

# ***CorporateGuard - Pension Trustees Liability Insurance***

In consideration of the payment of the premium, the *insurer* and the *policyholder* agree as follows.

## **1 Insurance Covers**

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The following insurance covers are afforded solely for *claims* first made against an *insured* during the *policy period* and reported to the *insurer* as required by this policy.

### **1.1 Insured persons**

The *insurer* shall pay the *loss* of each *insured person*.

### **1.2 Exoneration**

The *insurer* shall pay the *loss* of the *plan* resulting from any *claim* first made against a *trustee* during the *policy period* for which the *plan* becomes liable solely and directly as the result of the operation of an *exoneration clause*.

### **1.3 Company, plan and corporate trustee company liability**

The *insurer* shall pay the *loss* of each *company, plan and corporate trustee company* due to any *wrongful act*.

### **1.4 Company, plan and corporate trustee company reimbursement**

If a *company, plan or corporate trustee company* pays the *loss* of an *insured person*, the *insurer* will reimburse the *company, plan or corporate trustee company* for such *loss*.

### **1.5 Pensions Ombudsman and Pensions Regulator awards**

The *insurer* shall pay the *loss* of each and every *insured* where there is a finding of culpability against such *insured* as determined by an *official body* solely and directly as the result of *wrongful acts* committed by such *insured*.

### **1.6 Contribution Notice**

- (i) The *insurer* shall pay the *loss* of each *insured person* in the event that a *contribution notice* is issued against such person, including the costs of challenging any *contribution notice*.

- (ii) In the event that an *insured* person issues legal proceedings challenging the reasonableness of a *contribution notice*, the *insurer* shall pay as part of the *limit of liability* up to £250,000 for *defence costs* of any *associated person* or *connected person* but only if such *associated* or *connected person* is named as a party to such proceedings

## 2 Extensions

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### 2.1 **Bilateral *discovery period***

If this policy is neither renewed nor replaced with pension trustee liability cover, the *policyholder* shall be entitled to a *discovery period*, automatically of 30 days, or, upon payment of the applicable additional premium, of the period specified in Item 7 of the schedule.

### 2.2 ***Discovery period for retired trustees***

If this policy is neither renewed nor replaced with pension trustee liability cover, *retired trustees* shall automatically be entitled to a *discovery period* of twelve years *at no additional premium*.

### 2.3 ***Emergency costs***

If the *insurer's* written consent cannot reasonably be obtained before *defence costs* are incurred with respect to any *claim*, the *insurer* will give retrospective approval for such *defence costs* of up to, in the aggregate, 10 per cent of the *limit of liability*.

### 2.4 **Pension Crisis Helpline**

The insurer has arranged for the *pension crisis response team* to provide *pension law advice* during the *policy period* for any enquiry related to (i) pension legislation, (ii) pension regulation, or (iii) a matter or circumstance that an *insured* may reasonably expect to give rise to a *claim* under this policy.

### 2.5 ***Loss of documents***

If any *company, plan* or *corporate trustee company* shall sustain *loss* caused by loss of any *document* that is the property of the *insured*, or for which the *insured* is legally responsible, and;

- (i) such *document* is or is believed to be in the custody of the *insured* or in the custody of any other person to whom such *document* has been entrusted, lodged or deposited by the *insured*; and
- (ii) in the course of business, such *document* has been destroyed, damaged, lost or mislaid
- (ii) such *loss* is *discovered* during the *policy period* or any applicable *discovery period*

the *insurer* will pay, as part of the *limit of liability*, up to £100,000 for costs and expenses reasonably incurred in replacing or restoring such *document(s)* (excluding the value to the *insured* of the information or material contained in such *document*).

### 3 Definitions

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In this policy the following words in italics shall have the definitions that follow:

3.1 ***Administrator***

any natural person who carries out administrative duties regarding the *plan*.

3.2 ***Associated person***

any natural person who is deemed an associated person as defined in Section 435 of the Insolvency Act 1986.

3.3 ***Benefits***

any obligation under a *plan* to a participant or beneficiary under a *plan* which is a payment of money or property, or the grant of a privilege or perquisite.

3.4 ***Claim***

- (i) a written demand or civil, criminal, regulatory or arbitration proceeding seeking compensation or other legal remedy for a specified *wrongful act*; and
- (ii) with respect to an *insured person*, an *investigation*.

3.5 ***Company***

the *policyholder* or any *subsidiary*.

3.6 ***Connected person***

any natural person who is deemed a connected person as defined in Section 249 of the Insolvency Act 1986.

3.7 ***Continuity date***

the date specified as such in Item 6 of the schedule.

3.8 ***Contribution Notice***

a notice issued by the Pensions Regulator as referred to in Section 38 of the Pensions Act 2004.

3.9 ***Corporate trustee company***

any corporation established by the *company* or any predecessor thereof and duly appointed to act as a *trustee* of the *plan*.

3.10 **Defence costs**

reasonable costs and expenses incurred either as *emergency costs* or with the *insurer's* prior written consent (which shall not be unreasonably delayed or withheld), by or on behalf of an *insured* after a *claim* is made, directly in connection with its investigation, defence, settlement or appeal, but shall not include remuneration of any *insured*, cost of their time or costs or overheads of any *company*. *Defence costs* include the reasonable fees, costs and expenses of an accredited expert retained through defence counsel approved by the insurer on behalf of an *insured* to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in connection with the defence of a covered *claim*. *Defence costs* also include the reasonable fees, costs and expenses of an *associated* or *connected person* pursuant to Insurance Cover 1.6 (ii).

3.11 **Discovered**

means when the *insured* first becomes aware of facts which would cause a reasonable person to assume that loss or damage to documents covered by Extension 2.5 has been sustained or will be sustained even though the exact amount of details of the loss or damage may not then be known.

3.12 **Discovery period**

a period immediately following expiry of the *policy period* during which written notice may be given to the *insurer* of a *claim* first made during such period or the *policy period*, for a *wrongful act* occurring prior to the expiry of the *policy period*, provided any applicable additional premium required by the *insurer* is paid within 30 days of expiry of the *policy period*.

3.13 **Document**

means all documents, in paper or electronic version (excluding any bearer bonds, coupons, bank or currency notes or any other negotiable instruments whether printed or reproduced by any other method) the property of the *insured* or for which the *insured* is legally responsible which relate to any *plan*.

3.14 **Emergency costs**

*defence costs* incurred in accordance with extension 2.3 Emergency costs.

3.15 **Exoneration clause**

any provision in the governing trust deeds or rules of a *plan* which relieves a *trustee* of the burden of blame, obligation, duty, responsibility or liability which, in the absence of such clause, would attach to that *trustee*.

3.16 **Internal Dispute Manager**

any natural person who was, is or during the *policy period* becomes responsible for internal dispute resolution procedures as defined in section 50 of the Pensions Act 1995.

3.17 **Insured**

- (i) any *insured person*;
- (ii) the *company*;
- (iii) any *plan*; or
- (iv) any *corporate trustee company*.

3.18 **Insured person**

- (i) any natural person who was, is or during the *policy period* becomes:
  - (a) a director or officer, but not an external auditor or insolvency office-holder;
  - (b) a *trustee*; or
  - (c) an employee;of the *company*; or a *corporate trustee company*; or a *plan*, but only while acting in the capacity of a *trustee* or *administrator* of a *plan*;
- (ii) the spouse or domestic partner of an *insured person* for *loss* arising from a *claim* for a *wrongful act* of such *insured person*; and
- (iii) the administrator, heirs, legal representatives, or executor of a deceased, incompetent, insolvent or bankrupt *insured person's* estate for *loss* arising from a *claim* for a *wrongful act* of such *insured person*; and
- (iv) the *Internal Dispute Manager*

3.19 **Insurer** means *AIG Europe Limited*.

3.20 **Investigation**

any formal hearing, investigation or inquiry by any *official body* into the affairs of the *company* or any *insured person* in his capacity as an *insured person* of such *company* once the *insured person*: (i) becomes required to attend; or (ii) is identified in writing by an investigating authority as a target of the hearing, investigation or inquiry. An *investigation* shall be deemed to be first made when the *insured person* is first so required or so identified.

3.21 **Investigation costs**

reasonable fees, costs and expenses (except remuneration of any *insured person*, cost of their time or costs or overheads of any *company*, *plan* or *corporate trustee company*) incurred with the *insurer's* prior written consent by or on behalf of an *insured person* directly in connection with preparing for and attending an *investigation*.

3.22 **Limit of Liability**

the sum specified in Item 3 of the schedule.

3.23 **Loss**

any *defence costs*, *investigation costs*, awards of damages, awards of costs, orders to pay monetary amounts by any official body or settlements for which an *insured* is legally liable resulting from a *claim* against an *insured*.

*Loss* also includes payments made by the *insurer* under any extension.

Loss shall not include fines or penalties, non-compensatory damages including punitive or exemplary damages, taxes, remuneration or employment-related benefits, any amount for which an *insured* is not legally liable, *benefits* (or that portion of any settlement or award in an amount equal to such *benefits* unless and to the extent that recovery of such *benefits* is based solely upon a covered *wrongful act* and is payable as a personal obligation of an *insured person*), the multiplied portion of multiple damages, any sum payable pursuant to a financial support direction issued by the Pensions Regulator nor amounts which are uninsurable under the laws of England and Wales.

3.24 **Official body**

the Pensions Ombudsman appointed by the Secretary of State for Social Services, the Pensions Regulator, the Pensions Regulator Tribunal, the Pension Protection Fund, and/or any successor body or other similar regulator, government body, government agency or any official trade body.

3.25 **Pension Crisis Response Team**

any person or entity referred to in Item 9 of the Schedule.

3.26 **Pension Law Advice**

confidential legal advice of up to one hour per enquiry deriving from the same or related facts that the pension crisis response team is able to provide.

3.27 **Plan**

**PAST PRESENT OR FUTURE EMPLOYEE BENEFIT OR WELFARE BENEFIT PLANS**

- (i) any employee benefit or welfare benefit plan which was, now is or shall be established or maintained by the company for the purposes of providing for its participants or their beneficiaries medical, surgical or hospital benefit care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programme, or day care centres, scholarship funds or prepaid legal services;

**PAST OR PRESENT PENSION PLANS**

- (ii) any pension plan(s) which was, on or prior to the inception date of this policy, established or maintained for the benefit of the past, present and/or future employees of the company or their respective beneficiaries, provided that, prior to the inception date of this policy, the company has provided information for such plan;

**MERGED PLANS**

- (iii) any pension, employee benefit or welfare benefit plan which prior to the inception date of this policy has been merged into or consolidated with a pension plan for which cover is afforded under this policy;

**TRANSFERRED OR TERMINATED PLANS**

- (iv) any pension, employee benefit or welfare benefit plan that was transferred, spun-off or terminated during the policy period or prior to the inception date of this policy solely with respect to wrongful acts committed prior to the date of such transfer or spin-off, or in the case of a terminated plan, prior to the final date of asset distribution of such plan, provided that notice of such transfer, spin-off or termination is provided to the insurer before the end of the policy period;

#### **CREATED OR ACQUIRED PLANS**

- (v) any pension, employee benefit or welfare benefit plan which the company creates or for which the company assumes responsibility after the inception date of this policy, provided that such plan has total gross assets which are less than 25%.of the total consolidated assets of all plans covered under this policy as of the inception date of this policy. In which case, the company shall provide the insurer with a completed proposal for such new plan(s) at renewal.

If such new plan has total gross assets greater than 25%.of the total consolidated assets of all plans covered under this policy as of the inception date of this policy, the insurer will hold covered such plan for 90 days from the date of the creation or assumption of responsibility for such plan, provided that the company shall provide to the insurer within such 90 day period a completed proposal for such plan, agree to any additional premium and/or amendment of the provisions of the policy required by the insurer relating to such new plan.

#### **3.28 Policyholder**

the organisation specified in Item 1 of the schedule.

#### **3.29 Policy period**

the period from the inception date to the expiry date specified in Item 2 of the schedule.

#### **3.30 Pollutants**

any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including, but not limited to, asbestos, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. Such waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

#### **3.31 Retention**

the sum specified in Item 4 of the schedule.

#### **3.32 Retired trustee**

any insured person who other than by reason of a transaction, voluntarily relinquishes their position during the policy period and does not subsequently resume or assume the position of trustee or administrator of any plan.

**3.33 Submission**

each and every signed proposal form, the statements, warranties, and representations therein its attachments, the financial statements of any company, together with all other material information submitted to the insurer in connection with this policy.

**3.34 Subsidiary**

any entity in which the *policyholder*, either directly or indirectly through one or more other entities:

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

on or before the inception date of this policy.

**3.35 Transaction**

any one of the following events:

- (i) the *policyholder* consolidates with or merges into or sells all or a majority of its assets to any other person or entity or group of persons and/or entities acting in concert; or
- (ii) any person who or entity which, whether individually or together with any other person or persons, entity or entities, becomes entitled to exercise more than 50 per cent of the rights to vote at general meetings of the *policyholder* or control the appointment of directors who are able to exercise a majority of votes at meetings of the board of directors of the *policyholder*.

**3.36 Trustee**

- (i) any natural person named as a trustee of the *plan* or acting as a constructive trustee of the *plan*; and
- (ii) any *corporate trustee company* established by the *company* or any predecessor thereof and duly appointed to act as a *trustee* of the *plan* or acting as a constructive trustee of the *plan*.

**3.37 Wrongful act**

any actual or alleged act, error or omission by an *insured* with respect to a *plan*, in any of the capacities listed in the definition of *insured*, or any matter claimed against an *insured* solely because of such listed capacity.



## 4 Exclusions

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The *insurer* shall not be liable to make any payment under any extension or in connection with any *claim*:

### 4.1 Conduct

- (i) arising out of, based upon or attributable to:
- (ii) the gaining of profit or advantage to which the **insured** was not legally entitled; or
- (iii) the committing of any dishonest or fraudulent act;

in the event that any of the above is established by final adjudication of a judicial or arbitral tribunal or any admission by the *insured*.

With respect to contribution notices only; arising out of, based upon or attributable to:

- (i) any wilful violation of the Pensions Act 2004
- (ii) the gaining of profit or advantage to which the *insured* was not legally entitled; or
- (iii) the committing of any dishonest or fraudulent act;

in the event that any of the above is established by the findings of the Pensions Regulator.

### 4.2 Injury and property damage

for bodily injury, sickness, disease, death or emotional distress, or damage to, destruction, impairment or loss of use of any property.

### 4.3 Prior *claims* and circumstances

arising out of, based upon or attributable to:

- (i) facts alleged or the same or related *wrongful act(s)* alleged or contained in any *claim* which has been reported or in any circumstances of which notice has been given under any policy of which this policy is a renewal or replacement or which it may succeed in time; or
- (ii) any pending or prior litigation as of the *continuity date*, or alleging or deriving from the same or essentially the same facts as alleged in the pending or prior litigation. For the purposes of this exclusion, the term 'litigation' shall include, but not be limited to, any civil or criminal proceeding as well as any administrative or regulatory proceeding or official investigation, arbitration or adjudication

### 4.4 Failure to fund a *plan*

for failure to fund a *plan* in accordance with the *plan* trust document or instrument or the failure to collect contributions owed to the *plan*; except that this exclusion shall not apply to *contribution notices* or *defence costs*.

### 4.5 Other plans

alleging, arising out of, based upon or attributable to any act or omission in his capacity as a *trustee* or *administrator* of any plan, fund or program other

than a *plan*, or by reason of his status as a *trustee* or *administrator* of such other plan, fund or programme.

#### 4.6 **Pollution**

arising out of, based upon or attributable to the actual, alleged or threatened discharge, dispersal, release or escape of, or records concerning *pollutants*; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *pollutants*.

However, this exclusion shall not apply to:

- (i) any *claim* for *defence costs* incurred by any *insured person* unless on or before the pollution *continuity date* specified in Item 6 of the schedule, any *insured person* with managerial responsibilities over environmental affairs, control or compliance, knew or could have reasonably foreseen that there existed any situation, circumstance or *wrongful act* which could have given rise to a *claim* against any *insured*. The aggregate *limit of liability* that the *insurer* shall be liable to pay in respect of such *claim(s)* is specifically sub limited to £250,000.
- (ii) any *loss discovered* with respect to Extension 2.5

#### 4.7 **ERISA**

arising out of, based upon, attributable to any *plan*, fund or programme subject to regulation under Title 1 of the Employee Retirement Income Security Act of 1974 (USA), as amended, or any part thereof, or meets the requirements for qualification under Section 401 of the Internal Revenue Code of 1986 (USA), as amended.

## 5 **General Provisions**

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### 5.1 **Discovery period**

The *policyholder* must make any request for a *discovery period* in writing no later than 15 days after expiry of the *policy period*. A *discovery period* is not cancellable.

While this policy affords to the *policyholder* no right to a *discovery period* if a *transaction* takes place or if a *plan* becomes the subject of winding up proceedings; upon written request of the *policyholder*, the *insurer* may quote a run-off discovery period. In considering such request, the *insurer* shall be entitled to fully underwrite the exposure and to extend such offer on whatever terms, conditions and limitations that the *insurer* deems appropriate.

### 5.2 **Severability and reliance**

With respect to the contents of the *submission* and for the purposes of the application of exclusion 4.1:

- (i) no statements made nor information or knowledge possessed by any *insured person*, nor any act, error or omission of any *insured person* shall be imputed to any other *insured person*; and
- (ii) only the statements and knowledge of any chief executive officer, chief operating officer, chief financial officer or chief legal officer (or

equivalent positions) of a *company* or *corporate trustee company* shall be imputed to those entities, and the knowledge of the same officers of the *policyholder* will be imputed to all *companies* and *corporate trustee companies*.

### 5.3 **Limit of liability**

The *limit of liability* is the aggregate limit of the *insurer's* liability in respect of all insurance covers and extensions and *insureds*.

The *insurer* shall have no liability in excess of such limits irrespective of the number of *insureds* or *claims* made or *loss discovered* during the *policy period* or *discovery period*; including *claims* or related *claims* which are accepted as made during the *policy period* pursuant to general provision 5.8.

Each sublimit of liability set forth in the policy forms part of the *limit of liability* and is the most the *insurer* will pay in the aggregate under this policy as *loss* in respect of any insurance cover or extension to which it applies.

Any sum paid by AIG Europe Limited under this policy shall erode the *insurer's* liability for *loss* under the *limit of liability*.

### 5.4 **Retention**

- (i) The *retention* is not applicable to *loss* of an *insured person* except to the extent they have been indemnified by the *company, plan* or *corporate trustee company*. For *loss* of any *company, plan* or *corporate trustee company* and *loss* that any *company, plan* or *corporate trustee company* has indemnified or has agreed to indemnify, the *insurer* shall be liable only for the amount of that *loss* which exceeds the *retention*. The *retention* is not part of the *insurer's* liability for *loss*. The *retention* is to be borne by the *company, plan* or *corporate trustee company* and shall remain uninsured. A single *retention* shall apply to all *loss* arising from any *claim* or series of *claims* arising out of, based upon or attributable to continuous, repeated or related *wrongful acts*.
- (ii) In the event that any *company, plan* or *corporate trustee company* is able to indemnify an *insured person* but does not, the *insurer* shall advance to *the insured person* all *loss* within the *retention*. Under these circumstances the *retention* shall be payable by the *company, plan* or *corporate trustee company* to the *insurer*.
- (iii) If the *insurer* advances *loss* for which a *retention* applies, the *company, plan* or *corporate trustee company* agrees to repay the *insurer* immediately to the full extent the *retention* applies, once the *insurer* notifies such entity of the *loss* so advanced.

### 5.5 **Claims made & reported and Loss Discovered**

The insurance covers under this policy are afforded solely with respect to *claims* first made against an *insured* or *loss discovered* during the *policy period* or an applicable *discovery period* or accepted as such pursuant to general provision 5.9 and upon the condition precedent that:

- (i) such *claims* have been reported to the *insurer* as soon as practicable, but in all events no later than either:
  - (a) during the *policy period* or *discovery period*; or
  - (b) within 30 days after the end of the *policy period* or the *discovery period*.
- (ii) With respect to Extension 2.5 : Loss of *documents*, cover is afforded solely for *loss* first discovered during the *policy period* or *discovery period* (if applicable) and reported to the *insurer* in all events no later than either:
  - (iii) during the *policy period* or *discovery period*; or
  - (iv) within 30 days after the end of the *policy period* or the *discovery period*, as long as such loss of documents was first discovered within the final 30 days of the *policy period* or *discovery period*.

#### 5.6 **Claim & loss notification**

All notifications relating to *claims* or circumstances or with respect to Extension 2.5-Loss of Documents, must be in writing to:

**Financial Lines Claims  
AIG Europe Limited  
2-8 Altyre Road  
Croydon CR9 2LG.**

or by facsimile to + 44 (0)20 8680 7321.

or by email to [claims.do@aig.com](mailto:claims.do@aig.com)

#### 5.7 **Reporting circumstances**

Any *insured* may, during the *policy period*, notify the *insurer* at the above address of any circumstance reasonably expected to give rise to a *claim*. The notice must include the reasons for anticipating that *claim*, and full particulars as to dates, acts and persons involved.

#### 5.8 **Related *claims*, single *claim***

Any *claim* made after expiry of the *policy period* (or applicable *discovery period*) which alleges, arises out of, is based upon or attributable to any fact alleged in, or *wrongful act* which is pertinent to:

- (i) any *claim* first made during the *policy period* (or applicable *discovery period*) or
- (ii) a circumstance reasonably expected to give rise to a *claim*,

which was reported to the *insurer* as required by this policy, will be accepted by the *insurer* as having been made at the same time as the notified *claim* was made or the circumstance was reported, and reported at the same time as the notified *claim* or circumstance. Also, any *claim* or series of *claims* arising out of, based upon or attributable to continuous, repeated or related *wrongful acts* shall be considered a single *claim*.

#### 5.9 **Defence and settlement of *claims***

All *insureds* must at their own cost, render all reasonable assistance to and cooperate with the *insurer*. In the event of any *claim* or *loss*, each *insured* shall take reasonable steps to avoid or diminish *loss*.

The *insured* shall have the right and duty to defend and contest any *claim* made against them. The *insurer* shall be entitled to participate fully in the defence and in the negotiation of any settlement that involves or appears reasonably likely to involve the *insurer*.

The *insurer* will accept as reasonable and necessary the retention of separate legal representation to the extent required by a material conflict of interest between any *insureds*.

#### 5.10 **Payment of *defence costs***

The *insurer* shall pay *defence costs* in excess of the *retention*, if applicable, covered by this policy promptly after sufficiently detailed invoices for those costs are received by the *insurer*. The *policyholder* shall reimburse the *insurer* for any payments which are ultimately determined not to be covered by this policy.

#### 5.11 **Consent**

The *insured* shall not admit or assume any liability, enter into any settlement agreement, or consent to any judgment without the prior written consent of the *insurer*. Only *loss* resulting from *claims* defended in accordance with this policy shall be recoverable as a *loss* under this policy.

If any *insured* shall compromise or settle any *claim* or potential *claim* without the *insurer's* prior written consent, in a manner that limits or precludes recovery or recourse against such *insured* or assets of or in the possession of such *insured*, and expressly or effectively preserves for or provides to a claimant or potential claimant recourse against this policy or the *insurer*, this policy shall afford no cover in connection with that *claim* or potential *claim*.

#### 5.12 Allocation

The *insurer* shall be liable only for *defence costs* or other *loss* derived exclusively from a covered *claim* against an *insured* or covered *loss*.

In the event that any *claim* or *loss* involves both covered matters and matters or persons not covered under this policy, a fair and proper allocation of any *defence costs*, judgments and/or settlements shall be made between the *insureds* and the *insurer* taking into account the relative legal and financial exposures attributable to covered matters and matters or people not covered under this policy.

#### 5.13 Disputes between *insurer* and *insureds*

In the event that a determination as to the amount of *defence costs* to be advanced to any *insured* under this policy cannot be agreed to, then any obligation of the *insurer* to advance *defence costs* shall not exceed the amount which the *insurer* determines to be fair and proper until a different amount shall be agreed upon or determined pursuant to the provisions of this policy and applicable law.

A dispute between the *insurer* and the *policyholder* regarding any aspect of this policy which cannot be resolved by agreement between them within six months, shall be referred to a mutually agreed mediator. If the dispute remains unresolved after mediation, it shall be resolved by arbitration in the London Court of International Arbitration (LCIA).

#### 5.14 Changes in risk

**INSUREDS:** Cover for any *claim* against any *insured* shall apply only for *wrongful acts* committed while such entity is a *company*, *plan* or *corporate trustee company* and while such *insured person* serves in an *insured person capacity*.

**TRANSACTIONS:** The *insurer* shall not be liable to make any payment or to provide any services in connection with any *claim* arising out of, based upon or attributable to a *wrongful act* committed or *investigation* occurring after the occurrence of a *transaction*.

#### 5.15 Subrogation and co-operation

The *insurer* shall be subrogated to all *insureds'* rights of recovery, contribution and indemnity before or after any payment under this policy. The *insureds* shall do nothing to prejudice such rights. It shall be a condition to the obligations of the *insurer* that *insureds* will, at their own cost: (i) give the *insurer* full details of a circumstance or *claim* or *loss* as soon as possible together with all relevant documents; and (ii) assist and co-operate with the *insurer* in the investigation, defence, settlement or appeal of a *claim* or reported circumstance or *loss*. The *insurer* shall not exercise its rights of subrogation against an *insured* in connection with a *claim* or *loss* unless the *insurer* can establish that exclusion 4.1, Conduct, applies to that *claim* or *loss* and that *insured*.

Provided, however, the *insurer* will waive its rights of subrogation under Insurance Cover 1.5 where such subrogation would result, directly or indirectly, in a *claim* upon the assets of a *plan*.

#### 5.16 Other insurance

Insurance provided by this policy applies excess over insurance and indemnification available from any other source.

**5.17 Notice and authority**

The *policyholder* shall act on behalf of all *insureds* in connection with all matters relevant to this policy.

**5.18 Assignment**

Neither this policy nor any right hereunder may be assigned without written consent of the *insurer*.

**5.19 Policy interpretation**

Any interpretation of this policy or issue relating to its construction, validity or operation shall be determined by the laws of England and Wales. No amendment to this policy will be effective unless it is written. Except as otherwise provided herein, the parties will submit to the exclusive jurisdiction of the courts of England and Wales. This policy, its schedule and any endorsements are one contract in which, unless the context otherwise requires:

- (i) headings are descriptive only, not an aid to interpretation;
- (ii) singular includes the plural, and vice versa;
- (iii) the male includes the female and neuter;
- (iv) all references to specific legislation include amendments to and re-enactments of such legislation and similar legislation in any jurisdiction in which a *claim* is made or *loss* is *discovered*; and
- (v) references to positions, offices or titles shall include their equivalents in any jurisdiction in which a *claim* is made.

**5.20 Cancellation of the policy**

This policy may not be cancelled except for non-payment of the premium. If the premium for this policy is not received by the *insurer* within 60 days after inception of the *policy period*, the *insurer* may elect to avoid the policy ab initio.

**5.21 Contracts (Rights of Third Parties) Act 1999**

Nothing in this policy is intended to confer a directly enforceable benefit on any third party other than a *company* or *insured person* whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

**5.22 Complaints**

We believe you deserve courteous, fair and prompt service. If there is any occasion when our service does not meet your expectations please contact us using the appropriate contact details below, providing the Policy/Claim Number and the name of the Policyholder/Insured Person to help us deal with your comments quickly.

**Claims related complaints:**

Head of Financial Lines & Professions Claims – Claims Manager 58 Fenchurch Street, London, EC3M 4AB

Telephone: +44 (0) 207 063 5418  
Email: [claims.fl2@aig.com](mailto:claims.fl2@aig.com)  
Online: [www.aig.co.uk](http://www.aig.co.uk) (please select "contact" followed by "your feedback")

**All other complaints:**

Customer Relations Unit

AIG Europe Limited, 2-8 Altyre Road, Croydon CR9 2LG

Telephone: +44 (0) 208 649 6666  
Facsimile: +44 (0) 208 680 7330  
Email: [uk.customer.relations@aig.com](mailto:uk.customer.relations@aig.com)  
Online: [www.aig.co.uk](http://www.aig.co.uk) (please select "contact" followed by "your feedback")

We will acknowledge the complaint within 5 business days of receiving it, keep you informed of progress and do our best to resolve matters to your satisfaction within 8 weeks. If we are unable to do this you may be entitled to refer the complaint to the Financial Ombudsman Service who will review your case. We will provide full details of how to do this when we provide our final response letter addressing the issues raised.

The Financial Ombudsman Service may not be able to consider a complaint if the complainant:

- has not provided us with the opportunity to resolve the complaint, or
- is a business with more than 10 employees and a group annual turnover of more than €2 million; or
- is a trustee of a trust with a net asset value of more than £1 million or;
- is a charity with an annual income of more than £1 million.

The Financial Ombudsman Service can be contacted at:

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

Telephone: 0800 023 4567 (calls are normally free for people phoning from a fixed line)  
0300 123 9123 (calls are charged at the same rate as 01 or 02)



numbers on mobile tariffs)

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

Following this complaint procedure does not affect your right to take legal action.

#### 1.1. **Financial Services Compensation Scheme**

The Insurer is covered by the Financial Services Compensation Scheme (FSCS). The Insured may be entitled to compensation from the scheme in the unlikely event that the Insurer cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Further information is available from the FSCS.

Financial Services Compensation Scheme, 7th Floor Lloyds Chambers,  
Portsoken Street, London E1 8BN

Telephone: 020 7892 7300

Fax: 020 7892 7301

E-mail: [enquiries@fscs.org.uk](mailto:enquiries@fscs.org.uk)

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