Management liability – directors’ and officers’ liability
Policy wording

The General terms and conditions and the following terms and conditions all apply to this section.

Special definitions for this section

**Bail costs**
Costs incurred with our prior written agreement to pay for a bond or other financial instrument to guarantee an insured person’s bail or equivalent in any other jurisdiction.

**Claim**
Any written demand or civil, criminal, regulatory or arbitration proceeding first made against an insured person during the period of insurance seeking monetary damages or other legal relief or penalty alleging a wrongful act.

Any extradition proceeding made against an insured person during the period of insurance.

**Defence costs**
Costs incurred with our prior written agreement to investigate, settle or defend any claim made against an insured person or to fund an appeal, including any premium paid for an appeal bond or similar bond obtained in relation to it, arising from any judgment, decision or award in relation to any claim.

**Employee**
1. Any person under a contract of service with you.
2. Any independent person seconded to you.
3. Any applicant or candidate for employment with you.

**Employment claim**
Any claim by any employee for any actual or alleged wrongful, unfair or constructive dismissal, discharge or termination of employment, breach of written or implied contract, employment related misrepresentation, wrongful deprivation of a career opportunity, failure to grant tenure, negligent employee evaluation, harassment, unlawful discrimination, failure to provide adequate employee procedures and policies, retaliation, defamation, invasion of privacy arising solely as a result of the employment or non-employment by you of any current, former or prospective employee.

**Extradition proceeding**
Any proceeding commenced under the provisions of the United Kingdom Extradition Act 2003 or its equivalent in any other jurisdiction including any associated appeals.

**Health and safety/ manslaughter claim**
Any claim against any insured person alleging involuntary, constructive or gross negligence manslaughter or any claim under the provisions of the Health & Safety at Work etc. Act 1974 or its equivalent in any other jurisdiction.

**Insured person**
1. Any natural person who was, is, or during the period of insurance becomes a director, partner, member or officer of you.
2. Any de facto director of you whilst acting in such capacity for you.
3. Any shadow director as defined under Section 250 of the Companies Act 2006 or equivalent legislation in any other jurisdiction.
4. Any employee of you.
5. The lawful spouse, civil or unmarried partner of any person above solely because of their spousal, civil or unmarried partner relationship following a claim against that person.
6. The estates, heirs or legal representatives of any person above who has died or become incapacitated, insolvent or bankrupt but only for a claim against that person.

**Investigation**
An official examination, official enquiry or official investigation into your business activities conducted by any regulator, government department or other body legally empowered.

Investigation does not include routine regulatory supervision, enquiry or compliance review, any internal investigation or any investigation into the business activities of your industry which is not solely related to your or any insured person’s conduct.

**Legal representation costs**
Reasonable and necessary legal costs, fees, charges and expenses for which any insured person is legally liable, incurred with our prior written consent (not including remuneration of any insured person or other additional costs of yours) for legal representation directly in relation to an investigation.
Management liability – directors’ and officers’ liability
Policy wording

Loss
In respect of a claim the amount any insured person becomes legally liable to pay for defence costs, legal representation costs, awards of damages including punitive and exemplary damages where legally permissible, awards of costs including claimants legal costs and expenses and settlements with our prior written agreement.

Loss does not include any civil, regulatory or criminal fines or penalties, taxes, remuneration or employment related benefits, punitive and exemplary damages in relation to an employment claim or the multiplied portion of any damages award unless awarded for defamation.

Outside entity
Any organisation other than you:
1. that is tax exempt and not for profit; or
2. in which you hold any issued share other than:
   a. any company registered outside of the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man or the Republic of Ireland; or
   b. any company traded on any recognised stock exchange; or
   c. any bank, investment company, investment advisor or manager, hedge or mutual fund, private equity or venture capital company, stock brokerage, insurer or similar organisation.

Pollutant
Any contaminant, irritant or other substance including, but not limited to, asbestos, lead, smoke, vapour, water, oil, oil products, dust, fibres, soot, fumes, acids, alkalis, chemicals, waste (including materials that have been or are intended to be recycled, reconditioned or reclaimed).

Pollution
Actual, alleged or threatened discharge, seepage, treatment, removal, disposal, dispersal, emission, release or escape of any pollutant or any regulatory order, direction or request to test for, monitor, remove, contain, treat, detoxify, or neutralise any pollutant.

Prior and pending litigation date
The date stated as the prior and pending litigation date in the schedule.

Securities
Any debt or equity interest in you.

Subsidiary
Any entity in which you:
1. own directly or through one or more of your subsidiaries more than 50% of the share capital or a majority of the voting rights or have the right to appoint or remove a majority of the entity’s board of directors; or
2. control a majority of its voting rights under a written agreement with other shareholders or members.

If an entity ceases to be a subsidiary during the period of insurance, cover will continue but only for a claim against you or an insured person arising from a wrongful act committed before it ceased to be a subsidiary.

Wrongful act
Any actual or alleged act, error or omission committed or attempted by an insured person arising from the performance of the insured person’s duties solely in their capacity as your director, officer or employee including:
1. breach of any duty, including fiduciary or statutory duty.
2. breach of trust.
3. negligence, negligent misstatement, misleading statement or negligent misrepresentation.
4. defamation.
5. wrongful trading under section 214 of the Insolvency Act 1986 (or equivalent legislation).
6. breach of warranty of authority.
7. any other act, error or omission attempted or allegedly committed or attempted by an insured person solely because of their status as a director, officer or employee of you.

You/your
Also includes a subsidiary, and any subsidiary created or acquired during the period of insurance provided that the newly created or acquired subsidiary:
Management liability – directors’ and officers’ liability
Policy wording

1. is not domiciled in the United States of America; or
2. does not trade any of its securities on any United States of America exchange;
but only for a claim against an insured person arising from a wrongful act committed after
the date of creation or acquisition of such subsidiary.

If you require cover for any newly created or acquired subsidiaries which do not fall within the
above parameters, we will consider providing cover subject to you providing all appropriate
information. We shall be entitled to amend the terms and conditions of this section during the
period of insurance and may charge a reasonable additional premium.

What is covered

<table>
<thead>
<tr>
<th>Claims against an insured person</th>
<th>We will pay on behalf of any insured person the loss arising from a claim against any insured person for any wrongful act within the geographical limits.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company reimbursement</td>
<td>We will pay on your behalf the loss which you are legally obliged or permitted to pay on behalf of an insured person arising from a claim against an insured person for a wrongful act within the geographical limits. You must pay the relevant excess shown in the schedule.</td>
</tr>
<tr>
<td>Health and safety/manslaughter</td>
<td>We will pay on your behalf loss which you are legally obliged or permitted to pay on behalf of an insured person arising from a health and safety/manslaughter claim, including any equivalent legislation in any other jurisdiction, against an insured person for a wrongful act within the geographical limits. You must pay the relevant excess shown in the schedule.</td>
</tr>
<tr>
<td>Extradition proceedings</td>
<td>We will pay on your behalf the loss arising from any extradition proceeding against any insured person during the period of insurance.</td>
</tr>
<tr>
<td>Employment</td>
<td>We will pay on behalf of any insured person the loss arising from an employment claim during the period of insurance brought by a current, former or potential employee of yours. This cover does not apply if the insured person is covered under the Management liability – Employment practices liability section of this policy.</td>
</tr>
<tr>
<td>Outside entity</td>
<td>We will also indemnify the insured person against the sums that person has to pay as loss for a claim arising directly from any wrongful act the insured person commits in their capacity as a director or officer of an outside entity, provided that the insured person acts in that capacity at your specific written request and the claim does not arise from a wrongful act committed after the insured person ceased to act in this capacity. However, we will only pay in excess of any indemnity provided by the outside entity to its directors or officers and any other insurance available to its directors and officers.</td>
</tr>
<tr>
<td>Pension or employee benefit schemes</td>
<td>We will pay on behalf of any insured person the loss in respect of a claim arising from an insured person’s operation or administration of any pension or employee benefit scheme or trust fund of yours.</td>
</tr>
<tr>
<td>Pollution</td>
<td>We will pay on behalf of any insured person the loss in respect of a claim arising from pollution.</td>
</tr>
<tr>
<td>Representation costs</td>
<td>1. We will pay on behalf of any insured person the legal representation costs arising from an investigation first notified as being required during the period of insurance. 2. We will pay on your behalf the legal representation costs arising from an investigation against an insured person which you are legally obliged or permitted to pay on behalf of the insured person first notified as being required during the period of insurance.</td>
</tr>
<tr>
<td>Bail costs</td>
<td>We will pay on behalf of any insured person bail costs arising from a claim against an insured person for a wrongful act within the geographical limits.</td>
</tr>
<tr>
<td>Additional cover</td>
<td>In the event that the limit of indemnity for this section is exhausted we will pay for additional defence costs up to the amount stated in the schedule, provided that the insured person has</td>
</tr>
</tbody>
</table>
What is not covered

We will not make any payment for any claim, loss or investigation:

Deliberate or dishonest acts

1. based upon, attributable to or arising out of:
   a. a dishonest or fraudulent act or omission or any intentional breach of any statute or regulation committed by any insured person;
   b. an act intended to secure or which does secure a personal profit or advantage to which any insured person was not legally entitled;
   c. an act intended to secure or which does secure a profit for any other company where an insured person is a director, officer or employee of such company.

   This exclusion will only apply after a judgment or other final adjudication or an admission by an insured person that such act did occur. We may request that an opinion be obtained from a mutually agreed Queens Counsel or equivalent in a different jurisdiction as to the prospects of a court finding that such act did occur. This exclusion shall apply if counsel is of the opinion that there are no reasonable prospects of the court finding that such act did not occur. Such opinion will be binding on us and the insured person. The costs of such opinion shall be met by us.

Prior claims, investigations and circumstances

2. based upon, attributable to or arising out of any claim, investigation, or loss, or anything likely to lead to a claim, investigation, or loss, which you knew or ought reasonably to have known about before we agreed to insure you, or that has been reported under any policy existing or expired, prior to the start of the period of insurance.

Prior litigation

3. based upon, attributable to or arising out of any prior or pending litigation or proceedings, including allegations deriving from the same or essentially the same facts, involving an insured person, you or an outside entity initiated prior to the prior and pending litigation date.

Defined benefit pension schemes

4. based upon, attributable to or arising out of an insured person's operation or administration of any defined benefit pension scheme or their breach of any legislation or regulation relating to these activities.

RICO/SEC/ERISA

5. based upon, attributable to or arising out of the following legislation in the United States of America:
   a. any breach of the Racketeer Influenced and Corrupt Organizations Act 18 USC Sections 1961 et seq., any amendments to this Act or any rules or regulations made under it;
   b. any breach of the Securities Act of 1933 or the Securities Exchange Act of 1934, both as amended, the rules or regulations of the Securities Exchange Commission under either or both acts, similar securities laws or regulations of any state, or any laws of any state relating to any transaction arising out of, involving or relating to the sale of securities;
   c. any breach of the Employment Retirement Income Security Act of 1974 as amended, or any rules or regulations made under it, or similar provisions of any federal, state or local law.

Matters insurable elsewhere

6. for mental or emotional distress (except an employment claim), sickness, disease, bodily injury or death suffered by anyone, or the loss, damage or destruction of any tangible property including loss of use of such property.

   This exclusion shall not apply to any health and safety/manslaughter claim.

7. based upon, attributable to or arising out of the ownership, possession or use of any land or building, any animal, any aircraft, watercraft or any motor vehicle.

Claims brought by a related party in the United States of America

8. based upon, attributable to or arising out of any claim brought or maintained by you, an outside entity or an insured person within or subject to the laws of the United States of America.
Management liability – directors’ and officers’ liability
Policy wording

America, however this exclusion will not apply to:

a. defence costs;
b. any shareholder derivative proceedings in your name without your or any insured person’s solicitation, assistance or participation;
c. any claim brought by your liquidator, receiver or administrative receiver or similar body;
d. any employment claim;
e. any claim made by a past insured person of you;
f. any claim seeking a contribution or indemnity if such claim is otherwise covered by this section.

Breach of professional duty 9. based upon, attributable to or arising out of any claim relating to a breach of or failure to provide professional duties or services.

This exclusion will not apply to a claim by any of your shareholders including any shareholder derivative proceedings in your name without your or any insured person’s voluntary solicitation, assistance or participation arising from any actual or alleged failure to supervise the performance of any professional services.

Shareholders 10. brought by or on behalf of any company owning 15% or more of your issued share capital.

Takeovers and mergers 11. based upon, attributable to or arising out of any claim for a wrongful act committed by an insured person after you merge or consolidate with another company or any party acquires more than 50% of your issued share capital.

In the event of a subsidiary ceasing during the period of insurance to be a subsidiary cover under this section shall be amended to apply solely to loss arising out of any claim for a wrongful act committed by an insured person prior to the effective date of sale or dissolution.

Share offerings 12. based upon, attributable to or arising out of any claim for a wrongful act committed by an insured person in relation to any actual public offering of your share capital unless we have given our prior written agreement and you have paid any additional premium and accepted any amendments we may require to the terms and conditions of this section.

Financial advantage 13. based upon, attributable to or arising out of the gaining of any financial advantage to which the insured person was not entitled, including the repayment of any wrongfully received monies.

Claims outside the applicable courts 14. based upon, attributable to or arising out of any claim or investigation brought outside the courts set out in the schedule under applicable courts.

Special conditions

General terms

Our rights set in General conditions 2 and 4 apply only to any insured person who had, or ought to have had, knowledge of your failure to comply with the obligations set out in General conditions 1 and 3.

General condition 6. Premium payment, applies only to you.

General condition 7. Cancellation shall only apply to this section at the end of the period of insurance or the anniversary date.

You agree to act on behalf of all the insured persons as regards paying the premium and giving or receiving notice of all matters relevant to this section.

Information provided by an insured person

All information which any insured person provided before we agreed to insure you will be considered as a separate application for each insured person and as such the knowledge of or any statement made by an insured person will not be imputed to any other insured person for the purposes of determining whether cover is available for any claim against such other insured person.

Extended notification period

If we or you cancel this section of the policy for any reason other than non-payment of premium, administration, liquidation or insolvency, you or any insured person may purchase
Management liability – directors’ and officers’ liability

Policy wording

an extended notification period of 12 months upon payment of 50% of the full annual premium. If you do so, the first paragraph of item 1 under Your obligations in this section will then be amended to:

We will not make any payment under this section unless you notify us promptly of the following within the period of insurance or at the latest within 12 months after it expires:

This extended notification period is only available if:
1. we receive written notice of purchase from you or an insured person and the premium within 30 days following the end of the period of insurance; and
2. this section of the policy is not replaced or succeeded by any other policy providing directors and officers liability cover; and
3. at the end of the period of insurance, you have not merged or consolidated with another company, nor has any party acquired 50% or more of your issued share capital.

If we offer renewal terms, conditions, limits of liability or premium different from those of the expiring policy, this does not constitute a refusal to renew.

The entire premium for this section is considered fully earned at the beginning of the extended notification period. We will not refund any premium if you or any insured person cancel the extended notification period before it ends.

The limit of indemnity for the extended notification period will be part of and not in addition to the limit of indemnity shown in the schedule.

You or any insured person will not have the right to purchase an extended notification period if:
1. you merge or consolidate with another company or any party acquires more than 50% of your issued share capital; or
2. if cover under this section is continued solely as a result of the former directors special condition; or
3. if this section or the policy is cancelled.

Takeovers and mergers

extended notification period

In the event that you merge or consolidate with another company, or any party acquires more than 50% of your issued share capital, during the period of insurance you may on payment of an additional premium of 200% of the annual section premium request that this section continue in force for a period of 72 months from the expiry date of the current period of insurance, provided that such extension shall only apply to claims arising from any wrongful act committed or alleged prior to the date of such takeover or merger.

The extended notification period and former directors special conditions shall not apply to any such extension.

Management buy-outs

If during the period of insurance the existing management conduct a management buy-out, we agree to provide cover to the same level and terms of this policy for the new company for a period of 30 days from the buy-out date for any wrongful act committed by any individual insured person subsequent to the buy-out.

This cover will only apply excess of any other insurance and indemnification available from any other source.

Former directors

In the event that you do not renew or replace this section of the policy, and only in respect of any insured person who ceases to be a director prior to the date of non-renewal for reasons other than disqualification or your insolvencty, administration or liquidation from holding such a position, this section shall continue in force for a period of 120 months from the date of non-renewal (the ‘run-off period’), provided that:

1. this section shall only apply to claims arising from any wrongful act committed or alleged prior to the date of retirement of the insured person;
2. the run-off period shall run concurrently with any extended notification period;
3. no similar insurance is effected elsewhere;
4. this section or the policy has not been cancelled.
Management liability – directors’ and officers’ liability
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How much we will pay

The most we will pay for the total of all claims and their defence costs and all legal representation costs is the limit of indemnity shown in the schedule irrespective of the number of claims made.

The amount we will pay for claims and their defence costs includes any amount we pay on an insured person’s behalf as a director of an outside entity, and on your behalf, and for claims against an insured person’s spouse, civil or unmarried partner.

Each claim shall be treated as first made when we receive notice of the first claim. Legal representation costs shall be treated as first made when attendance of an insured person is first notified as being required at an investigation.

You must pay the relevant excess shown in the schedule.

Paying out the limit of indemnity

At any stage of a claim, we can pay the insured person the applicable limit of indemnity or what remains after any earlier payment from that limit. We will then have no further liability for any claim or loss.

Your obligations

Notification

1. We will not make any payment under this section:
   a. unless you or an insured person notifies us promptly of the following within the period of insurance or at the latest within 14 days after it expires for any problem you or an insured person become aware of within the seven days before expiry:
      i. the insured person’s first awareness of any wrongful act;
      ii. any claim or anything likely to lead to a claim against an insured person or the insured person’s lawful spouse, civil or unmarried partner;
      iii. any investigation or anything likely to lead to an investigation into you or an insured person;
      iv. the threat or commencement of any disqualification proceedings against any insured person;
      v. the threat or commencement of proceedings against any insured person for pollution;
   b. to any insured person who, prior to the period of insurance, had knowledge of a material misstatement in or omission from the information provided to us upon which we agreed to insure you.

2. when dealing with a third-party, you or the insured person must not admit that you or the insured person are liable for what has happened, or make any offer, deal or payment without our prior written agreement. If you or an insured person does, we may reduce any payment we make under this policy by an amount equal to the detriment we have suffered as a result.

Control of defence and payment of a claim

You and any insured person must give us the information and co-operation which we may reasonably require and take all reasonable steps to defend any claim. You and the insured person should not do anything which may prejudice our position.

We have the right, but not the obligation, to take control of and conduct in your name or the name of any insured person, the investigation, settlement or defence of any claim. If we think it necessary we will appoint an adjuster, solicitor or any other appropriate person to deal with the claim.

We shall have the right to participate fully in the defence of any claim including negotiation of any settlement. We shall have the right to defend any claim brought by you.

Where there is a dispute between us and you and/or any insured person over cover, proposed settlement or continuing the defence of a claim, you or we may request the obtaining of an opinion from a mutually agreed Queens Counsel or equivalent in a different jurisdiction. Such opinion shall be binding on us and you and any insured person and will...
Management liability – directors’ and officers’ liability
Policy wording

establish whether policy cover exists, defence of said claim will continue or settlement will be agreed. The costs of such opinion shall be met by us.

We shall pay defence costs above any excess and covered by this section on an ongoing basis prior to the final resolution of any claim. You and/or any insured person must reimburse us for any defence costs paid where it is determined there is no entitlement under this section.

If a claim is made which is not wholly covered by this section and/or is also made against you and any other person who is not an insured person, we, you and the insured person shall use our best endeavours to agree a fair allocation between loss that is covered and loss not covered by this section.