

PREAMBLE

Underwriters having received a Proposal which shall form the basis of and be incorporated in this contract and in consideration of the Premium having been paid to Underwriters, We agree to pay or indemnify the Educational Establishment and/or the Assured to the extent and in the manner herein provided.

An Insuring Clause is only operative if stated as such in the Schedule.

The headings of each Insuring Clause, Exclusion or Condition are for ease of identification only.

The General Definitions, General Exclusions and General Conditions of the Certificate apply to all Insuring Clauses in addition to the Definitions, Exclusions and Conditions applicable under each individual Insuring Clause, unless endorsed hereon to the contrary.

Specimen

INSURING CLAUSE 1 – EXECUTIVE AND PROFESSIONAL LIABILITY

We agree subject to the terms, limitations, exclusions and conditions of this Certificate to

(a) EXECUTIVE LIABILITY

- (i) pay on behalf of the Assured and as incurred Loss arising from
 - (a) any Claim or Claims made against the Assured during the Period of Insurance by reason of a Wrongful Act committed by the Assured in their capacity of governor, director, council member, officer or trustee
 - (i) of the Educational Establishment, or
 - (ii) of any Other Concern when the Assured holds such a position at the request, order or direction of the Educational Establishment,
 - (b) Disqualification Proceedings which are first ordered or commissioned during the Period of Insurance
 - (c) the attendance of the Assured at an Investigation which is first ordered or commissioned during the Period of Insurance
 - (d) the attendance of the Assured at any Environmental Proceedings which are first ordered or commissioned during the Period of Insurance within the United Kingdom

except to the extent that such Loss is recoverable by the Assured from the Educational Establishment under Insuring Clause 1(a)(ii);

- (ii) pay on behalf of the Educational Establishment and as incurred Loss arising from
 - (a) any Claim or Claims made against the Assured during the Period of Insurance by reason of a Wrongful Act committed by the Assured in their capacity of governor, director, council member, officer or trustee of the Educational Establishment, or
 - (b) Disqualification Proceedings which are first ordered or commissioned during the Period of Insurance
 - (c) the attendance of the Assured at an Investigation which is first ordered or commissioned during the Period of Insurance
 - (d) the attendance of the Assured at any Environmental Proceedings which are first ordered or commissioned during the Period of Insurance within the United Kingdom

but only if and to the extent that the Educational Establishment shall be required or permitted to indemnify the Assured pursuant to the law, or by reason of any indemnity clause in the Memorandum or Articles of Association, trust deed, constitution or charter of the Educational Establishment.

(b) PROFESSIONAL LIABILITY

indemnify the Educational Establishment or the Assured against Loss arising from any Claim or Claims made against the Educational Establishment or the Assured during the Period of Insurance by reason of a Wrongful Act committed by

- (i) the Educational Establishment and/or the Assured, or
- (ii) any Employee, or
- (iii) any other person, firm or company directly appointed by and acting for and on behalf of the Educational Establishment

in or about the conduct of the Professional Services.

(c) DOCUMENTS

indemnify the Educational Establishment against Loss notified to Us during the Period of Insurance which arises from the physical destruction or damage, loss or mislaying of any Document which after diligent search cannot be found, in or about the conduct of the Professional Services.

INSURING CLAUSE 2 – EMPLOYMENT LAW PROTECTION

We agree subject to the terms, limitations, exclusions and conditions of this Certificate to

(a) **EMPLOYMENT DISPUTES**

pay on behalf of the Educational Establishment and/or the Assured and as incurred Loss arising from any Claim or Claims made against the Educational Establishment and/or the Assured during the Period of Insurance by reason of an Employment Wrongful Act.

(b) **INVESTIGATIONS**

pay on behalf of the Educational Establishment and/or the Assured and as incurred Loss arising from the Educational Establishment and/or the Assured, or their representative's attendance at an Investigation which is first ordered or commissioned during the Period of Insurance.

Specimen

INSURING CLAUSE 3 – FIDELITY

We agree subject to the terms, limitations, exclusions and conditions of this Certificate to indemnify the Educational Establishment against Loss which the Educational Establishment shall, during the Period of Insurance, first discover it has sustained in consequence of any fraudulent or dishonest act committed after the Retroactive Date by an Employee or Employees Acting In Collusion with the manifest intent to obtain improper personal gain for such Employee or for any other party intended by such Employee to receive such gain.

Specimen

DEFINITIONS

GENERAL DEFINITIONS APPLICABLE TO THE CERTIFICATE AS A WHOLE

"Claim" shall mean

- (i) any claim form, writ or summons or other application of any description whatsoever or counter claim issued against or served upon the Educational Establishment or Assured, or
- (ii) any communication or allegation communicated to the Educational Establishment or Assured

which might result in a Loss.

"Costs and Expenses" shall mean all legal costs and expenses reasonably incurred by Us or by the Educational Establishment or the Assured with Our written consent other than

- (i) damages and costs awarded against the Educational Establishment or the Assured
- (ii) remuneration of whatsoever nature due to any governor, director, council member, officer or trustee of the Educational Establishment or Employee or Assured.

"Educational Establishment" shall mean the educational establishment stated in the Schedule as such and the Subsidiary Company.

"Employment Wrongful Act" shall mean any actual or alleged

- (i) act or omission resulting in a dispute concerning the employment of the Employee or any prospective Employee, or
- (ii) Retaliatory Treatment

committed or allegedly committed or attempted by

- (a) in respect of Insuring Clause 1 (Executive and Professional Liability), the Assured
- (b) in respect of Insuring Clause 2 (Employment Law Protection), the Educational Establishment and/or the Assured.

"Excess" shall mean the amount stated in the Schedule in respect of each Insuring Clause other than

- (i) in respect of Insuring Clause 1(a) (Executive Liability) when such amount shall be deemed not to apply
- (ii) in respect of Insuring Clause 1(c) (Documents) when such amount shall be deemed to be £100.
- (iii) in respect of Insuring Clause 2 (Employment Law Protection)
 - (a) in respect of any Loss based upon, arising out of or relating directly or indirectly from, in consequence of or in any way involving the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) or any amendment or re-enactment thereof when such amount shall be deemed to be
 - (i) £10,000or
 - (ii) the amount stated in the Schedule in respect of this Insuring clausewhichever is the greater
 - (b) in respect of any other Loss, the amount stated in the Schedule in respect of this Insuring Clause.

"Limit of Indemnity" shall mean

- (i) in respect of Insuring Clause 1 (Executive and Professional Liability), the amount stated in the Schedule in respect of such Insuring Clause, which amount is inclusive of all

- (a) Loss under Insuring Clause 1(a)(i)(d) and Insuring Clause 1(a)(ii)(d), for which Our total aggregate liability under this Certificate shall not exceed £100,000 during the Period of Insurance
- (b) Loss in respect of Insuring Clause 1(c) (Documents), for which Our total aggregate liability under this Certificate shall not exceed £10,000 during the Period of Insurance
- (ii) in respect of Insuring Clause 2 (Employment Law Protection), the amount stated in the Schedule in respect of such Insuring Clause
- (iii) in respect of Insuring Clause 3 (Fidelity), the amount stated in the Schedule in respect of such Insuring Clause, which amount is inclusive of all Auditors Fees for which Our total aggregate liability under this Certificate shall not exceed £25,000 during the Period of Insurance.

“Other Concern” shall mean

- (i) any registered association and/or any trade, research, promotional, training or similar association or organisation (whether incorporated or not) existing for any non-profit making purpose, not domiciled, registered or incorporated in the United States of America,
- (ii) any sports, social or similar association or organisation, (whether incorporated or not), established or conducted for the benefit of any Assured or Employee and their families and dependants.

“Our / Us / We” shall mean the Underwriters.

“Period of Insurance” shall mean the period stated in the Schedule and in the event that

- (i) We refuse to renew the cover afforded by this Certificate for reasons other than non-payment of premium to Us or the failure, by the Educational Establishment and/or the Assured to comply with or observe the terms, provisions and Conditions of this Certificate, or
- (ii) the Educational Establishment and/or any natural person with effective control of the Educational Establishment decline to accept the renewal terms offered by Us

a further single period of thirty days from the expiry date of the period stated in the Schedule but only in respect of Loss arising

- (i) under Insuring Clause 1(a) (Executive Liability), from
 - (a) a Wrongful Act committed or allegedly committed or attempted, and/or
 - (b) Disqualification Proceedings which are first ordered or commissioned, and/or
 - (c) an Investigation which is first ordered or commissioned, and/or
 - (d) Environmental Proceedings which are first ordered or commissioned
- (ii) under Insuring Clause 1(b) (Professional Liability), from a Wrongful Act committed or allegedly committed or attempted
- (iii) under Insuring Clause 2 (Employment Law Protection), from
 - (a) an Employment Wrongful Act committed or allegedly committed or attempted, and/or
 - (b) an Investigation which is first ordered or commissioned
- (iv) under Insuring Clause 3 (Fidelity), from a fraudulent or dishonest act committed

prior to the expiry of the period stated in the Schedule.

The further period referred to in this Definition is not applicable to the extent that other insurance policies have been purchased with the intention of providing equivalent cover for any part of such period.

“Premium” shall mean the amount stated in the Schedule.

“Proposal” shall mean all information supplied to Us (whether by written, electronic or any other means) for the purpose of effecting this contract of insurance.

“Retaliatory Treatment” shall mean action taken against an Employee on account of such Employee exercising or attempting to exercise his or her rights under law.

"Retroactive Date" shall mean the date specified in the Schedule.

"Terrorism" shall mean any act of terrorism, including but not limited to the use or threat of force or violence, 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 or overthrow any government de jure or de facto and/or put the public or any section of the public in fear.

"Unlawful Association" shall mean any organisation which is engaged in Terrorism and includes any organisation which at any relevant time is a proscribed organisation within the meaning of The Terrorism Act 2000 or any amendment or re-enactment thereof.

"War" shall mean war, invasion, act of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, mutiny or usurped power.

DEFINITIONS APPLICABLE ONLY TO INSURING CLAUSE 1 (EXECUTIVE AND PROFESSIONAL LIABILITY)

In respect of Insuring Clause 1 (Executive and Professional Liability)

"Assured" shall mean any natural person who was or is or may hereafter be

- (i) a governor, director, council member, officer (including members of any appeal committee as defined under Schedule 24 of the School Standards and Framework Act 1998 or any amendment or re-enactment thereof) or trustee of the Educational Establishment or an Employee acting in a managerial or supervisory capacity in the Educational Establishment, or
- (ii) acting at the request, order or direction of the Educational Establishment as a governor, director, council member, officer or trustee of the Other Concern, or
- (iii) a Shadow Director,
(other than in any capacity as external auditor, liquidator, receiver, administrator or administrative receiver), or
- (iv) the lawful spouse of any person defined in (i) to (iii) above but only in respect of Loss payable under this Insuring Clause in relation to such person which is by operation of law imputed or transferred to that spouse, or
- (v) the estate, heirs, legal representatives or assigns of any of the foregoing in the event of the death, incompetency, incapacity, bankruptcy or insolvency of that person.

Furthermore, for the purpose of Insuring Clause 1(b) (Professional Liability), if the Assured so requires, We will indemnify any Employee in like manner to the Assured, provided that such persons shall, as though they were the Assured, observe, fulfil and be subject to the terms, conditions and exclusions of the Certificate in so far as they can apply.

"Disqualification Proceedings" shall mean legal action against the Assured pursuant to which the Assured is liable to be disqualified for continuing to be a director or officer of the Educational Establishment.

"Document" shall mean

- (i) all documents excluding stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, postal orders, money orders, securities, negotiable instruments and the like,
- (ii) separable program, instruction or data for physical incorporation into any computer system,

belonging to the Educational Establishment or for which the Educational Establishment is legally responsible, whilst in the custody of the Assured, or in the custody of any person to or with whom they have been entrusted, lodged or deposited by the Educational Establishment in the ordinary course of the Professional Services.

"Employee" shall mean any person other than a governor, director, council member or trustee of the Educational Establishment, who was or is

- (i) under a contract of service or apprenticeship with the Educational Establishment, or
- (ii) supplied to or hired or borrowed by the Educational Establishment, or
- (iii) under any work experience or similar scheme (not being a pupil or student of the Educational Establishment)

whilst employed or engaged by and under the control of the Educational Establishment in connection with the activities of the Educational Establishment, or

- (iv) any volunteer working for the Educational Establishment.

"Environmental Proceedings" shall mean any prosecution, official investigation, examination, inquiry or other proceedings by any official body or institution that is empowered to investigate the affairs of the Educational Establishment and/or the Other Concern, arising from any actual or alleged Pollution.

"Investigation" shall mean any official investigation, examination, inquiry or other proceedings, other than when arising from any actual or alleged Pollution, by any official body or institution that is empowered to investigate the affairs of the Educational Establishment and/or the Other Concern.

"Jurisdiction" shall mean those territories stated in the Schedule in respect of this Insuring Clause.

"Loss" shall mean

- (i) for the purpose of Insuring Clause 1(a) (Executive Liability),
 - (a) Costs and Expenses, and
 - (b) for the purpose of Insuring Clause 1(a)(i)(a) and Insuring Clause 1(a)(ii)(a), the Assured's legal liability for damages and costs awarded against the Assured
- (ii) for the purpose of Insuring Clause 1(b) (Professional Liability),
 - (a) the Educational Establishment's and/or Assured's legal liability for damages and costs awarded against the Educational Establishment and/or the Assured,
 - (b) Costs and Expenses;
- (iii) for the purpose of Insuring Clause 1(c) (Documents), expenditure incurred by the Educational Establishment in replacement or restoration

resulting from or attributable to the same originating cause.

"Pollution" shall mean the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including (but not limited to) smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed).

"Private Work" shall mean private work undertaken with the Educational Establishment's permission by any tutor who is an employee contracted to work in excess of 18 (eighteen) hours per week for them and provided always that fees earned in respect of such private work are declared to Us.

"Professional Services" shall mean those services stated in the Schedule and Private Work.

"Prototype" shall mean the first or original type or model from which anything is copied.

"Shadow Director" shall mean a person who is deemed to be a shadow director (as defined in Section 714(2) of the Companies Act 1985 (UK) or any amendment or re-enactment thereof) of any company incorporated in the United Kingdom of Great Britain and Northern Ireland, solely by reason of any activity of the Educational Establishment.

"Subsidiary Company" shall mean any company in respect of which the Educational Establishment or any other subsidiary company of the Educational Establishment as at the date when this Insuring Clause became operative controls

- (i) the composition of the board of directors, or
- (ii) more than half of the voting power, or
- (iii) more than half of the issued share capital

and any such company which is subsequently acquired or created and included with Our written consent.

"Wrongful Act" shall mean

- (i) for the purposes of Insuring Clause 1(a) (Executive Liability), any actual or alleged wrongful act committed or attempted by the Assured, or any matter claimed against the Assured solely by reason of him/her serving in that capacity (related or continuous or repeated or causally-connected Wrongful Acts shall constitute a single Wrongful Act),

- (ii) for the purposes of Insuring Clause 1(b) (Professional Liability), any actual or alleged wrongful act or omission resulting in a civil liability.

DEFINITIONS APPLICABLE ONLY TO INSURING CLAUSE 2 (EMPLOYMENT LAW PROTECTION)

In respect of Insuring Clause 2 (Employment Law Protection)

“Assured” shall mean

- (i) any natural person who is or was or may become a partner, director, officer, trustee, governor or council member of the Educational Establishment or any Employee, but only in their capacity as such
- (ii) any natural person who is or was or may become a director, officer, trustee, governor or council member of any Other Concern, where such position is held at the request, order or direction of the Educational Establishment, but only in their capacity as such, or
- (iii) the lawful spouse of any person defined in (i) and (ii) above but only in respect of Loss payable under this Insuring Clause in relation to such person which is by operation of law imputed or transferred to that spouse, or
- (iv) the estate, heirs, legal representatives or assigns of any of the foregoing in the event of the death, incompetency, incapacity, bankruptcy or insolvency of that person.

“Benefit Scheme” shall mean any

- (i) superannuation or pension scheme, programme or plan
- (ii) profit sharing, share option or share purchase scheme
- (iii) health and welfare or other Employee benefit plan or trust

established or conducted for the benefit of any Employee and their families and dependants.

“Employee” shall mean any natural person who was or is or may become subject to a contract of service or apprenticeship with the Educational Establishment.

“Investigation” shall mean any official investigation, examination, inquiry or other proceedings instigated against the Educational Establishment and/or the Assured by any official body or institution that is empowered to investigate the affairs of the Educational Establishment and/or the Assured in respect of

- (i) employment discrimination
- (ii) health and safety.

“Jurisdiction” shall mean those territories stated in the Schedule in respect of this Insuring Clause.

“Loss” shall mean

- (i) in respect of Insuring Clause 2(a) (Employment Disputes),
 - (a) the Educational Establishment's and/or the Assured's legal liability for damages or judgments awarded against them,
 - (b) the Educational Establishment's and/or the Assured's legal liability for legal costs, charges or expenses awarded against them,
 - (c) the premium paid for insurance instruments or bonds which, in certain jurisdictions, are required in order to institute an appeal,
 - (d) Costs and Expenses,
- (ii) in respect of Insuring Clause 2(b) (Investigations), Costs and Expenses

resulting from or attributable to the same originating cause.

"Market Employer Helpline" shall mean employer helpline specialist services provided by Us or on Our behalf.

"Subsidiary Company" shall mean any body corporate in respect of which the Educational Establishment or any other subsidiary company the Educational Establishment controls, at the time of the Employment Wrongful Act which gives rise to the Claim or Claims or at the time when an Investigation is first ordered or commissioned,

- (i) the composition of the board of directors, or
- (ii) more than half of the voting power, or
- (iii) more than half of the voting issued share capital

Provided always that (unless agreed to the contrary by Us in writing) in respect of a body corporate acquired or created subsequent to the date when this Insuring Clause became operative where the Educational Establishment's total number of Employee's subsequent to such acquisition or creation has increased by more than 10% compared with the number at the inception of the Period of Insurance

- (i) the Educational Establishment shall notify Us in writing of such acquisition or creation within thirty days thereof, and
- (ii) provide such additional information that We may require, and
- (iii) agree to such terms and/or additional premium as We may require.

DEFINITIONS APPLICABLE ONLY TO INSURING CLAUSE 3 (FIDELITY)

In respect of Insuring Clause 3 (Fidelity)

"Acting In Collusion" shall mean all circumstances where two or more Employees are involved or implicated together or assist each other materially in committing acts of fraud or dishonesty.

"Auditor's Fees" shall mean the costs of any special professional audit necessarily incurred with Our written consent solely to formulate the amount of loss of Money or Goods.

"Employee" shall mean any natural person who was or is or may subsequently become

- (i) a director or equity partner of the Educational Establishment and whose shareholding or financial interest does not exceed 5% of the Educational Establishment's equity
- (ii) subject to a contract of service or apprenticeship with the Educational Establishment, or
- (iii) supplied to or hired or borrowed by the Educational Establishment, or
- (iv) engaged under any work experience or similar scheme

whilst employed or engaged by and under the control of the Educational Establishment in connection with the activities of the Educational Establishment and

- (v) a governor, director, council member, officer or trustee of the Educational Establishment.

"Loss" shall mean

- (i) loss of Money or Goods
- (ii) Auditor's Fees

resulting from or attributable to the same originating cause.

Provided always that, all acts of fraud or dishonesty committed by any one Employee or Employees Acting in Collusion shall be deemed to be one Loss.

"Money or Goods" shall mean stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, postal order, money orders, securities and the like and tangible property belonging to the Educational Establishment or for which the Educational Establishment is legally liable.

“Subsidiary Company” shall mean any company in respect of which the Educational Establishment or any other subsidiary company of the Educational Establishment as at the date when this Insuring Clause became operative controls

- (i) the composition of the board of directors, or
- (ii) more than half of the voting power, or
- (iii) more than half of the issued share capital

and any such company which is subsequently acquired or created and included with Our written consent.

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LIMIT AND EXCESS

Our total aggregate liability under each Insuring Clause of this Certificate in the Period of Insurance in respect of all Loss shall not exceed the Limit of Indemnity irrespective of the number of claimants, claims, individuals, entities or other multiple elements involved.

Notwithstanding the foregoing in the event that the Limit of Indemnity is exhausted under Insuring Clause 1 (Executive and Professional Liability) by reason of any Loss under Insuring Clause 1(a) (Executive Liability) or Insuring Clause 1(b) (Professional Liability), We agree to a single reinstatement of the Limit of Indemnity in respect of Insuring Clause 1 (Executive and Professional Liability) provided that:

- (i) such reinstatement shall only apply in excess of the total Limits of Indemnity available to the Educational Establishment or the Assured under any insurance in excess of this Certificate
- (ii) such reinstatement shall only apply to Loss which is totally unrelated to that which gave rise to the reduction of the particular Limit of Indemnity
- (iii) the amount of indemnity available in respect of Loss resulting from or attributable to the same originating cause shall not exceed the Limit of Indemnity and the total amount payable by Us during the Period of Insurance under Insuring Clause 1 (Executive and Professional Liability) is limited to twice the Limit of Indemnity in respect of Insuring Clause 1
- (iv) such reinstatement shall not apply in respect of Insuring Clause 1(a)(i)(d), Insuring Clause 1(a)(ii)(d) or Insuring Clause 1(c) (Documents).

We shall only be liable for that part of the Loss which exceeds the Excess.

In respect of Loss under Insuring Clause 2 (Employment Law Protection) such Excess shall be applied to each Claim made against the Educational Establishment and/or the Assured by or on behalf of each Employee.

EXCLUSIONS

GENERAL EXCLUSIONS APPLICABLE TO THE CERTIFICATE AS A WHOLE

We shall not be liable to pay or indemnify the Educational Establishment and/or the Assured against Loss

(1) **FINES AND PENALTIES**

to the extent of any

- (a) fine or penalty
- (b) non-compensatory damages.

(2) **OTHER INSURANCE**

in respect of which the Educational Establishment or the Assured are entitled to indemnity under any other insurance.

Notwithstanding the above this Certificate shall, in respect of Insuring Clause 1(a) (Executive Liability) and Insuring Clause 2 (Employment Law Protection), contribute in excess of such other insurance, provided always that if such other insurance is also provided by Us the Limit of Indemnity under this Certificate shall be deemed reduced by any amount payable under such other insurance.

(3) **LEGAL ACTION**

- (a) where action for damages is brought in a court of law outside the Jurisdiction, and/or
- (b) where Costs and Expenses arise outside the Jurisdiction, and/or
- (c) where action is brought in a court of law within the Jurisdiction to enforce a foreign judgment, whether by way of reciprocal agreement or otherwise.

(4) **RADIOACTIVE CONTAMINATION OR EXPLOSIVE NUCLEAR ASSEMBLIES**

brought about by or contributed to by or consequent upon

- (a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss
- (b) any legal liability 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.

(5) **WAR RISKS AND TERRORISM**

based upon, arising out of or relating directly or indirectly from, in consequence of or in any way involving

- (a) War and/or Terrorism
- (b) any action taken in controlling, preventing or suppressing War and/or Terrorism
- (c) any unlawful, wanton or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any Unlawful Association

regardless of any other cause or event contributing concurrently or in any other sequence to such Loss.

Provided always that if We allege that by reason of this Exclusion, any Loss is not covered by this Certificate the burden of proving the contrary shall be upon the Educational Establishment and/or the Assured.

In the event that any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

(6) **FUNDING EXCLUSION**

which result directly or indirectly from any dispute between the Educational Establishment or the Assured and any provider of finance or funds in relation to the Educational Establishment's legal entitlement to, or procurement of, such finance or funds for the Educational Establishment.

(7) **SANCTIONS**

to the extent that the provision of such payment or indemnity would expose Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanction, laws or regulations of the European Union, United Kingdom or United States of America

EXCLUSIONS APPLICABLE ONLY TO INSURING CLAUSE 1 (EXECUTIVE AND PROFESSIONAL LIABILITY)

We shall not be liable to pay or indemnify the Educational Establishment and/or the Assured against Loss under Insuring Clause 1 (Executive and Professional Liability)

(7) **EMPLOYERS LIABILITY**

which result

- (a) directly or indirectly from bodily injury, mental injury, shock, sickness, disease, death, or
- (b) other than in respect of Insuring Clause 1(a) (Executive Liability), emotional distress

sustained by any Employee arising out of and in the course of his/her employment by the Educational Establishment and/or the Assured and, for the purpose of Insuring Clause 1(b) (Professional Liability), from any breach of any obligation owed by the Educational Establishment and/or the Assured as an employer to any Employee or prospective Employee.

(8) **DISHONEST AND MALICIOUS ACTS**

- (a) under Insuring Clause 1(a) (Executive Liability), arising out of any actual dishonesty, fraud or malicious conduct of the Assured
- (b) other than under Insuring Clause 1(a) (Executive Liability), which result from any dishonest, fraudulent, criminal or malicious act or omission committed by any person after the discovery of reasonable cause for suspicion of such act or omission in relation to that person
- (c) other than under Insuring Clause 1(a) (Executive Liability) and Insuring Clause 1(c) (Documents), for a mysterious disappearance or unexplained shortage or shortages

Furthermore,

- (a) no person committing or condoning a dishonest, fraudulent, malicious or (other than in respect of Insuring Clause 1(a) (Executive Liability)) criminal act or omission shall be entitled to indemnity under this Certificate
- (b) the following shall be deducted from any amount payable by Us
 - (i) any monies which but for such act would be due from the Educational Establishment to the person committing or condoning such act
 - (ii) any monies held by the Educational Establishment and belonging to such person
 - (iii) any monies recovered following action in accordance with General Condition 3 (Subrogation) of this Certificate.

(9) **CIRCUMSTANCES KNOWN AT INCEPTION**

brought about by, or contributed to, or consequent upon any circumstances existing prior to the date when this Insuring Clause became operative and which the Educational Establishment or the Assured ought reasonably to have known might give rise to a Loss.

(10) **RETROACTIVE DATE**

resulting from the activities of the Educational Establishment and/or the Assured, prior to the Retroactive Date, other than under Insuring Clause 1(a) (Executive Liability).

(11) **POLLUTION**

based upon, arising out of or relating directly or indirectly from, in consequence of or in any way involving Pollution

(a) other than under Insuring Clause 1(a)(i)(d) and Insuring Clause 1(a)(ii)(d),

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- (b) unless, under Insuring Clause 1(b) (Professional Liability), such Claim or Claims result from negligent advice, design, specification or formula.

(12) **BODILY INJURY/PROPERTY DAMAGE**

arising from any Claim or Claims

- (a) for bodily injury, mental injury, emotional distress, shock, sickness, disease or death sustained by any person, other than emotional distress arising from

- (i) any libel, slander or defamation, or

- (ii) where Insuring Clause 2 (Employment Law Protection) is inoperative, Employment Wrongful Act

- (b) for any loss, damage or destruction of property, including loss of use thereof (other than as provided by Insuring Clause 1(c) (Documents))

unless, in respect of Insuring Clause 1(b) (Professional Liability), such Claim directly results from negligent advice, design, specification or formula.

(13) **PENSION FUNDS**

resulting directly from the Assured acting in the capacity as trustee or administrator of any pension, retirement or superannuation scheme or programme.

EXCLUSIONS APPLICABLE ONLY TO INSURING CLAUSE 1(a) (EXECUTIVE LIABILITY)

We shall not be liable to pay or indemnify the Educational Establishment and/or the Assured against Loss under Insuring Clause 1(a) (Executive Liability)

(14) **EMPLOYMENT DISPUTES**

resulting from

- (a) an Employment Wrongful Act

- (b) an Investigation in respect of

- (i) employment discrimination

- (ii) health and safety

if the Educational Establishment is an unincorporated body or if Insuring Clause 2 (Employment Law Protection) is stated as being operative in the Schedule.

(15) **TAKEOVER AND MERGER**

resulting from

- (a) any Wrongful Act of the Assured occurring, or

- (b) any Disqualification Proceedings, Investigation or Environmental Proceedings instigated

subsequent to the effective date of the takeover or merger of the Educational Establishment by or with any other person.

(16) **PROFESSIONAL DUTY TO THIRD PARTIES**

arising from any Claim or Claims made by any third party for any breach of any professional duty owed to such third party.

(17) **REMUNERATION**

to the extent of any remuneration of whatever nature due to the Assured or Employee.

EXCLUSIONS APPLICABLE ONLY TO INSURING CLAUSE 1(b) (PROFESSIONAL LIABILITY)

We shall not be liable to pay or indemnify the Educational Establishment and/or the Assured against Loss under Insuring Clause 1(b) (Professional Liability)

(18) **PROPERTY**

which result directly or indirectly from the ownership, possession or use by or on behalf of the Educational Establishment or the Assured of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle.

(19) **CONTRACTUAL LIABILITY**

resulting from any agreement by the Educational Establishment and/or by the Assured to pay penalties or liquidated damages in so far as liability under such agreement exceeds the Educational Establishment's and/or the Assured's liability in the absence of such agreement.

(20) **CONSORTIA AND JOINT VENTURES**

resulting from the Educational Establishment's or the Assured's associations whilst acting in consortia or joint venture with others, other than in respect of Loss(es) arising from the Educational Establishment's or the Assured's own acts or omissions.

(21) **PRODUCTS**

resulting from or relating to goods or products (other than Prototype products which are not utilised in connection with the navigation, propulsion or control of any aircraft or other aerial device) sold, supplied, repaired, altered, manufactured, installed or maintained by the Educational Establishment and/or the Assured.

(22) **TRADING LOSS**

as a result of or in connection with any trading losses or liabilities or any debts incurred by any business managed by or carried on by the Educational Establishment or the Assured.

EXCLUSIONS APPLICABLE ONLY TO INSURING CLAUSE 1(c) (DOCUMENTS)

We shall not be liable to pay or indemnify the Educational Establishment and/or the Assured against Loss under Insuring Clause 1(c) (Documents)

(23) **LOSS OF DATA**

arising directly or indirectly from the failure or inefficacy of any program, instruction or data processing device, equipment or system occasioned other than through its physical destruction or damage.

EXCLUSIONS APPLICABLE ONLY TO INSURING CLAUSE 2 (EMPLOYMENT LAW PROTECTION)

We shall not be liable to pay or indemnify the Educational Establishment and/or the Assured against Loss under Insuring Clause 2 (Employment Law Protection)

(24) **DISHONEST OR FRAUDULENT CONDUCT**

arising out of the Educational Establishment's and/or the Assured's actual dishonest or fraudulent conduct.

(25) **DELIBERATE ACTS**

resulting from the Educational Establishment's and/or the Assured's wanton, wilful, reckless or intentional disregard of any employment legislation.

Provided always that the wanton, wilful, reckless or intentional disregard of one Assured shall not be imputed to another Assured.

(26) **VOLUNTARY ASSUMPTION OF LIABILITY**

based upon, arising out of or resulting directly or indirectly from the Educational Establishment's and/or the Assured's voluntary assumption of liability for any act or omission of whatsoever nature of any other person.

(27) **VOLUNTEERS**

resulting from a Claim or Claims brought by or on behalf of any volunteer working for the Educational Establishment.

(28) **CIRCUMSTANCES KNOWN AT INCEPTION**

brought about by, or contributed to, or consequent upon any circumstances existing prior to the date when this Insurance Clause became operative and which the Educational Establishment and/or the Assured ought reasonably to have known might give rise to a Loss.

(29) **BODILY INJURY/PROPERTY DAMAGE**

arising from any Claim or Claims

- (a) for bodily injury, mental injury, emotional distress, shock, sickness, disease or death sustained by any person (other than emotional distress arising from any libel, slander, defamation or Employment Wrongful Act), or
- (b) for any loss, damage or destruction of property, including loss of use thereof.

(30) **TAKEOVER, MERGER OR LIQUIDATION**

resulting from any Employment Wrongful Act occurring or Investigation instigated subsequent to

- (a) the effective date of the takeover or merger of the Educational Establishment by or with any other person
- (b) the appointment of a liquidator, trustee, receiver or any other similar officer.

(31) **FAILURE TO ADAPT PREMISES OR WORKING METHODS**

other than in respect of Costs and Expenses, based upon, arising out of or resulting directly or indirectly from any obligation to adjust or adapt any premises or working methods to meet the needs of a person with a disability.

(32) **REMUNERATION, REDUNDANCY AND BENEFITS**

to the extent of any payment due to the Employee by the Educational Establishment or Assured in accordance with

- (a) the Employee's contract of employment with the Educational Establishment or Assured
- (b) any requirements or duties imposed under law, common or statutory, of any country, state or jurisdiction
- (c) any Benefit Scheme or the failure to contribute to, fund, reimburse or make payment in connection with such Benefit Scheme.

(33) **NON-PECUNIARY RELIEF**

other than in respect of Costs and Expenses, resulting directly or indirectly from the cost of compliance with any order for, grant of or agreement to provide injunctive or non-pecuniary relief.

(34) **DISPUTES BETWEEN ASSUREDS**

arising from a dispute concerning the dissolution of any partnership agreement between any two or more Assureds.

EXCLUSIONS APPLICABLE ONLY TO INSURING CLAUSE 3 (FIDELITY)

We shall not be liable to pay or indemnify the Educational Establishment against Loss under Insuring Clause 3 (Fidelity)

(35) **CONSEQUENTIAL LOSS**

for or arising from loss of interest, loss or profits or any kind of consequential loss.

(36) **UNEXPLAINED SHORTAGES**

dependent solely upon a mysterious disappearance or unexplained shortage or shortages.

(37) **DISHONEST AND MALICIOUS ACTS**

- (a) in consequence of any fraudulent or dishonest act committed by an Employee whose shareholding or financial interest exceeds 5% of the Educational Establishment's equity
- (b) which result from any fraudulent or dishonest act or omission committed by any person after the discovery of reasonable cause for suspicion of such act or omission in relation to that person

Furthermore, the following shall be deducted from any amount payable by Us

- (a) any monies which but for such act would be due from the Educational Establishment to the person committing or condoning such act
- (b) any monies held by the Educational Establishment and belonging to such person
- (c) any monies recovered following action in accordance with General Condition 3 (Subrogation) of this Certificate.

(38) **BREACH OF WARRANTY/CONDITION**

which is rejected under any other insurance effected by or on behalf of the Educational Establishment due to a breach of warranty, term or condition thereunder by the Educational Establishment.

(39) **CIRCUMSTANCES KNOWN AT INCEPTION**

brought about by, or contributed to, or consequent upon any circumstances existing prior to the date when this Insuring Clause became operative and which the Educational Establishment ought reasonably to have known which might give rise to a Loss.

(40) **RETROACTIVE DATE**

arising from fraudulent or dishonest acts committed prior to the Retroactive Date.

(41) **TERRITORIAL LIMITS**

arising elsewhere than in Great Britain, Northern Ireland, the Isle of Man and the Channel Islands.

(42) **TAKEOVER AND MERGER**

resulting from a fraudulent or dishonest act committed subsequent to

- (a) the effective date of the takeover or merger of the Educational Establishment by or with any other person
- (b) the appointment of a liquidator, trustee, receiver or any other similar officer.

CONDITIONS

GENERAL CONDITIONS APPLICABLE TO THE CERTIFICATE AS A WHOLE

1. CLAIMS NOTIFICATION

- (a) The Educational Establishment or Assured as a condition precedent to their right to payment or indemnity under this Certificate shall give Us immediate notice in writing during the Period of Insurance of
- (i) any Claim made against the Educational Establishment or Assured,
 - (ii) the receipt of any notice of an intention to make a Claim against the Educational Establishment or Assured,
 - (iii) the discovery of any act of fraud or dishonesty by any Employee or any reasonable cause for suspicion of fraud or dishonesty by an Employee,
 - (iv) any circumstances of which the Educational Establishment or Assured shall become aware which is likely to give rise to a Claim against the Educational Establishment or Assured, or the instigation of Disqualification Proceedings, Investigation or Environmental Proceedings, or the seeking by the Educational Establishment or Assured of any payment or indemnity under this Certificate, giving reasons for the anticipation of such Claim, Disqualification Proceedings, Investigation or Environmental Proceedings, or request for payment or indemnity, together with full particulars as to dates and persons involved.

Such notice having been given as required by (ii) or (iv) above, any subsequent Claim made, or any Disqualification Proceedings, Investigation, Environmental Proceedings instigated, or request for payment or indemnity shall be deemed to have been made or instigated during the Period of Insurance.

In respect of Insuring Clause 1(a) (Executive Liability), such Claim having been notified as required by (i) above, or having arisen from such circumstance notified as required by (ii) or (iv) above, the Assured shall then, subject to Our written consent, have the right to appoint any appropriately qualified legal representative to deal with that Claim.

- (b) The Educational Establishment or Assured as a condition precedent to their right to payment or indemnity under this Certificate shall
- (i) give Us such information and co-operation as We may reasonably require,
 - (ii) take no action which might prejudice Us,
 - (iii) take all reasonable steps to prevent further loss
 - (iv) where an indemnity is being sought under Insuring Clause 3 (Fidelity), at their own expense supply Us with full written details of their Loss and all such proof of the correctness of their request for indemnity as we may require within three months (or such other period as We may agree in writing) of the discovery of any act of fraud or dishonesty by any Employee or any reasonable cause for suspicion of fraud or dishonesty by an Employee
- (c) Any payment or indemnity for expenditure incurred by the Educational Establishment in replacing or restoring Documents shall be supported by bills or accounts which shall be subject to Our approval.

2. CLAIMS HANDLING

The Educational Establishment or Assured as a condition precedent to their right to payment or indemnity under this Certificate shall not admit liability for or settle any Claim or incur any Costs or Expenses in connection therewith or in connection with any Disqualification Proceedings, Investigation or Environmental Proceedings without Our written consent.

We shall be entitled at any time to pay to the Educational Establishment or Assured (as the case may be) the Limit of Indemnity (or as much of it as remains available), or any lesser sum for which any Loss can be settled, whereupon We shall be under no further liability to that Educational Establishment or Assured in respect of such Loss.

The Educational Establishment or Assured shall be entitled at their own risk to contest any Claim or legal proceedings which in Our opinion should be compromised or settled provided that We shall not be liable for any Loss incurred directly or indirectly as a result of the Educational Establishment's or Assured's refusal to compromise or settle such Claim or legal proceedings.

In respect of Insuring Clause 1(a) (Executive Liability) it is the duty of the Educational Establishment or Assured to defend any Claim, Disqualification Proceedings, Investigation or Environmental Proceedings. We have the right, but not the obligation, to actively associate with the Educational Establishment or Assured in the settlement or handling of any Claim, Disqualification Proceedings, Investigation or Environmental Proceedings.

Other than in respect of Insuring Clause 1(a) (Executive Liability)

- (a) We shall be entitled to take over and conduct in the name of the Educational Establishment or Assured the defence or settlement of any Claim or Loss
- (b) The Educational Establishment or Assured shall not be required to contest any legal proceedings unless a mutually agreed counsel shall advise that such proceedings should be contested.

3. **SUBROGATION**

We shall be subrogated to all the Educational Establishment's or Assured's rights of recovery against any person before or after any payment or indemnity under this Certificate.

We agree not to exercise any such rights against any governor, director, council member, officer, trustee or Employee of the Educational Establishment unless the Claim is brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the governor, director, council member, officer, trustee or Employee.

The Educational Establishment or Assured shall give all such assistance in the exercise of rights of recovery as We may reasonably require.

4. **SEVERABILITY**

Other than in respect of Insuring Clause 3 (Fidelity), nothing in the Proposal or otherwise known or done by an Assured shall be imputed to any other natural person in determining any right or obligation of the an Assured under this Certificate. In no case shall an Assured be prevented from pursuing any point in his or her defence only because it is inimical to the interests of any other Assured.

5. **PREMIUM PAYMENT**

When premium payment has been arranged on a deferred basis with a premium finance company which has entered into a contractual agreement with Markel (UK) Limited to provide premium credit facilities and notwithstanding any other conditions in relation to cancellation it is hereby understood and agreed that

- (i) in the event of payment of any instalment to such premium finance company being overdue, Markel (UK) Limited may, in accordance with the authority granted to the premium finance company by the Educational Establishment or, in respect of Insuring Clause 1(a) (Executive Liability) the Assured, under the terms of the signed and dated Credit Agreement, accept cancellation instructions from the premium finance company and will allow a return pro-rata premium to the premium finance company provided there have been no claims or circumstances known or reported to Us during the Period of Insurance
- (ii) all premiums due or returned shall be processed by the premium finance company in accordance with the signed and dated Credit Agreement.

6. **FRAUDULENT CLAIMS**

If the Educational Establishment or Assured makes any request for payment or indemnity under this Certificate knowing it to be false or fraudulent in any respect, this Certificate shall (unless We determine otherwise) be void and all payment and/or indemnity hereunder shall be forfeited in respect of such Educational Establishment or Assured.

Notwithstanding the above, in respect of Insuring Clause 1(a) (Executive Liability), such forfeiture shall only apply to the Educational Establishment or Assured making such false or fraudulent request for payment or indemnity.

7. **LAW OF CONTRACT**

The contract of insurance evidenced by this Certificate shall be governed by English law and subject to the exclusive jurisdiction of the English courts.

8. **NOTICE**

Notice under this Certificate shall be deemed duly given

- (a) by any person to Us if sent by first class prepaid post or fax to Markel (UK) Limited, at the address specified in the NOTICE TO THE EDUCATIONAL ESTABLISHMENT OR ASSURED of this Certificate, or such other address as has been notified to that person for the purpose from time to time,
- (b) to the Educational Establishment or Assured if sent by post to the last known address thereof.

9. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 or any amendment or re-enactment thereof to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available other than by virtue of this Act.

CONDITIONS APPLICABLE ONLY TO INSURING CLAUSE 1(a) (EXECUTIVE LIABILITY)

10. INSTRUCTIONS

Neither the Educational Establishment nor the Assured shall have the right to require cancellation of Insuring Clause 1(a) (Executive Liability) of this Certificate or any material reduction in cover afforded hereunder, and any such cancellation or reduction sought shall be granted only at and to the extent of Our absolute discretion and shall not be effected unless and until We are reasonably satisfied that such cancellation or reduction has been sanctioned by all Assureds whose rights under Insuring Clause 1(a) (Executive Liability) of this Certificate at that time are or may be affected thereby.

CONDITIONS APPLICABLE ONLY TO INSURING CLAUSE 2 (EMPLOYMENT LAW PROTECTION)

11. CANCELLATION

Insuring Clause 2 (Employment Law Protection) may be cancelled by Us or on Our behalf by giving the Educational Establishment thirty days written notice and the Premium hereon shall be adjusted on the basis that We receive or retain pro rata premium.

12. TUPE

The Educational Establishment as a condition precedent to their right to payment or indemnity under Insuring Clause 2 (Employment Law Protection) shall, in any matter to which the terms of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) or any amendment or re-enactment thereof apply, consult and follow the advice of the Markel Employer Helpline.

CONDITIONS APPLICABLE ONLY TO INSURING CLAUSE 3 (FIDELITY)

13. RECOVERY

We shall apply any recovery of Loss under Insuring Clause 3 (Fidelity) in the following order

- (a) any Loss incurred by the Educational Establishment over and above the relevant Limit of Indemnity which would otherwise have fallen within the terms and conditions of this Insuring Clause
- (b) the total Loss paid by Us
- (c) any Excess borne by the Educational Establishment

The total amount recovered is to be applied, as far as it will go, to items (a), (b) and (c) in that order, and the Educational Establishment and Underwriters shall make whatever settlement is necessary between them to reflect this.

14. CANCELLATION

Insuring Clause 3 (Fidelity) may be cancelled by Us or on Our behalf by giving the Educational Establishment thirty days written notice and the Premium hereon shall be adjusted on the basis that We receive or retain pro rata premium.

15. DEDUCTION FROM LOSS

In respect of Loss under Insuring Clause 3 (Fidelity), all monies which, but for the fraud or dishonesty of the Employee would become payable to him by the Educational Establishment and any monies recovered from the Employee by the Educational Establishment shall be deducted from the Loss.

NOTICE TO THE EDUCATIONAL ESTABLISHMENT OR ASSURED

COMPLAINTS

If at any time you have any query or complaint regarding your contract of insurance, you should in the first instance refer to your Insurance Broker or other intermediary or advisor, if any.

If your problem cannot be resolved in this way, please write to Markel (UK) Limited, Verity House, 6 Canal Wharf, Leeds, LS11 5AS quoting your Certificate Number.

If you are unable to resolve the situation and wish to make a complaint you can do so at any time by referring the matter to Markel International Insurance Company Limited, 20 Fenchurch Street, London EC3M 3AZ.

Complaints that cannot be resolved in this way may be referred to the Financial Ombudsman Service. Further details will be provided at the appropriate stage of the complaints process.

Specimen