


Charity and Charity Trustees' Liability

Policy document



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Data protection statement

Zurich takes the privacy and security of your personal information seriously. We collect, use and share your personal information so that we can provide policies and services that meet your insurance needs, in accordance with applicable data protection laws.

The type of personal information we will collect includes: basic personal information (i.e. name, address and date of birth), occupation and financial details, health and family information, claims and convictions information and where you have requested other individuals be included in the arrangement, personal information about those individuals.

We and our selected third parties will only collect and use personal information (i) where the processing is necessary in connection with providing a quotation and/or contract of insurance; (ii) to meet our legal or regulatory obligations; (iii) where you have provided the appropriate consent; (iv) for our 'legitimate interests'.

It is in our legitimate interests to collect personal information as it provides us with the information that we need to provide our services more effectively including providing information about our products and services. We will always ensure that we keep the amount of information collected and the extent of any processing to the absolute minimum to meet this legitimate interest.

A full copy of our data protection statement can be viewed via www.zurich.co.uk/dataprotection

How you can contact us

If you have any questions or queries about how we use your data, or require a paper copy of the statement, you can contact us via gbz.general.data.protection@uk.zurich.com or alternatively contact our Data Protection Officer at Zurich Insurance, Unity Place, 1 Carfax Close, Swindon, SN1 1AP.

Important notes

Fraud prevention and detection

In order to prevent and detect fraud we may at any time:

- check your personal data against counter fraud systems
- use your information to search against various publicly available and third party resources
- use industry fraud tools including undertaking credit searches and to review your claims history
- share information about you with other organisations including but not limited to the police, the Insurance Fraud Bureau (IFB), other insurers and other interested parties.

If you provide false or inaccurate information and fraud is identified, the matter will be investigated and appropriate action taken. This may result in your case being referred to the Insurance Fraud Enforcement Department (IFED) or other police forces and fraud prevention agencies. You may face fines or criminal prosecution. In addition, Zurich may register your name on the Insurance Fraud Register, an industry-wide fraud database.

Claims history

We may pass information relating to claims or potential claims to any relevant database.

We and other insurers may search these databases when you apply for insurance, when claims or potential claims are notified to us or at time of renewal to validate your claims history or that of any other person or property likely to be involved in the policy or claim.

This helps to check information provided and prevent fraudulent claims.

Our complaints procedure

Our commitment to customer service

We are committed to providing a high level of customer service. If you feel we have not delivered this, we would welcome the opportunity to put things right for you.

Who to contact in the first instance

Many concerns can be resolved straight away. Therefore in the first instance, please get in touch with your usual contact at Zurich or your broker or insurance intermediary, as they will generally be able to provide you with a prompt response to your satisfaction.

Contact details will be provided on correspondence that we or our representatives have sent you.

Many complaints can be resolved within a few days of receipt

If we can resolve your complaint to your satisfaction within the first few days of receipt, we will do so. Otherwise, we will keep you updated with progress and will provide you with our decision as quickly as possible.

Next steps if you are still unhappy

If you are not happy with the outcome of your complaint, you may be able to ask the Financial Ombudsman Service to review your case.

We will let you know if we believe the ombudsman service can consider your complaint when we provide you with our decision. The service they provide is free and impartial, but you would need to contact them within 6 months of the date of our decision.

More information about the ombudsman and the type of complaints they can review is available via their website www.financial-ombudsman.org.uk.

You can also contact them as follows:

Post: Financial Ombudsman Service, Exchange Tower, London, E14 9SR

Telephone: 08000 234567 (free on mobile phones and landlines)

Email: complaint.info@financial-ombudsman.org.uk

If the Financial Ombudsman Service is unable to consider your complaint, you may wish to obtain advice from the Citizens Advice Bureau or seek legal advice.

The Financial Services Compensation Scheme (FSCS)

We are covered by the Financial Services Compensation Scheme (FSCS) which means that you may be entitled to compensation if we are unable to meet our obligations to you. Further information is available on www.fscs.org.uk or by contacting the FSCS directly on 0800 678 1100.

Your Charity and Charity Trustee's Liability policy

This policy is a contract between **you** and **us**.

This policy and any schedule and endorsement should be read as if they are one document.

We will insure **you** during any period of insurance for which **we** have accepted **your** premium. **Our** liability will in no case exceed the amount of any sum insured or limit of indemnity stated in this policy, the schedule or any endorsement to this policy.

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

Any reference to any statute or statutory instrument will include any amendments thereto or re-enactment thereof.

Any heading in this policy is for ease of reference only and does not affect its interpretation.

Law applicable to this contract

In the UK the law allows both **you** and **us** to choose the law applicable to this contract. This contract will be subject to the relevant law of England and Wales, Scotland, Northern Ireland, the Isle of Man or the Channel Islands depending upon **your** address stated in the schedule. If there is any dispute as to which law applies it will be English law. The parties agree to submit to the exclusive jurisdiction of the English courts.

This is a legal document and should be kept in a safe place.

Please read this policy and any schedule and endorsement carefully and if they do not meet **your** needs contact **us** or **your** broker or insurance intermediary.

Section 1 – Definitions

Certain words in this policy have special meanings. These meanings are given below and apply where the words appear in bold.

Approved Person

Any natural person employed by the **charity** to whom the Financial Conduct Authority has given its approval to perform one or more of controlled functions 1-20 for a company pursuant to Section 59 of the Financial Services and Markets Act 2000 (as amended).

Benefits

Any type of compensation or the equivalent value thereof other than salary and wages including but not limited to:

- a) perquisites, fringe benefits, bonus payments
- b) incentive or deferred compensation
- c) **share based benefits**
- d) medical or insurance benefits and payments due to any person in connection with an employee benefit plan or pension scheme.

Change of Control

Where any person, entity or group:

- a) acquires more than 50% of **your** share capital
- b) acquires the majority of the voting rights in **you**
- c) assumes the right to appoint or remove the majority of **your** board of directors or equivalent positions
- d) assumes control pursuant to written agreement with other shareholders over the majority of the voting rights in **you**
- e) merges with **you** such that **you** are not the surviving entity; or where
- f) a trustee in bankruptcy, receiver, liquidator or administrator or similar official or person is appointed to **you**.

Charity

You and any past, present or future **subsidiary company**.

Civil Bond or Bail Bond Expense

The reasonable premium but not collateral for a bond or other financial instrument to guarantee for up to 12 months an **insured person's** contingent obligation for a specific amount required by a court hearing a **claim**.

Claim

- a) A written demand for compensation, monetary damages or non-monetary relief alleging any **wrongful act**
- b) a civil proceeding, suit or counter-claim for compensation, monetary damages or non-monetary relief commenced by the service of a claim form or similar pleading alleging any **wrongful act**
- c) a formal notice of a criminal proceeding alleging any **wrongful act**
- d) a formal notice of an arbitration proceeding alleging any **wrongful act**
- e) a formal administrative or regulatory proceeding commenced by the service on any **insured** of a notice of charges or similar document against any **insured** alleging any **wrongful act**
- f) an investigation of an **insured person** in their insured capacity as such when an **insured person** is identified in writing by any investigating authority as a person against whom a criminal, administrative or regulatory proceeding may be commenced
- g) a formal request, warrant for arrest or other proceedings pursuant to the provisions of the Extradition Act 2003 or similar legislation in any other jurisdiction around the world.

Provided always that a **claim** will not include any labour or grievance arbitration or other proceeding pursuant to an employment collective bargaining or union agreement.

Defence Costs

Reasonable and necessary fees, costs, charges and expenses incurred by an **insured** with **our** prior written consent in the investigation, defence, adjustment, settlement or appeal of any **claim** made or brought against that **insured**. Provided always that defence costs will not include **investigation costs** and will not include remuneration payable to any **insured** or **employees** of the **charity**, cost of their time or costs or overheads of the **charity**.

Director

Any natural person who is:

- a) a past, present or future trustee, director, officer, management committee member, member of the board of managers, supervisory board member, management board member or governor of the **charity** elected or appointed according to law
- b) a past, present or future de facto director or officer or **shadow director** of the **charity**
- c) an **approved person**.

Employee

Any natural person who is:

- a) under a contract of service or apprenticeship with the **charity**
- b) a labour master or labour only subcontractor or person supplied by any of them
- c) under a work experience or similar scheme
- d) hired or borrowed by the **charity** from another employer
- e) a volunteer

and working for the **charity** in connection with the **charity's** business while under the direct control or supervision of the **charity**.

Employment Claim

A **claim** in respect of an **employment wrongful act** which is brought and maintained by or on behalf of any past, present, future or prospective **employee** of the **charity** against any **insured person**.

Employment Wrongful Act

In relation to the **charity** any actual or alleged:

- a) wrongful or unfair dismissal, discharge or termination of employment
- b) breach of any oral or implied employment contract or quasi-employment contract
- c) employment related misrepresentation
- d) violation of employment discrimination laws
- e) illegal workplace harassment including sexual harassment
- f) wrongful failure to promote
- g) wrongful discipline
- h) wrongful deprivation of a career opportunity
- i) wrongful demotion
- j) negligent evaluation
- k) negligent retention
- l) employment related invasion of privacy
- m) employment related defamation, humiliation, libel or slander
- n) failure to adopt workplace or employment practices policies and procedures
- o) illegal retaliatory treatment or victimisation of **employees** including retaliation in violation of whistleblower statutes
- p) employment related infliction of emotional distress in connection with a violation listed above in this definition.

Excess

The amount stated in this policy, the schedule or any endorsement to this policy for which **you** are responsible and which will be deducted from any payment under this policy as ascertained after the application of all other terms and conditions of this policy.

Extradition Costs

Reasonable and necessary legal fees, costs and expenses incurred by an **insured person** with **our** prior written consent to obtain legal advice or to bring or defend proceedings including by way of judicial review or by way of other challenge to the political executive's decision to order an **insured person's** extradition from the jurisdiction of the United Kingdom or any other jurisdiction around the world and to pursue appeals including appeals to the European Court of Human Rights.

Financial Institution

Any bank including any merchant or investment bank, finance company, hedge fund, insurance or reinsurance company, mortgage bank, savings and loan association, building society, credit union, stockbroker, investment trust, asset management company, fund manager or any entity established principally for the purpose of carrying out commodities, futures or foreign exchange trading or any other similar entity.

Financial Loss

- a) Damages, judgments, awards or settlements in respect of any **wrongful act** that any **insured** becomes legally liable to pay
- b) **defence costs**
- c) **investigation costs**
- d) **extradition costs**
- e) **prosecution costs**
- f) **civil bond or bail bond expense**
- g) punitive, exemplary, aggravated and multiple damages imposed upon an **insured**.

Provided always that financial loss will not include:

- i) taxes
- ii) social security contributions
- iii) fines or penalties imposed by law
- iv) damages that are uninsurable under the law pursuant to which this policy will be construed
- v) **benefits**
- vi) the costs to comply with any injunctive, interim or other non-monetary relief or any agreement to provide such relief.

In the event of a **claim** alleging that the price or consideration paid or proposed to be paid for an acquisition or completion of an acquisition of all or the majority of the ownership interest in or assets of an entity is inadequate financial loss with respect to such **claim** will not include any amount other than **defence costs** in respect of any judgment or settlement representing the amount by which such price or consideration is effectively increased.

Foreign Jurisdiction

Any jurisdiction other than the United Kingdom.

Insured

- a) Any **insured person**
- b) the **charity**.

Insured Person

Any natural person who is:

- a) a **director** of the **charity** whilst acting in such capacity on behalf of the **charity**
- b) an **employee** who is named as co-defendant with any other **insured person** acting in a managerial or supervisory capacity on behalf of the **charity**.

Investigation

An official examination, enquiry, investigation or other proceeding into **your** affairs ordered or commissioned by a body legally empowered to investigate **your** affairs.

Investigation Costs

Reasonable costs and expenses necessarily incurred by an **insured** with **our** written consent for representation at an **investigation** when such **insured** has been legally required in writing to attend.

Provided always that investigation costs will not include:

- a) fines or penalties levied or imposed in connection with the **investigation**
- b) remuneration payable to any **insured** or **employee** of the **charity**, cost of their time or costs or overheads of the **charity**.

Limit of Liability

Our maximum liability in the aggregate payable under this policy for all **financial loss** arising from all **claims** made under this policy. The limit of liability applies over and above any **excess**.

North American Claim

Any **claim** brought or commenced in whole or in part within the jurisdiction of or pursuant to the laws of the United States of America or Canada or territories under their jurisdiction.

Nuclear Installation

Any installation of such class or description as may be prescribed by regulations made by the relevant Secretary of State from time to time by statutory instrument being an installation designed or adapted for:

- a) the production or use of atomic energy
- b) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiation
- c) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter being matter which has been produced or irradiated in the production or use of nuclear fuel.

Nuclear Reactor

Any plant including any machinery, equipment or appliance whether affixed to land or not designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

Parent Company

Any company which is from time to time a holding company of the **charity** as such expression is defined in section 1159 of the Companies Act 2006 or equivalent legislation.

Pollutants

Any solid, liquid, gaseous irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals, toxic mould or any thermal irritant or contaminant, ionising radiation or radioactivity from any nuclear fuel and waste including but not limited to nuclear waste or materials which are intended to be or have been recycled, reconditioned or reclaimed and any other similar substance of any kind or nature whatsoever including electromagnetic fields, asbestos, asbestos products and any noise.

Pollution

- a) The actual, alleged or threatened generation, transportation, discharge, emission, dispersal, release, escape, treatment, storage or disposal of pollutants
- b) any governmental regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise pollutants
- c) any action taken in contemplation or anticipation of any such regulation, order, direction or request, or any voluntary decision to do so.

Professional Services

Services or advice performed or provided by the **charity** in the furtherance of the **charity's** charitable purpose.

Proposal

Any information, statements or materials supplied to **us** by **you**.

Prosecution Costs

Reasonable and necessary fees, costs, charges and expenses incurred with **our** prior written consent in bringing or defending proceedings in an **insured's** national court or to appeal to seek to obtain the discharge or revocation of a judicial order entered during the period of insurance against an **insured person** in connection with a **claim**. Provided always that such fees, costs, charges and expenses will not include any remuneration payable to any **insured person** or **employee** of the **charity**, costs of their time or overhead of the **charity**.

Shadow Director

Any natural person who is deemed a shadow director as defined in section 251 of the Companies Act 2006.

Share Based Benefits

The value of any actual, beneficial or contingent rights to benefits, incentives or other compensation whose value is imputed or derived in any way from the value of the securities of any company, including but not limited to, share options, share grants, restricted shares or share warrants.

Sub-limit of Liability

A limit of **our** liability under this policy which is within and forms part of and is not in addition to the **limit of liability**.

Subsidiary Company

Any entity in which **you** directly or indirectly:

- a) hold more than 50% of the voting rights
- b) appoint a majority of the board of directors
- c) have the right to appoint a majority of the board of directors subject to a written agreement with other shareholders.

Third Party

Any person or entity other than the **charity** or an **insured person**.

We, Us, Our, Ours

Zurich Insurance Company Ltd.

Wrongful Act

Any actual, alleged or attempted breach of duty, breach of trust, breach of warranty of authority, neglect, error, misstatement, misleading statement, libel, slander or defamation, **employment wrongful act** or any other wrongful act or omission committed or attempted by or allegedly committed or attempted by the **charity** or an **insured person** whilst acting in their capacity on behalf of the **charity** or any matter claimed against such **insured person** solely by reason of their status as such.

You, Your, Yours, Yourselves

The charity, not-for-profit club or not-for-profit association designated in the schedule.

Section 2 – The Cover

The following insurance covers are afforded for **claims** first made against an **insured person** during the period of insurance or during an extended reporting period and notified to **us** as required by the policy.

2.1 Insured person cover

We will pay on behalf of any **insured person** the **financial loss** of such **insured person** in respect of any **claim** made against such **insured person** other than to the extent that such **insured person** is indemnified by the **charity**.

2.2 Employment claims

We will pay on behalf of any **insured person** the **financial loss** of such **insured person** in respect of any **employment claim** made against such **insured person** other than to the extent that such **insured person** is indemnified by the **charity**.

2.3 Charity reimbursement cover

We will pay on behalf of the **charity** the **financial loss** of an **insured person** in respect of any **claim** or **employment claim** made against such **insured person** but only to the extent that the **charity** has indemnified such **insured person**.

2.4 Retired persons

In the event that **you** do not renew this policy and only in respect of **insured persons** who retire prior to the date of non-renewal this policy shall continue in force for a period of 6 years from the date of non-renewal. Provided that:

- a) the policy shall only apply to **claims** arising from **wrongful acts** prior to the date of retirement of the **insured person**; and
- b) the said 6 years period shall run concurrently with any extended reporting period; and
- c) no similar insurance is effected elsewhere.

2.5 Marital estates

We will pay **financial loss** arising from or in consequence of any **claim** first made against the lawful spouse or domestic partner of any **insured person** during the period of insurance arising solely out of their capacity as the spouse or domestic partner of any **insured person**. The cover provided by this clause is limited to **financial loss** arising from actions or proceedings for the enforcement of judgments or damages against an **insured person** resulting from a **claim** against that **insured person** covered under this policy where such enforcement relates to the ownership of property including marital community property jointly held by the **insured person** and their spouse or domestic partner. This clause will not cover any **claim** arising out of any **wrongful act** of the spouse or domestic partner.

2.6 Charity investigations

We will pay on behalf of any **insured person** such **investigation costs** as arise from or are a consequence of an **investigation** into the affairs of the **charity** provided that the **insured person** is legally required to attend such **investigation** for the first time during the period of insurance and **you** notify **us** of such investigation pursuant to the requirements of Section 5 Claims Settlement.

An **investigation** will be deemed to be first made when the **insured person** is first so required in writing to attend such **investigation**.

Provided always that this cover will not apply to any **investigation** brought or commenced in whole or in part within the jurisdiction of or pursuant to the laws of the United States of America or any territory or possession thereof including but not limited to any **investigation** brought by or commenced by the United States Securities and Exchange Commission (SEC).

2.7 Bilateral extended reporting period

If this policy is not renewed by **you** or **us** **you** have the right to extend the period of insurance for 12 months for 50% of the annual premium stated in the schedule in respect of any **wrongful act** committed prior to the effective date of such non-renewal.

You must give **us** written notice of **your** intention to purchase the extended reporting period within 10 days of the effective date of non-renewal of this policy.

You must promptly pay the relevant premium.

Section 3 – Extensions

The following insurance covers are afforded for **claims** first made during the period of insurance or during an extended reporting period and notified to **us** as required by the policy.

3.1 Additional limit for directors and trustees

We will pay the non-indemnifiable **financial loss** of each and every **director** of the **charity** up to the **sub-limit of liability** stated in the policy schedule in the aggregate per **director** when the following have been exhausted:

- a) the **limit of liability**; and
- b) all other applicable management liability insurance whether specifically written as excess over the **limit of liability** of this policy or otherwise; and
- c) all other indemnification for loss available to any **director**.

3.2 Emergency costs

If **our** written consent cannot reasonably be obtained before **defence costs** are incurred with respect to any covered **claim** **we** will give retrospective approval for such **defence costs** subject to a **sub-limit of liability** of 10% of the **limit of liability** in the aggregate.

3.3 Reputational recovery costs

We will pay the reasonable fees and expenses payable to outside public relations professionals incurred by an **insured** with **our** prior written consent in order to mitigate damage to an **insured's** reputation due to a covered **claim** as objectively established by media reports or other publicly available third-party data provided that such **claim** is first made against an **insured** during the period of insurance and notified to **us**.

This extension is subject to the **sub-limit of liability** stated in the policy schedule in the aggregate.

3.4 Corporate liability for charities

We will pay on behalf of the **charity** the **financial loss** of the **charity** in respect of any **claim** made against the **charity** including but not limited to:

- a) any **claim** in respect of criminal proceedings brought in respect of a charge or investigations connected with a charge of corporate manslaughter or corporate homicide under the Corporate Manslaughter and Corporate Homicide Act 2007
- b) any **claim** arising from the provision of or failure to provide **professional services**.

We will pay on behalf of the **charity** reasonable costs and expenses necessarily incurred by the **charity** with **our** written consent for representation at any **investigation**.

Provided always that this extension does not cover any **claim** arising from or in consequence of:

- i) any breach of any oral or written contract or agreement except to the extent the **charity** would have been liable in the absence of the contract or agreement
- ii) any **employment claim**
- iii) performance of or attempted performance by the **charity** of any duties or responsibilities in relation to the pension scheme of the **charity**
- iv) any act of libel or slander other than that committed or uttered in good faith
- v) any public or private offering of securities made by the **charity** during the period of insurance
- vi) any breach of any regulatory, statutory or common law aimed at preventing monopolies, price discrimination, fixing of prices or other unfair trade practices
- vii) any litigation brought in a court of law constituted in a **foreign jurisdiction** or arising out of the activities of the **charity** in the United States of America or Canada
- viii) loss of documents.

This extension is subject to the **sub-limit of liability** stated in the policy schedule in the aggregate.

An **excess** will apply in respect of each and every **claim** under this extension. Provided always that this **excess** will not apply to any **claim** which is successfully defended. The amount of this **excess** is as stated in the policy schedule in respect of:

- 1) **claims** arising from the provision of or failure to provide **professional services**; or
- 2) all other **claims** covered under this extension.

3.5 Entity employment practice

We will pay on behalf of the **charity** the **financial loss** of the **charity** in respect of any **employment claim** made against the **charity**.

Provided always that this extension does not cover **financial loss** in respect of any **claim** arising from or in consequence of:

- a) the costs associated with any obligation to adjust or adapt any premises, building or machinery or make any other adjustments or reasonable accommodations required by or as a result of or to conform with the requirements of the Disability Discrimination Acts of 1995 and 2005 whether pursuant to a duty to make adjustments or otherwise
- b) any award made in respect of the failure by an **insured** to inform or consult any **employee** representative in accordance with:
 - i) the Transfer of Undertakings (Protection of Employment) Regulations 2006
 - ii) a protective award in the United Kingdom
- c) any **claim** arising from an industrial dispute, lockout or breach of a collective agreement including any **claim** pursuant to the Trade Union and Labour Relations (Consolidation) Act 1992
- d) any **claim** made or brought in a **foreign jurisdiction**
- e) any liability volunteered by any **employee** or the **charity** on behalf of any other person or entity.

This extension is subject to the **sub-limit of liability** stated in the policy schedule in the aggregate.

An **excess** will apply in respect of each and every **claim** under this extension. The amount of this **excess** is as stated in the policy schedule.

We will be entitled to take over the defence or settlement including the appointment of legal counsel of any **employment claim** made under this extension.

We may at any time pay the maximum amount payable under this extension after deduction of any sum or sums already paid or any lower amount for which any **employment claim** can be settled and then relinquish the conduct and control and be under no further liability in respect of the **employment claim** except for the payment of **defence costs** incurred prior to the date of such payment.

If in **our** view an **employment claim** can be compromised or settled but any **employee** or the **charity** wish to further contest such **employment claim** **we** will not be under further liability for any amount over and above the original amount at which **we** in **our** view would have been able to achieve a compromise or settlement.

3.6 Fraud and dishonesty

We will indemnify **you** in respect of any loss incurred by **you** solely and directly caused by any dishonesty of any **director, employee** or any other person, entity, firm or company directly appointed by and acting for or on behalf of **you** where such dishonesty is first discovered and notified during the policy period.

This extension is subject to the **sub-limit of liability** stated in the policy schedule in the aggregate.

An **excess** will apply in respect of each and every loss indemnified under this extension. The amount of this **excess** is as stated in the policy schedule.

3.7 Loss of documents

We will also pay reasonable costs necessarily incurred by **you** with **our** prior consent for the restoration or replacement of records associated with **your** charitable activities including computer systems records which have been accidentally lost or damaged. Provided always that any computer systems records are backed up no less frequently than once every 7 days or as otherwise agreed by **us** and such backed up records are held at a separate location. This clause does not apply to negotiable instruments of whatsoever nature.

This extension is subject to the **sub-limit of liability** stated in the policy schedule in the aggregate.

An **excess** will apply in respect of each and every **claim** under this extension. The amount of this **excess** is as stated in the policy schedule.

Section 4 – Exclusions

This policy does not cover **financial loss** in respect of:

4.1 Charity or insured person

any **claim** brought or maintained in whole or in part by or on behalf of the **charity** or any **insured person**.

Provided always that this exclusion shall not apply to:

- a) any **claim** which the **charity** is ordered to bring by a legally empowered official body
- b) any **claim** brought in the name of the **charity** by one or more persons who are not **insured persons** and who bring and maintain the **claim** without the solicitation, assistance or active participation of the **charity** or any **insured person**
- c) any **claim** brought by or at the instigation of any **insured person** if such **claim** results from a covered **claim** brought by any third party and the third party could have brought the **claim** directly against an **insured person** not named in the independent **claim**
- d) any **claim** brought by any former **insured person**
- e) **defence costs**

4.2 Employment benefits

any **claim** arising from or in consequence of any violation or infringement of any responsibilities, obligations or duties imposed by statute, common law, rule or regulation in respect of employers liability, disability benefits, working time regulations, redundancy pay, **benefits**, unemployment benefits, social security, retirement benefits, disability benefits, health and safety or any similar law, rule or statute or portion of any law, rule or statute. Provided always that this exclusion will not apply to any allegation of retaliation or retaliatory treatment of the claimant by the **insured** on account of the claimant's exercise of rights pursuant to any such statute, law, rule or regulation

4.3 ERISA

any **claim** arising from or in consequence of violation of any responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act (ERISA) of 1974 or any amendment thereof enacted in the United States of America or its territories or by similar regulations or provisions concerning pension, profit sharing or employee benefit programmes or social compensation plans arising under Federal, State or local statutory laws in the United States of America, its territories or possessions or which relate in any way thereto

4.4 Fraud and recklessness

any **claim** arising from or in consequence of any recklessness, intentionally dishonest or fraudulent act or omission or any wilful violation of any statute or regulation or relevant admission committed by any **insured** if a judgment or other final decision establishes such an intentionally dishonest or fraudulent act or omission or wilful violation.

Provided always that this exclusion shall not apply to any **claim** covered under extension 3.4, 3.5 or 3.6

4.5 Medical malpractice

any **claim** arising from or in consequence of medical services or treatment

4.6 North American claims

any **North American claim**

4.7 Nuclear and war risks, government or public authority order and sonic bangs

death, injury, disablement or loss or damage to any property or any loss or expense resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

- a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any **nuclear installation**, **nuclear reactor** or other nuclear assembly or nuclear component thereof
- c) any weapon employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter but this exclusion d) will not apply to radioactive isotopes other than nuclear fuel when such isotopes are being prepared, carried, stored or used for commercial, agricultural, medical, scientific or other peaceful purposes

- e) i) war, invasion, act of foreign enemy, hostilities whether war be declared or not, civil war, rebellion, revolution, insurrection, military or usurped power
- ii) nationalisation, confiscation, requisition, seizure or destruction by any government or public authority
- f) pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds

4.8 Parent company

any **claim** made by or at the instigation of any **parent company** of the **charity** regardless of whether such **claim** is made in the name of the **parent company** or not

4.9 Pension trustee

any **claim** arising from or in consequence of infringement of obligations imposed by any statute, regulation or common law whilst acting in the capacity of trustee of any pension, superannuation scheme, profit sharing or other employee benefit scheme

4.10 Personal debt

any **claim** arising from or in consequence of:

- a) any actual or alleged contractual liability of any **insured person** pursuant to any contract, agreement or legal requirement of any kind
- b) any debt of any **insured person**

4.11 Prior and pending investigation

any **investigation** initiated prior to or pending at the date specified in the schedule or alleging or deriving from the same or essentially the same facts as or that has the same originating source or causes as the matters alleged in such prior or pending **investigation**

4.12 Prior and pending litigation

any **claim** arising from or in consequence of litigation arbitration or other proceedings initiated prior to or pending at the date specified in the schedule of this policy or alleging or deriving from the same or essentially the same facts as or that has the same originating source or causes as the matters alleged in such prior or pending litigation

4.13 Prior circumstances and claims

- a) any **claim** arising from or in consequence of any circumstance, fact, matter or occurrence that might give rise to any **claim** that was reported under any other insurance policy prior to inception of this policy or that was disclosed on **your** latest **proposal** to **us** or if not reported or disclosed that was or ought to have been known to any **insured** prior to inception of this policy
- b) any **claim** alleging or deriving from the same or similar facts or that has the same originating source or cause as the matters alleged in any **claim** made against any **insured** prior to inception of this policy

4.14 Profit or advantage

any **claim** arising from or in consequence of any **insured** having gained actual profit or advantage to which they had no legal entitlement

4.15 Property damage and bodily injury

any **claim** arising from or in consequence of:

- a) death, bodily injury, mental injury, sickness, disease, mental anguish or shock other than mental anguish or shock in connection with an **employment claim**
- b) loss of or damage to property

4.16 Terrorism

any **claim** arising from or in consequence of loss, damage, consequential loss, cost or expense directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with:

- a) any act or preparation in respect of action or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group whether acting alone or on behalf of or in connection with any organisation or government de jure or de facto and which:
 - i) involves violence against one or more persons
 - ii) involves damage to property
 - iii) endangers life other than that of the person committing the action
 - iv) creates a risk to health or safety of the public or a section of the public
 - v) is designed to interfere with or to disrupt an electronic system
- b) any action in controlling, preventing, suppressing, retaliating against or responding to any act or preparation in respect of action or threat of action described in a) above.

In any action or suit or other proceedings where **we** allege that by reason of this exclusion cover is not provided under this policy the burden of proving that cover is provided under this policy will be upon the **insured**

4.17 Union and collective bargaining

any **claim** arising from or in consequence of any actual or alleged violation of the responsibilities, obligations, or duties imposed by any statute or common law that governs the rights of employees to engage in or to refrain from engaging in union or other collective activities or the enforcement of any collective bargaining agreement including but not limited to grievance and arbitration proceedings

4.18 Wrongful acts for subsidiaries

any **claim** arising from or in consequence of any actual or alleged **wrongful act** of any **insured person** of any **subsidiary company** or the **subsidiary company** committed prior to becoming a **subsidiary company** or after ceasing to be a **subsidiary company**.

Section 5 – Claims Settlement

5.1 Defence of claim

It is the duty of an **insured** who receives a **claim** to take all reasonable steps to defend such **claim** and they will not do anything which may prejudice **our** position.

We will have no duty to defend any **claim** made under this policy. Provided always that for any **claim** which may be covered under this policy **we** will have the right to be provided with all such information regarding the **claim** as **we** will reasonably require and will be kept fully informed regarding all matters regarding the investigation, defence or settlement of any **claim** and will have the right to receive copies of all relevant documents.

In the event of any dispute between **you** and **us** regarding whether or not to contest any **claim** then the procedure described by the Arbitration condition in this policy will apply.

5.2 Payments

We will pay **defence costs** covered under this policy to the **insured** as and when those **defence costs** fall due. Any **insured** with no entitlement to payment for **financial loss** under the terms and conditions of this policy must repay **us** any payments of **defence costs** to such **insured** which have been made by **us**.

5.3 Fair allocation

If a **claim**:

- a) is made against any **insured person** or the **charity** and any defendant not insured under this policy
- b) includes both **financial loss** which is covered under this policy and **financial loss** together with associated **defence costs** which are not covered

we, the **insured person** and the **charity** will use all reasonable endeavours to determine a fair allocation between **financial loss** which is covered and **financial loss** and **defence costs** which are not covered under this policy.

5.4 Payments on behalf of insured persons

If the **charity** fails for reasons other than insolvency to indemnify the **insured person** to the fullest extent permitted or required by law in respect of **financial loss** covered under this policy **we** will pay such **financial loss** on behalf of the **insured person**. **We** will then be entitled to obtain reimbursement from the **charity** for all payments made by **us** that would not have been made if the indemnity had been provided by the **charity**.

5.5 Written consent

Our written consent must be obtained before:

- a) any **defence costs** are incurred
- b) any legal representative is retained to defend any **insured person** or to take any steps in connection with any legal proceedings that may potentially be covered by this policy
- c) any **claim** is settled.

Section 6 – Conditions

6.1 Applicability to each person separately

Any **proposal** will be construed to be a separate application for cover for each **insured**. No statement in any **proposal** nor knowledge possessed by any **insured** nor **wrongful act** of any **insured** will be imputed to any other **insured** for the purposes of determining the availability of cover under this policy.

6.2 Arbitration

All disputes and differences arising under or in connection with this contract must be referred to arbitration under ARIAS Arbitration Rules. The Arbitration Tribunal will consist of three arbitrators one to be appointed by the claimant one to be appointed by the respondent and the third to be appointed by the two appointed arbitrators.

The third member of the Tribunal must be appointed as soon as practicable and no later than 28 days after the appointment of the two party-appointed arbitrators. The Tribunal will be constituted upon the appointment of the third arbitrator.

The arbitrators must be people including those who have retired with not less than 10 years experience of insurance or reinsurance within the insurance industry or as lawyers or other professional advisers serving the insurance industry.

Where a party fails to appoint an arbitrator within 14 days of being called upon to do so or where the two party-appointed arbitrators fail to appoint a third within 28 days of their appointment then upon application ARIAS (UK) will appoint an arbitrator to fill the vacancy. At any time before their appointment by ARIAS (UK) the party or arbitrators in default may make such appointment.

The Tribunal has sole discretion to make such orders and directions that it considers necessary for the final determination of the matters in dispute. The Tribunal has the widest discretion permitted under the law governing arbitration when making such orders or directions.

6.3 Automatic acquisition

We will pay the **financial loss** on behalf of an **insured person** of a **subsidiary company** which **you** founded or acquired after the inception date of this policy provided that the newly founded or acquired **subsidiary company**:

- a) is not domiciled outside the European Economic Area
- b) does not have publicly traded securities
- c) is not a **financial institution**
- d) does not have assets which exceed 25% of **your** total assets as stated in **your** last published accounts.

6.4 Change of control

If there is a **change of control** during the period of insurance then the cover provided by this policy only applies in respect of **wrongful acts** occurring prior to the effective date of that **change of control**.

You must give written notice to **us** of the **change of control** as soon as reasonably practicable.

6.5 Change in circumstances

You must notify **us** as soon as possible during the period of insurance if there is any change in circumstances which materially increases the risk of accident, injury, loss, damage or liability.

Upon notification of any such change **we** will be entitled to vary the premium and terms for the rest of the period of insurance. If the changes make the risk unacceptable to **us** then **we** may no longer be able to provide **you** with cover.

If **you** do not notify **us** of any such change this policy may be affected in one or more of the following ways depending on what **we** would have done had **we** known about the change in circumstances:

- a) if **we** would not have continued to provide **you** with any cover **we** may treat this policy as if it did not exist from the date of the change in circumstances; or
- b) if **we** would have applied different terms to the cover **we** may treat this policy as if those different terms applied from the date of the change in circumstances; and/or
- c) if **we** would have charged **you** a higher premium for providing the cover **we** will charge **you** the additional premium which **you** must pay in full.

6.6 Claims notification

It is a condition precedent that the **charity** or the **insured person** must provide written notice to **us** as soon as is reasonably practicable and in any event no later than 45 days after the expiry of the period of insurance of:

- a) any **claim**
- b) notice from any person or entity of an intention to make a **claim**
- c) any **insured person** being required to attend an **investigation**.

If the **charity** or any **insured person** becomes aware of any circumstance which could reasonably be expected to give rise at a later date to a **claim** then written notice to **us** of such circumstance will be deemed for the purposes of this policy to be the date on which any **claim** arising out of such circumstance was made and notified under this policy.

Written notice must include but is not limited to a description of the **claim, investigation** or circumstance as applicable, the nature of the alleged or potential damage, the names of the actual or potential claimants and the date and manner in which the **charity** or **insured person** first became aware of the **claim, investigation** or circumstance as applicable.

6.7 Claims series

Any **claim** or **investigation** whether made before, during or after the period of insurance or series of such **claims** or **investigations** which arise out of the same **wrongful act** or a related series of **wrongful acts** or which have the same originating cause or source or are otherwise causally connected shall constitute a single **claim** or **investigation** for the purposes of this policy.

All such **claims** and such **investigations** that constitute a single **claim** or **investigation** under this provision shall be deemed to have been made during the period of insurance if either the first such **claim** or first such **investigation** was first made during the period of insurance.

If however the first such **claim** or first such **investigation** was made prior to the period of insurance then all such **claims** and **investigations** shall be deemed to have been made prior to the period of insurance and therefore excluded from cover.

For the purpose of applying this condition an **investigation** shall be deemed to have been made when an **insured person** is first required to attend such **investigation**.

6.8 Contracts (Rights of Third Parties) Act 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this policy is not enforceable by any third party.

6.9 Contractual right of renewal (tacit)

If **you** pay the premium to **us** using **our** Direct Debit instalment scheme **we** will have the right (which **we** may choose not to exercise) to renew this policy each year and continue to collect premiums using this method. **We** may vary the terms of this policy (including the premium) at renewal. If **you** decide that **you** do not want **us** to renew this policy provided **you** tell **us** or **your** broker or insurance intermediary before the next renewal date **we** will not renew it.

6.10 Contribution

If a **claim** under this policy is also insured by any other policy **we** will not pay more than **our** rateable proportion.

6.11 Fair presentation of the risk

- a) At inception and renewal of this policy and also whenever changes are made to it at **your** request **you** must:
 - i) disclose to **us** all material facts in a clear and accessible manner; and
 - ii) not misrepresent any material facts.
- b) If **you** do not comply with clause a) of this condition and the non-disclosure or misrepresentation by **you** is proven by **us** to be deliberate or reckless **we** may from the relevant date specified in clause d):
 - i) treat this policy as if it had not existed; and
 - ii) not return the premium paid by **you**.
- c) If **you** do not comply with clause a) of this condition and the non-disclosure or misrepresentation is not deliberate or reckless the cover, meaning this policy or the changes made to it, may be affected from the relevant date in clause d) in one or more of the following ways depending on what **we** would have done if **we** had known about the facts which **you** failed to disclose or misrepresented:
 - i) if **we** would not have provided **you** with the cover **we** will have the option to treat the cover as if it had not existed and repay the premium paid for such cover; or
 - ii) if **we** would have applied different terms to the cover **we** will have the option to treat this policy as if those different terms apply; and/or
 - iii) if **we** would have charged **you** a higher premium for providing the cover **we** will charge **you** the additional premium which **you** must pay in full.

- d) Clauses b) and c) apply with effect from inception, renewal or the date of the changes, depending on when the non-compliance occurred. **We** may also recover any claims payments which have already been made to the extent that the cover under which such payments were made is being treated as if it did not exist or as if it had been subject to different terms under which the claim would not have been payable.

6.12 Fraudulent claims

If **you** or anyone acting on **your** behalf:

- a) makes a fraudulent or exaggerated claim under this policy; or
- b) uses fraudulent means or devices including the submission of false or forged documents in support of a claim whether or not the claim is itself genuine; or
- c) makes a false statement in support of a claim whether or not the claim is itself genuine; or
- d) submits a claim under this policy for loss or damage which **you** or anyone acting on **your** behalf or in connivance with **you** deliberately caused; or
- e) realises after submitting what **you** reasonably believed was a genuine claim under this policy and then fails to tell **us** that **you** have not suffered any loss or damage; or
- f) suppresses information which **you** know would otherwise enable **us** to refuse to pay a claim under this policy

we will be entitled to refuse to pay the whole of the claim and recover any sums that **we** have already paid in respect of the claim.

We may also notify **you** that **we** will be treating this policy as having terminated with effect from the date of any of the acts or omissions set out in clauses a) to f) of this condition.

If **we** terminate this policy under this condition **you** will have no cover under this policy from the date of termination and not be entitled to any refund of premium.

If any fraud is perpetrated by or on behalf of an **insured person** and not on behalf of **you** this condition should be read as if it applies only to that **insured person's** claim and references to this policy should be read as if they were references to the cover effected for that person alone and not to the policy as a whole.

6.13 Limit of liability and excess

The **limit of liability** is the total aggregate amount payable by **us** under this policy for all **financial loss** under all insuring clauses within section 2 of this policy irrespective of the number of **claims** or the number of **insureds** who may **claim** under this policy and irrespective of the amounts of any such **claims** or when they are made.

6.14 Payment by instalments

Where **we** refer in the policy to the payment of premiums this will include payment by monthly instalments. If **you** pay by this method the policy remains an annual contract.

6.15 Public or private offering

If **you** or any **subsidiary company** makes a public or private offering of securities during the period of insurance then **you** must give written notice to **us** of that offering including any information **we** may reasonably require as soon as reasonably practicable. **We** reserve the right to provide cover and amend the terms of this policy in respect of that public or private offering.

We also reserve the right to exclude cover for any public or private offering.

6.16 Sanctions

Notwithstanding any other terms of this policy **we** will be deemed not to provide cover nor will **we** make any payment or provide any service or benefit to **you** or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of **yours** would violate any applicable trade or economic sanctions law or regulation.

6.17 Subrogation

When **we** pay any **financial loss** **we** will assume all rights of recovery available to any **insured person** or the **charity** who must give **us** all reasonable assistance in the prosecution of such rights. The **insured persons** shall execute all papers reasonably required and shall take all reasonable action that may be necessary to secure any and all subrogation rights of **us** including an action against the **charity** for non-payment of indemnity by the **charity**.

6.18 Territorial limits

Coverage under this policy will apply to **financial loss** incurred resulting from **claims** made and **wrongful acts** occurring in the United Kingdom, the Isle of Man or the Channel Islands.

Zurich Insurance Company Ltd

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