

This is to certify that in accordance with the authorisation granted under Contract to the undersigned by Arch Insurance Company (Europe) Limited and in consideration of the premium specified in the Schedule *We*, the Insurers named below, are hereby bound to insure in accordance with the terms and conditions contained herein or endorsed hereon.

We hereby agree, to the extent and in the manner hereinafter provided, to indemnify or otherwise pay *You* in respect of the contingencies or events specified in the sections of the Certificate. However this Certificate only applies to those Sections as indicated in the Schedule attached to this Certificate.

The Certificate, Schedule, Exclusions and General Conditions shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of the Certificate, Schedule, Exclusions and General Conditions shall bear the same meaning wherever it may appear.

Please read **this Certificate** and, if it is incorrect, return it immediately for alteration.

.....
Signed by **DUAL CORPORATE RISKS LIMITED** acting for
Arch Insurance Company (Europe) Limited

PRIVATE EQUITY

THIS IS A CLAIMS MADE CERTIFICATE

In consideration of the payment of premium and subject to all of the provisions of the Certificate, *We* and the *Company* agree as follows.

Section 1: Insuring Clauses

- 1.1** *We* shall pay on behalf of each *Management Insured* or *Insured Person*, *Loss* resulting from any *Claim* made against them.
- 1.2** *We* shall pay on behalf of each *Management Insured*, *Loss* for which the *Management Insured* is required or permitted to pay indemnification to any *Insured Person* in respect of a *Claim*.
- 1.3** *We* shall pay on behalf of each *Fund Entity*, *Loss* resulting from any *Claim* made against the *Fund Entity*.
- 1.4** *We* shall pay on behalf of each *Fund Entity*, *Loss* for which the *Fund Entity* is required or permitted to pay indemnification to any *Management Insured* or *Insured Person* in respect of a *Claim*.

Section 2: Definitions

- 2.1** *Certificate Period* means the period of time specified in Item 5 of the Schedule, or any other period agreed in writing by the *Company* and *Us*.
- 2.2** *Claim* means:
 - 2.2.1 any written or oral demand for monetary damages, damages or other relief including non-pecuniary relief;
 - 2.2.2 any civil, criminal, or arbitration proceedings including any counterclaim or appeal,
 - 2.2.3 any regulatory or administrative proceedings or any other official investigation,
 - 2.2.4 any *Employment Practice Claim*
 first made against an *Insured* during the *Certificate Period* alleging a *Wrongful Act*.
- 2.3** *Company* means the entity named in Item 1 of the schedule and any *Subsidiary*.
- 2.4** *Continuity Date* means the date specified in Item 7 of the Schedule.
- 2.5** *Costs* means the reasonable fees, including disbursements, incurred by or on behalf of an *Insured* in the investigation, mitigation, defence, adjustment and appeal of any *Claim* provided that *We* have given *Our* prior written consent to such *Costs* being incurred. *We* will not unreasonably withhold that consent.

Costs include the reasonable travel costs and living expenses (subject to a sub-limit of £1,000 per individual and in the aggregate) incurred by an *Insured Person* when giving evidence to defend a *Claim* provided that *We* have consented in writing before such expenses are incurred.

Costs does not include overhead or benefit expenses associated with salary, wages or fees of an *Insured*. *Costs* does not include any fees, expenses or other sums incurred in defence of any *Claim* which any other insurer has a duty to defend under any other policy or certificate of insurance.
- 2.6** *Deductible* means the applicable amount stated in Item 4 of the Schedule. For the purposes of determining the applicable *Deductible* the *Management Insured* or the *Fund Entity* shall be deemed to have indemnified the *Insured Person* or the *Management Insured* to the extent that the *Management Insured* or the *Fund Entity* is permitted to do so.
- 2.7** *Employment Practice Claim* means any *Claim* arising out of or alleging an *Employment Practice Violation*.
- 2.8** *Employment Practice Violation* means any actual or alleged wrongful dismissal, termination or discharge (either actual or constructive) of an employment contract including breach of an implied employment contract, employment-related misrepresentation, wrongful failure to employ or promote, failure to grant tenure, discrimination, harassment, retaliation (including lockouts), employment-related humiliation, defamation, invasion of privacy, wrongful deprivation of career opportunity, wrongful demotion or negligent employee evaluation (including the provision of negative or defamatory statements in connection with an employee reference) brought by a past, present or prospective employee of the *Company*.

2.9 *Fund Entity* means those entities named in Item 2 of the Schedule and any *Special Purpose Company* formed on behalf of or by a *Fund Entity*.

2.10 *Insured* means a *Management Insured*, *Insured Person* or *Fund Entity*.

2.11 *Insured Capacity* means the capacity in which an *Insured Person* acts when performing the functions described in sub-sections 2.12.1 and 2.12.2 above or in which a *Management Insured* acts when performing the functions described in sub-sections 2.16.1, 2.16.2 and 2.16.3 below.

2.12 *Insured Person* means any natural person who was, is, or shall be:

2.12.1 a director, shadow director (as defined in Section 741(2) of the Companies Act 1985 or the equivalent legislation in any other jurisdiction), officer, employee, general partner, managing general partner, managing member, member of the board of managers or functional equivalent of any *Management Insured* or *Fund Entity*, or

2.12.2 a member of any advisory board or committee of any *Fund Entity*, or

2.12.3 the lawful spouse of any natural person defined in sub-sections 2.12.1 and 2.12.2 above (whether this status is derived by reason of statutory law, common law, or otherwise of any applicable jurisdiction in the world) and in the event of the death, incapacity or bankruptcy of any such natural person defined in sub-sections 2.12.1 and 2.12.2 above, their estates, heirs, legal representatives or assigns.

2.13 *Interrelated Wrongful Acts* means *Wrongful Acts* which have as a common nexus any fact, circumstance, situation, event or transaction or series of facts, circumstances, situations, events or transactions.

2.14 *Limit of Liability* means the amount stated in Item 3 of the Schedule.

2.15 *Loss* means damages, judgment awards, settlement awards and *Costs*.

Loss does not include:

2.15.1 civil or criminal fines or penalties, or

2.15.2 taxes, or

2.15.3 punitive or exemplary damages (except for exemplary damages for libel and slander in respect of a *Claim* brought or maintained entirely outside the USA or Canada), or

2.15.4 matters that are uninsurable under the law applicable to this Certificate.

2.16 *Management Insured* means the *Company* or any corporate entity, which is:

2.16.1 a general partner, managing general partner or functional equivalent of a *Fund Entity*,

2.16.2 a managing general member or functional equivalent of a *Fund Entity*,

2.16.3 a management company of any description or its functional equivalent to any *Fund Entity*,

2.16.4 any *Subsidiary* of an entity appointed to perform the functions defined in sub-sections 2.16.1, 2.16.2 or 2.16.3 above.

2.17 *Outside Entity* means:

2.17.1 any non-profit organisation, and

2.17.2 any corporation, partnership or limited liability company in which any *Fund Entity* maintains, maintained or proposes to maintain an equity investment with board representation or board advisor or board observer status and which is listed in Item 9 of the Schedule.

2.18 *Pollutants* means:

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

2.19 *Proposal Form* means:

2.19.1 the Proposal Form referred to in Item 8 of the Schedule, and

2.19.2 any materials submitted with or in connection with such proposal form.

2.20 *Special Purpose Company* means an entity which is created or acquired for the sole purpose of making an equity investment or acquiring or maintaining board representation, board advisor or board observer status in an *Outside Entity*.

2.21 *Subsidiary* means any entity in which the *Company* or any *Management Insured* directly or indirectly controls the majority of the issued securities representing the present right to vote for the election of such entity's directors, managing members or general partners.

Subsidiary does not mean any corporation, partnership or limited liability company in which any *Fund Entity* maintains or proposes to maintain an equity investment and/or board representation or board advisor or board observer status.

2.22 *Transaction* means the merger of, consolidation with or acquisition of the *Company* by another entity, which thereby obtains ownership or control of 50% or more of the share capital or securities, which includes the right to vote for the election of board members of the *Company*.

2.23 *We, Our or Us* means the Insurers named in Item 13 of the Schedule.

2.24 *Wrongful Act* means any actual or alleged error, misstatement, misleading statement, libel, slander or defamation (including injurious falsehood), act, omission, neglect, breach of duty, breach of trust, breach of warranty of authority, breach of confidentiality, or any breach of the provisions of the Financial Services and Markets Act 2000 in respect of which civil liability arises, or *Employment Practice Violation* committed or attempted by:

2.24.1 any *Management Insured* or any person or third party for whom the *Management Insured* is responsible while acting in its *Insured Capacity*,

2.24.2 any *Management Insured* whilst advising regarding investment in, formation, capitalisation or disposition of or rendering of management or advisory services to an *Outside Entity* pursuant to an oral or written agreement for such activities,

2.24.3 any *Insured Person* acting in an *Insured Capacity*,

2.23.4 any *Insured Person*, while acting in their capacity as a director, shadow director, officer, trustee, governor, executive director, board observer or similar position of any *Outside Entity* where such service is at the behest of or with the knowledge and consent of a *Management Insured* or *Fund Entity*, or,

2.24.5 the *Fund Entity*.

Section 3: Exclusions

We shall not be liable for *Loss* under this Certificate in connection with any *Claim*:

3.1 for bodily injury, sickness, mental anguish or emotional distress, disease or death of any person howsoever caused or damage to or destruction of any tangible property, including loss of use thereof. In relation to an *Employment Practice Claim* only, this exclusion shall not apply to any *Claim* in respect of mental anguish or emotional distress.

3.2 arising from or attributable to any claim or circumstance notified to any certificate or policy of insurance which incepted prior to the inception of this Certificate or which arises from matters substantially the same as alleged or established in any such claim or circumstance or for any other *Wrongful Act*, whenever occurring, which together with a *Wrongful Act* which has been the subject of such prior notice, would constitute *Interrelated Wrongful Acts*;

3.3 arising from or attributable to:

3.3.1 the actual, alleged or threatened discharge, dispersal, release or escape of pollutants into or upon land, the atmosphere or any water course or body of water, whether such discharge, dispersal, release or escape is intentional or accidental; or

3.3.2 any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise pollutants.

Any such *Claim* is referred to as a "*Pollutants Claim*".

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

3.3.3 *Costs* up to a limit of £500,000 in the aggregate for the *Certificate Period* (which limit shall be part of and not in addition to the *Limit of Liability* shown in Item 3 of the Schedule), or

3.3.4 a *Pollutants Claim* made against an *Insured* by any shareholder of the *Company* either directly or derivatively alleging damage to the *Company* or its shareholders

provided, however, that

3.3.5 on or before the date specified in Item 7 of the Schedule, no *Insured* knew of nor could have reasonably foreseen that there existed any situation, circumstance or *Wrongful Act* which could give rise to such a *Pollutants Claim*, and

3.3.6 the incident(s) giving rise to the *Pollutants Claim* occurred entirely outside the *USA* or *Canada* and the *Pollutants Claim* is brought or maintained entirely outside the *USA* or *Canada*, and

3.3.7 this exclusion shall not apply to any *Pollutants Claim* brought directly, derivatively or otherwise by one or more shareholder of any *Fund Entity*.

3.4 based on, arising out of, or relating to or involving (directly or indirectly) any actual or alleged (whether made in civil, criminal or other legal proceedings or otherwise) racketeering activity. For the purposes of this Exclusion, "racketeering activity" is defined in the Racketeer Influenced and Corrupt Organisation Act 18 United States Code 1961 et seq including any amendments to it or rules or regulations made under it;

3.5 arising from or attributable to any actual or alleged violation of the responsibilities, obligations or duties imposed by any retirement or pension legislation anywhere in the world including but not limited to the Employee Retirement Income Security Act 1974 (USA) or any *Claim* arising from or attributable to an *Insured* acting in their capacity as trustee, fiduciary or administrator of any pension or employee benefit scheme.

3.6 arising from, attributable to or contributed to by:

3.6.1 any criminal or dishonest act or omission, or

3.6.2 any act or omission committed with the knowledge that it was in breach of any statute, contract, duty or other legal obligation, or

3.6.3 the gaining of any profit, remuneration or advantage to which an *Insured* was not legally entitled including, but not limited to, profits made from the purchase or sale of the *Company's* securities within the meaning of Section 16(b) of the Securities Exchange Act 1934 (USA) and any amendments or re-enactment.

Exclusion 3.6 shall only apply if it is established through a judgment or any other final adjudication or admission by an *Insured* that the relevant conduct did in fact occur.

3.7 by or on behalf of an *Insured* except and to the extent such *Claim*:

3.7.1 is brought or maintained on behalf of a *Fund Entity* by one or more persons who are not *Insureds* and who bring or maintain the *Claim* without the solicitation, assistance or participation of any *Insured*, or

3.7.2 is brought derivatively or maintained on behalf of an *Insured* by one or more persons who when such *Claim* is first made, are acting independently of all *Insureds*, or

3.7.3 is brought by an *Insured* in the form of a cross-claim, third party claim or other proceeding for contribution or indemnity, which is part of and results directly from a *Claim* not otherwise excluded by the terms of this Certificate, or

3.7.4 is a shareholder derivative action brought or maintained on behalf of an *Insured* without the solicitation, assistance or participation of any director or officer of an *Insured*, or

3.7.5 is brought by a liquidator, receiver or administrative receiver either directly or derivatively on behalf of an *Insured* without the solicitation, assistance or participation of any director or officer of an *Insured*, or

3.7.6 is brought by a member of any investment advisory board or committee if making the *Claim* in their capacity as a member, shareholder or limited partner of any *Fund Entity*, or

3.7.7 is an *Employment Practice Claim*.

3.8 against any *Management Insured* or any *Subsidiary* based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

3.8.1 any *Wrongful Act* occurring prior to the date such entity became a *Management Insured* or any *Subsidiary* or subsequent to the date such entity ceased to be a *Management Insured* or any *Subsidiary*, or

3.8.2 any *Wrongful Act* occurring while such entity was a *Subsidiary* which, together with a *Wrongful Act* occurring prior to the date such entity became a *Subsidiary*, would constitute *Interrelated Wrongful Acts*.

- 3.9** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any *Wrongful Act* actually or allegedly committed subsequent to a *Transaction*.
- 3.10** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the service of any *Insured Person* in any position or capacity in any entity other than a *Management Insured* or *Fund Entity*; provided, however, that this exclusion shall not apply to *Loss* resulting from any such *Claim* to the extent that:
- 3.10.1 such *Claim* is based on the service of the *Insured Person* as a director, shadow director, officer, trustee, governor, executive director, board observer or similar position of any *Outside Entity* where such service is at the behest of or with the knowledge and consent of the *Management Insured* or *Fund Entity*; and
 - 3.10.2 the *Outside Entity* is not permitted or required by law to provide indemnification to the *Insured Person*; and
 - 3.10.3 such *Loss* is not covered by or is not recoverable under any certificate or policy of insurance held by the *Outside Entity*.
- 3.11** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:
- 3.11.1 any prior or pending litigation as of the *Continuity Date*, or
 - 3.11.2 any fact, circumstance, situation, transaction or event underlying or alleged in such prior or pending litigation, regardless of the expressed legal grounds of such prior or pending litigation.
- 3.12** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, any *Wrongful Act* which an *Insured* had knowledge of prior to the *Continuity Date* where such *Insured* had reason to believe at the time that such known *Wrongful Act* could reasonably be expected to give rise to a *Claim*.
- 3.13** based upon, arising out of, directly or indirectly resulting from fees, profits, commissions, costs or other charges paid or payable to any *Management Insured* or *Insured Person* to which such *Management Insured* or *Insured Person* claims entitlement but to which such *Management Insured* or *Insured Person* is not entitled.
- 3.14** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any improper solicitations or improper agreements, whether express or implied, relating to any *Offering* including, but not limited to any:
- 3.14.1 solicitations or tie-in agreements to purchase additional shares in any entity's stock (including but not limited to the stock of an *Insured*), or
 - 3.14.2 violation of Regulations S-K or M of the Securities Exchange Commission, or Conduct Rules 2110 and 2440 of the National Association of Securities Dealers, or the Financial Services and Markets Act 2000 (including any statutory provisions and/or any rules or regulations made by any Regulatory Body or Authority thereunder), or any other equivalent statutes, laws, directives, rules and regulations applicable to any *Insured*.
- "*Offering*" means the public or private sale of stock, including but not limited to an initial public offering, secondary offering or a private placement.
- 3.15** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged act or acts of *Market Abuse* on the part of an *Insured*.
- "*Market Abuse*" means
- 3.15.1 behaviour (being acts or omissions), whether by one person alone or by two or more persons jointly or in concert, which occurs in relation to investments traded on any recognised market (hereinafter referred to as "*Qualifying Investments*") and includes (but is not limited to) behaviour which:
 - 3.15.1.1 occurs in relation to anything which is the subject matter, or whose price or value is expressed by reference to the price or value, of *Qualifying Investments*, or
 - 3.15.1.2 occurs in relation to investments (whether *Qualifying Investments* or not) whose subject matter is *Qualifying Investments*
 and which satisfies any one or more of the following conditions:
 - 3.15.1.3 the behaviour is based on information which is not generally available to those using the particular market concerned but which, if available to a *Regular User* of that market, would

or would likely be regarded by him as relevant when deciding the terms on which transactions in investments of the kind in question should be effected, or

- 3.15.1.4 the behaviour is likely to give a *Regular User* a false or misleading impression as to the supply of, or demand for, or as to the price or value of, investments of the kind in question, or
- 3.15.1.5 a *Regular User* would or would likely regard the behaviour as behaviour that would or would likely distort the market in investments of the kind in question.
- 3.15.2 requiring or encouraging another person to engage in behaviour that, if engaged in by the first person, would amount to *Market Abuse*;
- 3.15.3 behaviour that constitutes market abuse pursuant to the provisions of the Financial Services and Markets Act 2000.

“Regular User” means, in relation to a particular market, a reasonable person who regularly deals on that market in investments of the kind in question.

3.16 based on, arising out of, relating to or involving, directly or indirectly, any actual or alleged *Money Laundering* or a related financial crime which an *Insured* knew or reasonably should have known constituted *Money Laundering* or a related financial crime.

For the purposes of Exclusion 3.16, *“Money Laundering”* has the meaning given to that term (or any similar term) under any statute, law, rule, regulation, or international treaty, convention or accord pertaining to the movement or illicit cash or cash equivalent proceeds or equivalent offence.

3.17 in respect of any legal liability assumed by an *Insured* under the terms, conditions or warranties of any contract or agreement except to the extent that such liability would have attached to the *Insured* in the absence of such contract or agreement.

For the purpose of determining the applicability of each of the above Exclusion, no relevant act of one *Insured* shall be imputed to any other *Insured*.

Section 4: Limit of Liability

- 4.1** We shall be liable to pay *Loss* in excess of the amount of the applicable *Deductible* up to the *Limit of Liability*.
- 4.2** The amount shown in Item 3 of the Schedule shall be *Our* maximum aggregate limit of liability under this Certificate irrespective of the number of contracts of insurance evidenced by it.
- 4.3** More than one *Claim* involving the same *Wrongful Act* or *Interrelated Wrongful Acts* shall be deemed to constitute a *Single Claim* and shall be deemed to have been made at the earliest of the following times:
 - 4.2.1 the time at which the earliest *Claim* involving the same *Wrongful Act* or *Interrelated Wrongful Act* is first made, or
 - 4.2.2 the time at which the *Claim* involving the same *Wrongful Act* or *Interrelated Wrongful Acts* shall be deemed to have been made pursuant to 4.5 below.
- 4.4** In the event that part of a *Claim* is covered under more one of the Insuring Clause, and part under another Insuring Clause the *Deductible* shall be applied separately to each part of the *Loss* resulting from each *Claim* covered by each Insuring Clause. The sum of the *Deductibles* so applied shall constitute the *Deductible* applicable to such *Claim*. The total *Deductible*, as finally determined, shall in no event exceed the largest single *Deductible* applicable to the *Claim*.
- 4.5** In the event that any *Single Claim* shall be covered, in whole or in part, under two or more Insuring Clauses, the total applicable *Deductible* shall not exceed the single largest applicable *Deductible*. Such largest applicable *Deductible* shall apply only once to such *Claim*.
- 4.6** Payments of *Loss* by *Us* shall reduce the *Limit of Liability*.
- 4.7** We shall pay *Costs* no more than once every 90 days.

Section 5: Claim Reporting – Condition Precedent

5.1 As a condition precedent to our liability under this Certificate, an *Insured* or the *Company* must provide Notification of a *Claim* as soon as practicable. Notification of a *Claim* must be made in writing to *Us* at the address given in item 10 of the Schedule.

- 5.2** If during the *Certificate Period* an *Insured* first become aware of a *Wrongful Act* or a circumstance that the *Insured* considers may give rise to a *Claim*, the *Insured* or the *Company* must provide Notification as set out in sub section 5.1 as soon as practicable and in any event during the *Certificate Period*. If such notification is given, any *Claim* that is subsequently made which arises out of, is based upon or attributable to the notified *Wrongful Act* or circumstance will be treated as having been made during the *Certificate Period*.

Section 6: Settlements and Defence

- 6.1** No settlement shall be made or negotiated and no *Costs* shall be incurred without *Our* consent, such consent not to be unreasonably withheld. *We* shall have the right to investigate and settle any *Claim*; provided however, no settlement shall be made without the consent of the *Company*, such consent not to be unreasonably withheld.
- 6.2** *We* shall have the right and duty to defend any *Claim* and such right and duty shall exist even if each allegation is groundless, false or fraudulent. The *Company* may have the right to assume the duty to defend any *Claim* provided *We* consent in writing to such assumption. *Costs*, whether incurred by *Us* or by an *Insured* when defending or investigating a *Claim* with *Our* written consent, shall be paid by *Us* as a part of, and not in addition to, the *Limit of Liability*.

Section 7: General Conditions

7.1 Allocation

Where a *Claim* involves matters which give rise to *Loss* covered by this Certificate and matters which do not, or where a *Claim* is made against both an *Insured* and any parties other than an *Insured*, then *We* and the *Insured* shall use best efforts to agree upon a fair and proper allocation of the proportion of the *Loss* covered under this Certificate. Only *Loss* incurred by the *Insureds*, and in the case of *Costs* those which are directly attributable to the defence of an *Insured*, are covered.

If allocation cannot be agreed then it shall be determined by a Queen's Counsel, or local equivalent, to be mutually agreed upon or, in default of agreement, to be nominated by the Chairman of the Bar Council, or local equivalent. Such determination will be based upon written submissions only and will be final and binding. Pending that determination *We* may at our sole discretion meet the *Loss* on an interim basis. After allocation has been determined, the *Insured* or the *Company* (whichever is appropriate) will refund to *Us* any *Loss* that *We* have paid that exceeds the entitlement under this Certificate.

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

7.2 Assignment of Certificate

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

7.3 Assistance, Cooperation and Subrogation

The *Insured* agrees to provide *Us* with such information, assistance and cooperation as *We* reasonably may request, and they further agree that they shall not take any action which in any way increases *Our* exposure under this Certificate.

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

7.4 Transaction

If at any time during the *Certificate Period* a *Transaction* occurs this Certificate will only apply to *Wrongful Acts* committed prior to the effective date of a *Transaction*.

7.5 Discovery Period

If *We* refuse to renew this Certificate for any reason other than non-payment of premium, then the *Company* shall be entitled to purchase a Discovery Period of 12 months upon payment of 100% of the annual premium stated at Item 6 of the Schedule.

If at any time during the *Certificate Period*, a *Transaction* occurs, the *Company* shall not be entitled to purchase a Discovery Period. However, in such circumstances *We* may offer the *Company* a Discovery Period on such terms

and conditions as *We* decide and at our absolute discretion. If such a Discovery Period is offered to the *Company* it will take effect from the effective date of the *Transaction* provided that this effective date is during the *Certificate Period*. If a Discovery Period is purchased then *We* will refund a proportion of the premium calculated pro rata as at the effective date of the *Transaction*.

The provision of a Discovery Period is conditional upon:

- (a) an *Insured* or the *Company* giving *Us* written confirmation of the decision to purchase a Discovery Period within 30 days of the expiry of the *Certificate Period*, and
- (b) payment of the additional premium within 30 days of the expiry of the *Certificate Period* or the effective date of the *Transaction* (whichever is applicable), and
- (c) this Certificate not being replaced by any other Certificate affording similar cover.

The cover granted during a Discovery Period only extends to a *Wrongful Act* committed prior to the expiry of the *Certificate Period* or, in the case of the second paragraph above, prior to the effective date of the *Transaction*.

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

If a Discovery Period is effected, the *Limit of Liability* shall not be increased in any way.

A Discovery Period may not be cancelled and the additional premium for a Discovery Period is not refundable.

7.6 Governing Law and Jurisdiction

This Certificate shall be governed by and construed in accordance with the laws of England and Wales. It is agreed that the Supreme Court of England and Wales shall have exclusive jurisdiction to determine any disputes that arise in relation to this Certificate.

7.7 Authorisation Clause

By acceptance of this Policy, each *Insured* agrees that the *Company* may act on its behalf with respect to the giving of all notice to *Us*, the receiving of notice from *Us*, the payment of the premium and the receipt of any return premium.

7.8 New Investment

In the event an *Insured* establishes a new partnership, limited liability company or corporation which is engaged in the same line of activity as the *Insured* after the inception date of this Policy, such newly formed entity shall be considered an *Insured* for a period of 90 days immediately following its creation. Coverage beyond said 90 day period shall only be available if:

- (a) written notice of the establishment of such entity is given to *Us* by the *Company*, and
- (b) the *Insured* provides *Us* with such information in connection therewith as *We* may deem necessary, and
- (c) the *Insured* accepts any special terms, conditions, exclusions or additional premium charge as *We* may require.

7.9 Other Insurance or Indemnification

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

In respect of a *Claim* arising from a *Wrongful Act* defined section 2.21.4 cover shall be specifically excess of any indemnity provided by the *Outside Entity* including but not limited to indemnified *Costs*, and any insurance available to such *Insured Person* from or provided by the *Outside Entity*.

7.10 Singular and Plural

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

7.11 Several Liability of Insurers

Our obligations (where there is more than one of *Us* subscribing to this Certificate) are several and not joint and are limited solely to the extent of *Our* individual subscriptions. None of *Us* are responsible for the subscription of any other of *Us* who for any reason does not satisfy all or part of its obligations.

7.12 Severability

For the purposes of determining the application of the Exclusions, no fact pertaining to or knowledge possessed by an *Insured* shall be imputed to any other *Insured* and vice versa.

7.13 Severability of the *Proposal Form*

The *Proposal Form* shall be construed as a separate proposal by each *Insured* under this Certificate. With respect to the declarations and statements contained in the *Proposal Form*, no statements made or knowledge possessed by an *Insured* shall be imputed to any other *Insured* and vice versa.

7.14 Termination / Cancellation

The *Company* may cancel or terminate this Certificate by giving notice in writing to *Us* at any time. If the *Company* cancels this Certificate, *We* will retain the proportion of the premium calculated pro rata as at the date of cancellation or termination plus thirty five percent (35%) of that amount.

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

This Certificate shall automatically terminate at the expiry of the *Certificate Period* stated in Item 5 of the Schedule.

This Certificate may be cancelled / terminated in writing by mutual agreement between the *Company* and *Us*.

7.15 Warranty Clause

It is warranted that the particulars and statements contained in the *Proposal Form*, are the basis of the contracts represented by this Certificate and are to be considered as incorporated into and constituting a part of this Certificate.

By acceptance of this Certificate, each *Insured* agrees:

- (a) that the statements in the *Proposal Form* are their representations, that they shall be deemed material to the acceptance of the risk or the hazard assumed by *Us* under this Certificate and that this Certificate is issued in reliance upon the truth of such representations,
- (b) that in the event the *Proposal Form* contains misrepresentations made with the actual intent to deceive which materially affect either the acceptance of the risk or the hazard assumed by *Us* under this Certificate, this Certificate shall be void and of no effect whatsoever with respect to each of the *Insureds* who had actual knowledge of such misrepresentations.