about other people with their agreement.

### How to contact us

You are entitled to receive a copy of the information we hold about you. If you have any questions, or you would like to find out more about this notice you can write to: Data Protection Liaison Officer, Seventeen Group, 5 Lloyds Avenue, London, EC3N 3AE.

Insured by



**AXA XL, a division of AXA**

The registered office of AXA XL (incorporated and registered in England and Wales with company number 5328622) is 20 Gracechurch Street, London, EC3V 0BG

Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority

Underwritten and administered by



**Touchstone Underwriting Limited**

Authorised and regulated by the Financial Conduct Authority (FCA No.477614). Meridien House 70 Clarendon Road Watford Hertfordshire WD17 1DS

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