

[Directors' & Officers' Liability Policy]

e-entertolise





THIS POLICY (AND THE SCHEDULE WHICH FORMS AN INTEGRAL PART OF THE POLICY) IS A LEGAL CONTRACT. PLEASE EXAMINE IT THOROUGHLY TO ENSURE IT MEETS YOUR REQUIREMENTS. IF IT DOES NOT PLEASE INFORM YOUR INSURANCE ADVISER IMMEDIATELY.

Royal & Sun Alliance Insurance plc (herein called the Insurer) and the Insured agree that:

This Policy, the Policy Schedule (including any Policy Schedule issued in substitution) and the Proposal shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears.

The information contained within the Proposal shall be incorporated in and form the basis of the contract.

The Insurer will provide the insurance described in this Policy subject to the terms and conditions for the Policy Period shown in the Policy Schedule and any subsequent period for which the Insured shall pay and the Insurer shall agree to accept the premium.

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Definitions

- A. Asbestos** means crocidolite, amosite, chrysotile, fibrous actinolite, fibrous anthophyllite, or fibrous tremolite or any mixture containing any of those minerals.
- B. Asbestos Containing Materials** means any material containing **Asbestos** or **Asbestos Dust**.
- C. Asbestos Dust** means fibres or particles of **Asbestos**.
- D. Circumstance** means an incident, occurrence, fact, matter, act or omission which is likely to give rise to a **Claim** under the **Policy**.
- E. Claim** means:
1. service of a Claim Form, Counterclaim, Other Additional Claim, Application Notice, Notice of Appeal, Witness Summons or similar legal document (including an application for any related injunction) served upon any **Insured** in respect of a **Wrongful Act**;
 2. any arbitration proceeding or request to nominate an arbitrator served upon any **Insured** in respect of a **Wrongful Act**;
 3. any written communication (including electronic communications), whether or not containing a demand for compensation or damages, received by any **Insured** threatening commencement of proceedings in respect of a **Wrongful Act**, and any written demand against any **Insured Person** for monetary damages, reinstatement or other non-monetary relief;
 4. any criminal prosecution of an **Insured Person** resulting from a **Wrongful Act**; or
 5. any notice of an **Investigation** commenced by the filing of a notice of charge, formal investigative order, questionnaire or similar document:
 - (a) into the affairs of the **Company** or the affairs of an **Outside Entity** as provided in sub-section II.A and where an **Insured Person** is required to attend and/or give evidence; or
 - (b) involving a **Wrongful Act** alleged to have been committed by an **Insured Person** or in respect of which an **Insured Person** is required to attend and/or give evidence by reason of his acting in the capacity of a **Director** or **Officer**;
- provided that it is first made against, or received by, any **Insured Person** during the **Policy Period**.
- F. Company** means the **Policyholder** and its **Subsidiaries**.

- G. Defence Costs** includes that part of **Loss** consisting of reasonable and necessary costs, charges, fees (including but not limited to lawyers' and agents' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of the **Directors, Officers** or employees of the **Company**) incurred by the **Insurer** or (with the **Insurer's** prior written consent) the **Insured**:
1. in respect of the attendance and/or giving of evidence by any **Insured Person** at an **Investigation** into the affairs of the **Company** or the affairs of an **Outside Entity** as provided in sub-section II.A; or
 2. in respect of any **Investigation** involving a **Wrongful Act** alleged to have been committed by an **Insured Person** or in respect of which an **Insured Person** is required to attend and/or give evidence by reason of his acting in the capacity of a **Director** or **Officer**.
- H. Director** means any natural person who was, is, or becomes during the **Policy Period**:
1. a director of the **Company** including a de facto or shadow director (as defined under section 741(2) of the Companies Act 1985 or any equivalent provision in the jurisdiction in which the **Company** is incorporated) including any person named in any prospectus issued by the **Company** as a prospective director; or
 2. a shadow director of any company directly as a result of his activities as a **Director** or **Officer** of the **Company**.
- I. Discovery Period** means the period following the expiry of the **Policy Period** during which the **Insureds** may continue to notify **Claims** or **Circumstances** but only in relation to **Wrongful Acts** committed prior to the expiry of the **Policy Period**. Any **Claim** made during the **Discovery Period** shall be deemed to have been made during the immediately preceding **Policy Period**.
- J. Employment Wrongful Act** means any error, misstatement, misleading statement, act, omission, neglect or breach of duty actually or allegedly committed or attempted by any one or more **Insured Persons** in their capacities as such against any past, present or prospective employee, **Director** or partner of the **Company**, in connection with any actual or alleged:
1. wrongful, unlawful or unfair dismissal, discharge or termination of employment;
 2. breach of any written or oral employment contract or quasi-employment contract;
 3. employment-related misrepresentation;
 4. violation of employment discrimination laws (including sexual or other workplace harassment and discrimination on the grounds of racial or national origin, sex, sexual orientation, religion, maternity, pregnancy, age and disability);
 5. violation or non-compliance with legislation regulating working hours;
 6. wrongful failure to employ or promote;
 7. wrongful demotion;

8. wrongful discipline;
 9. wrongful deprivation of a career opportunity;
 10. failure to grant tenure;
 11. failure to adopt adequate workplace or employment policies and procedures;
 12. **Retaliatory** treatment of whistleblowers and others;
 13. negligent evaluation;
 14. employment-related invasion of privacy;
 15. employment-related breach of data protection legislation;
 16. employment-related libel, slander, humiliation and defamation;
 17. failure to furnish accurate job references;
 18. employment-related wrongful infliction of mental anguish or emotional distress; or
 19. breach of any obligation which has been transferred to the **Company** by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 1981 and/or the EC Acquired Rights Directive, save for any obligation which existed at or prior to the date of transfer.
- K. Full Annual Premium** means the annual premium payable by the **Policyholder**, including any additional premium which becomes payable subsequent to renewal pursuant to the provisions of this **Policy**, immediately prior to the expiry of the **Policy Period** in question.
- L. Insured Persons** means any natural person who was, is, or becomes during the **Policy Period**, a **Director** or **Officer**.
- M. Insured** means the **Insured Persons** and the **Company**.
- N. Insurer** means Royal & Sun Alliance Insurance plc.
- O. Investigation** means any formal or official investigation (other than the **Company's** own internal investigation), examination or other proceedings made or commenced during the **Policy Period** by a governmental body, professional body or other institution duly authorised to carry out such investigation, including, without limitation, any such proceedings initiated by the Department of Trade and Industry, London Stock Exchange Limited, the Bank of England, The Panel on Takeovers and Mergers, the Financial Services Authority, the Health and Safety Executive, and the Commission for Racial Equality.
- P. Investment** shall mean any asset or right or interest falling within Part 1 of Schedule 1 to the Financial Services Act 1986.

Q. Limit of Liability means the limit specified in Item 4 of the **Policy Schedule**. Any reference to **Limit of Liability** shall mean an aggregate limit for all **Claims** and/or **Loss**, as applicable.

R. Loss means:

1. damages, compensation, contributions, judgements or (if concluded with the **Insurer's** prior written consent) settlements;
2. claimant's legal costs and expenses;
3. punitive, exemplary and aggravated damages, save for:
 - (a) such damages awarded in respect of an **Employment Wrongful Act**;
 - (b) such damages awarded in respect of any **North American Claim**;
4. all other costs and expenses ordered by a court or other legally authorised tribunal, or incurred with the **Insurer's** prior written consent; and

5. Defence Costs,

in respect of a **Claim** made against, or received by, any **Insured Person**, jointly or severally.

Loss shall not include taxes, fines, penalties and/or any other form of loss which is uninsurable under the law of the state or country to which the **Claim** is subject or the multiple portion of any multiplied damage award.

The **Insurer** shall advance **Defence Costs** in accordance with sub-section IV.C.2.(b).

S. Merger means the occurrence of any of the following events:

1. the **Policyholder** consolidating with or merging into or selling all or substantially all of its assets to any other person or entity or group of persons and/or entities acting in concert; or
2. any person or entity, whether individually or together with any other person or entity, acquiring an amount of share capital representing more than fifty per cent. (50%) of the voting power for the election of **Directors** of the **Policyholder**, or acquiring the voting rights for such an amount of the shares.

T. North America means the United States of America and Canada and in each case its territories and possessions and any state or political sub-division thereof.

U. North American Claim means any investigation made or commenced in **North America** or any **Claim** in any way relating to **North America**.

V. Officer means:

1. any natural person who was, is, or becomes during the **Policy Period** an officer of the **Company**, other than its external auditor, liquidator, administrator, receiver or solicitor;
2. any employee of the **Company** whilst acting in a managerial or supervisory capacity, including any employee of the **Company** who at the specific written request of the **Company** is appointed to a managerial or supervisory position within any entity established for the sole purpose of any profit sharing, share option, sporting, social or welfare purpose and which exists predominantly for the benefit of any or all of the **Insured Persons** and employees of the **Company** and their families and dependants;
3. any employee of the **Company** who is named as a co-defendant in respect of a **Claim** made against a **Director or Officer** (and for the purpose of this sub-section V.3 "**Officer**" shall bear the meaning set out in sub-sections V.1 and V.2 above);
4. any employee of the **Company** in respect of an **Employment Wrongful Act**.

W. Original Inception Date means the date from which the **Company** has maintained uninterrupted directors and officers liability cover with the **Insurer**.

X. Outside Entity means any company or non-profit organisation (other than a **Subsidiary**).

Y. Parent Company means any holding, intermediate holding or ultimate holding company of the **Policyholder** or any company with a controlling interest in the **Policyholder** or any subsidiary of the **Parent Company** (other than the **Policyholder**).

Z. Policy means, collectively, the **Proposal** and the Terms and Conditions of the Policy (including any memoranda and endorsements thereto) and the **Policy Schedule**.

AA. Policyholder means the organisation designated in Item 1 of the **Policy Schedule** and, where there is only one **Insured**, a reference to the **Policyholder** shall be deemed to be a reference to the **Insured**.

BB. Policy Period means the period of time specified in Item 2 of the **Policy Schedule**.

CC. Policy Schedule means the schedule attaching to the terms & conditions.

DD. Pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the United States Environmental Protection Agency or a country, state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odour, waste water, oil or oil products, infectious or medical waste, biological contaminants, asbestos or asbestos products, electric or magnetic or electromagnetic fields and noise, and any ionising radiations or contamination by radioactivity.

EE. Pollution means the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** into or on real or personal property, water or the atmosphere.

FF. Proposal means, the **Statement of Fact** or any information supplied by or on behalf of the **Insured** which relates to the risk or risks for which cover is being sought.

GG. Related Claims means all **Claims** based on, arising out of, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.

HH. Retaliation means a **Wrongful Act** of an **Insured** relating to, or alleged to be in response to, the treatment of any employee less favourably than others, or the victimisation of that person, because that person threatens to bring proceedings, give evidence or information, take any action or make any allegation concerning his employer with reference to legislation relating to sex, race, or disability discrimination, whistleblowing and, subject to the provisions of this **Policy**, any employment protection law generally; or where the **Insured** has already done any of the foregoing; and **Retaliatory** shall be construed accordingly.

II. Retention means that part of each and every **Claim** or **Loss**, as applicable, which is payable by the **Insured**, the amount of which is specified in the **Policy Schedule**.

The **Retention** does not form part of the **Limit of Liability** and it shall be payable by the **Insured** before the application of the **Limit of Liability**.

JJ. Securities means shares, stocks, bearer instruments, derivatives, bonds, warrants, debentures, rights under a depositary receipt or other securities (or interests therein) of whatever nature.

KK. Statement of Fact means the document setting out information provided by the **Policyholder** as being relevant to the cover applied for and assumptions the **Insurer** has made about factual circumstances relevant to the cover and which are confirmed by the **Policyholder** as true and correct

LL. Spouse means a lawful spouse or any person deriving similar status by reason of the common law.

MM. Subsidiary means any company in which the **Policyholder**:

1. holds directly or indirectly more than fifty per cent. (50%) of the voting rights; or
2. has the right to appoint or remove a majority of the board of directors; or
3. holds more than half of the issued share capital,

and where the **Policyholder** is a partnership, a company shall be a **Subsidiary** of the partnership where such holding or right is held for the benefit of the partnership.

NN. Terrorism means any act including but not limited to the use of force for violence or the threat thereof of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for political religious ideological or similar purposes including the intention to influence any government or to put the public or any section of the public in fear.

OO. Wrongful Act means any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty, breach of trust, libel, slander, breach of contract, breach of warranty of authority, **Wrongful Trading, Employment Wrongful Act** or other act actually or allegedly committed or attempted by any **Insured Person** in his capacity as:

1. a **Director** or **Officer**; or
2. a director, officer, trustee, governor or occupying a position of equivalent status of any **Outside Entity**, or

any matter claimed against the **Insured Person** solely by reason of his serving in the capacities set out in OO.1 or OO.2 above.

PP. Wrongful Trading shall bear the meaning set out in section 214 of the Insolvency Act 1986 (or analogous situation in any jurisdiction in which the **Company** is incorporated).

Interpretation

In this **Policy** the singular includes the plural and vice versa. The male gender includes the female and neutral genders. Person includes bodies corporate.

A reference in this **Policy** to any statute, statutory provision or subordinate legislation (whether of the United Kingdom or elsewhere) shall be construed as including a reference to any such enactment which that enactment has directly or indirectly replaced (whether with or without modification) and that enactment as re-enacted, replaced or modified from time to time.

The titles and headings to the various parts, sections, sub-sections and endorsements of the **Policy** are included solely for ease of reference and do not in any way limit or expand or otherwise affect the provisions of such parts, sections, sub-sections or endorsements.

DIRECTORS & OFFICERS LIABILITY POLICY

Terms and Conditions

NOTICE: THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED AND CIRCUMSTANCES FIRST NOTIFIED TO THE INSURER DURING THE POLICY PERIOD OR ANY APPLICABLE DISCOVERY PERIOD.

THE LIMITS OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY DEFENCE COSTS.

I. Insuring Clauses

A. Directors and Officers Liability Coverage

The **Insurer** shall pay, on behalf of the **Insured Persons**, **Loss** arising from **Claims** first made during the **Policy Period** for which the **Company** has not provided indemnity.

B. Company Reimbursement Coverage

The **Insurer** shall pay, on behalf of the **Company**, **Loss** arising from **Claims** first made during the **Policy Period** if, and to the extent that, the **Company** is required or permitted to indemnify the **Insured Persons** for such **Loss**.

C. Shareholder Claim Coverage

The **Insurer** shall pay, on behalf of the **Company**, costs and expenses incurred by a shareholder in pursuing a **Claim** against a **Director** or **Officer** and which the **Company** is liable to pay pursuant to an order of court, provided such **Claim** was first made during the **Policy Period**.

II. Extensions of Cover

A. Outside Entities

The **Insurer** shall pay **Loss** on behalf of any **Insured Person** and any employee of the **Company**, who at the specific request of the **Company** was, is, or becomes during the **Policy Period** a director (including a de facto and shadow director), officer, trustee, governor or occupies a position of equivalent status, of any **Outside Entity**, for **Claims** against them in respect of a **Wrongful Act** committed or attempted by such **Insured Persons** or employees in their respective capacities as directors, officers, trustees, governors or positions of equivalent status, of such **Outside Entity**.

Any **Outside Entity** coverage afforded by this **Policy** shall be specifically excess of any indemnity or insurance available from or provided to the **Insured Person** or employee by the **Outside Entity**.

In the event that the other insurance referred to above is provided by the **Insurer** or any member of its group, the total liability of the **Insurer** in respect of any **Claim** shall not exceed the greater of the **Limit of Liability** or the limit of liability available under such other insurance.

B. Employment Wrongful Acts

The **Insurer** shall pay, on behalf of the **Insured Persons**, **Loss** resulting from **Claims** for **Employment Wrongful Acts** against the **Insured Persons**.

C. Pollution

The **Insurer** shall pay that part of the **Loss** which relates to **Defence Costs** only on behalf of the **Insured Persons**, subject to the aggregate limit specified in Item 4(b) of the **Policy Schedule** (such limit being part of and not in addition to the **Limit of Liability**) incurred by the **Insured Persons** in defending themselves against criminal or regulatory proceedings in respect of **Pollution** of any kind which results from a **Wrongful Act**.

The **Insurer** shall pay **Loss** on behalf of the **Insured Persons**, subject to the aggregate limit specified in Item 4(c) of the **Policy Schedule** (such limit being part of and not in addition to the **Limit of Liability**) in respect of civil proceedings brought by any shareholder and/or bondholder of the **Company**, either directly or derivatively, alleging loss in the value of the share capital of the **Company** by reason of **Pollution** of any kind which results from a **Wrongful Act**, unless on or before the **Original Inception Date** any **Insured** or any employee of the **Company** whose responsibilities include environmental control or compliance knew or should reasonably have foreseen that a situation or circumstance existed which could have given rise to a **Claim** against the **Company** or any **Insured Person**.

D. Retired and Former Directors and Officers

1. In the event that any **Insured Person** retires as a **Director** or **Officer** during the **Policy Period**, such **Insured Person** shall be entitled to a free **Discovery Period** for a period of 72 months after the expiry of the **Policy Period**, provided always that this **Discovery Period** shall not apply where the **Policyholder** renews or replaces this **Policy** (whether with the **Insurer** or otherwise) or where a **Discovery Period** has been activated pursuant to sub-section II.G of this **Policy**.
2. In the event that any **Insured Person** ceases to be a **Director** or **Officer** during the **Policy Period** (for a reason other than retirement), such **Insured Person** shall be entitled to a free **Discovery Period** for a period of 180 days after the expiry of the **Policy Period**, provided always that this **Discovery Period** shall not apply where the **Policyholder** renews or replaces this **Policy** (whether with the **Insurer** or otherwise) or where a **Discovery Period** has been activated pursuant to sub-section II.G of this **Policy**.

E. Retention Reimbursement

Any **Retention** borne by the **Company** and/or the **Insured Persons** in respect of any **Claim** shall be reimbursed by the **Insurer** if final judgement or adjudication is given in favour of the **Company** and/or the **Insured Persons** by a court or tribunal of competent jurisdiction. For the purposes of this sub-section, final judgement or adjudication shall only be adjudged to have been given when all rights of appeal to higher courts or tribunals have been foregone or exhausted.

F. Transactions Changing Coverage - Acquisitions

1. Subject to sub-section II.F.2 below, if any **Company** creates or acquires, during the **Policy Period**, a new **Subsidiary** (either directly or indirectly), the new **Subsidiary** shall be automatically covered under this **Policy** in relation to **Wrongful Acts** committed or alleged to have been committed after the date the new **Subsidiary** was created or acquired by the **Company**.

The **Company** shall not have to provide the **Insurer** with any particulars of the new **Subsidiary** until the next **Renewal Date** following creation or acquisition of the **Subsidiary**.

2. Automatic coverage pursuant to sub-section II.F.1 above shall not apply where a new **Subsidiary** created or acquired by any **Company** has gross consolidated assets that increase the gross consolidated assets of the **Company** by more than twenty five per cent. (25%) (by reference to the **Company's** most recent consolidated annual accounts).
3. If any **Company** acquires or creates a **Subsidiary** that falls within the parameters specified in sub-section II.F.2 above, then cover shall be extended to such new **Subsidiary** in relation to **Wrongful Acts** committed or alleged to have been committed after the date the new **Subsidiary** was created or acquired by the **Company**, provided that, and as a condition precedent to such cover being provided, the **Policyholder**:
 - (a) gives the **Insurer** written notice of any such creation or acquisition as soon as practicable, together with such additional information as the **Insurer** may require;
 - (b) accepts any notified alteration in the terms of this **Policy**; and
 - (c) pays any additional premium required by the **Insurer**.

Subject to these conditions precedent having been met, the **Insurer** shall include the new **Subsidiary** within the scope of this **Policy** by way of endorsement.

In addition, the **Insurer** shall consider the provision of retroactive cover for any new **Subsidiary** in respect of **Wrongful Acts** committed, or alleged to have been committed, prior to the date of any such acquisition or creation, upon specific request. If the **Insurer** agrees to provide such cover, it shall be recorded by way of endorsement.

G. Discovery Period

If the **Insurer** declines to offer any terms for renewal of this **Policy** either the **Insured Persons** or the **Policyholder** shall be entitled to elect a **Discovery Period** on the terms set out below. The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute the **Insurer** declining to renew.

The terms of the **Discovery Period** shall be 12 months for fifty per cent. (50%) of that part of the **Full Annual Premium** payable in respect of this **Policy**.

The application to elect any **Discovery Period** must be received by the **Insurer** within 15 days from the expiry of the **Policy Period**, and payment of the premium, must be made within 30 days

of the same date (such premium being non-refundable). For the avoidance of doubt, any time delay between the expiry of the **Policy Period** and the election of any **Discovery Period** shall be part of and not in addition to the **Discovery Period** elected.

If a **Merger** takes place, the **Policyholder** shall not be entitled to purchase a **Discovery Period** on the terms set out above. However the **Policyholder** shall have the right within 15 days of the expiry of the **Policy Period** to request an offer from the **Insurer** of a **Discovery Period** of up to 72 months. The **Insurer** may offer a **Discovery Period** on such terms as it reasonably considers appropriate.

During the 15 day application period referred to above and during any **Discovery Period** and without prejudice to sub-section IV.D.1.(a).(ii), the **Insured Persons** and the **Policyholder** may continue to notify **Claims** to the **Insurer** but only in respect of **Wrongful Acts** committed prior to the expiry of the **Policy Period**.

H. Legal Representatives

This **Policy** shall afford coverage for **Claims** made against natural person **Insureds** which are pursued against the estates, heirs, executors or other legal representatives of such **Insureds** who are deceased, or against the legal representatives or trustees in bankruptcy of such **Insureds** who are incompetent, incapacitated or bankrupt to the extent that in the absence of such death, incompetence, incapacity or bankruptcy, such **Claims** would have been covered by this **Policy**.

I. Spouses

If a **Claim** against a natural person **Insured** includes a claim against the **Insured's Spouse** solely by reason of (i) such **Spouse's** legal status as a spouse of the **Insured**, or (ii) such **Spouse's** ownership interest in property which the claimant seeks as recovery for **Claims** made against the **Insured**, all loss which such **Spouse** becomes legally obliged to pay by reason of such **Claim** shall be treated for the purposes of this **Policy** as **Loss** which the **Insured** becomes legally obliged to pay on account of the **Claims** made against the **Insured**. All terms and conditions of this **Policy**, including without limitation the **Retention**, applicable to **Loss** incurred by such **Insured** in the **Claim** shall also apply to such spousal loss. This coverage extension does not apply to the extent the **Claim** alleges any wrongful act or omission by the **Insured's Spouse**.

J. Post Winding-Up Protection

If the **Policyholder** (but not, for this purpose, any **Subsidiary**) is wound-up during the **Policy Period**, this **Policy** shall remain in force until the expiry of the **Policy Period** but only with respect to **Loss** where the events causing **Loss** occurred prior to the winding-up of the **Policyholder**.

III. Exclusions

A. Exclusions Applicable to all Loss

The **Insurer** shall not be liable for **Loss**:

1. directly or indirectly based on, arising out of, or in any way involving any fact, circumstance or situation:
 - (a) which has been or should have been the subject of any written notice given under any policy which this **Policy** is a direct or indirect renewal or replacement; or
 - (b) alleged in, relating to or underlying any written demand for monetary damages or other relief or any civil, criminal or administrative or regulatory proceeding (including arbitration) pending on or prior to the **Original Inception Date**;
2. for bodily injury, mental anguish or emotional distress, illness, disease or death of any person, or damage to or destruction of any tangible property including loss of use thereof; save that:
 - (a) this exclusion shall not apply in relation to any actual or alleged mental anguish or emotional distress by a past, present or prospective employee or non-executive **Director** of the **Company** for any **Employment Wrongful Act**; and
 - (b) the **Insurer** shall provide cover in respect of that part of **Loss** which relates to **Defence Costs** only incurred in respect of any criminal proceedings, including those for corporate killing or manslaughter (or other similar criminal offence in any jurisdiction in which the **Company** operates) resulting from a **Wrongful Act** or **Investigation**;
3. directly or indirectly based on, arising out of, or in any way involving the trusteeship or administration by an **Insured** of any pension plan, programme or scheme or other employee benefit programme or an **Insured** acting in a fiduciary capacity in respect thereof, including any obligation incurred under the Pensions Act 1995 or of any similar law or regulation, provided that this exclusion shall not apply to **Loss** arising from a **Claim** for **Retaliation**;
4. in respect of a **Claim** for a **Wrongful Act** by an **Insured Person** serving as a director, officer, trustee, governor of, or holding a position of equivalent status in, an **Outside Entity** if such **Claim** is brought or maintained by or on behalf of the **Outside Entity** in which the **Insured Person** serves or by or on behalf of any director, officer, trustee, governor of, or person of equivalent status in, such **Outside Entity** except:
 - (a) a **Claim** that is a derivative action brought or maintained on behalf of such **Outside Entity** by one or more persons who are not directors, officers, trustees or governors of such **Outside Entity** and who bring and maintain the **Claim** without the solicitation, assistance or active participation of such **Outside Entity** or such directors, officers, trustees or governors;
 - (b) a **Claim** brought or maintained by a director, officer, trustee or governor of such **Outside Entity** for any actual or alleged **Employment Wrongful Act** or for a contribution or indemnity in respect of a claim made against them;

- (c) a **Claim** brought or maintained by an external auditor appointed by the **Outside Entity**;
or
 - (d) a **Claim** brought or maintained by a liquidator, receiver or administrative receiver or equivalent in any jurisdiction, on behalf of any **Outside Entity** without the solicitation, assistance or active participation of any **Insured Person** or by or on behalf of any director, officer, trustee, governor of, or person of equivalent status in, such **Outside Entity**;
5. directly or indirectly based on, arising out of or in anyway involving any breach of professional duty to a client, customer or other third party who relies on advice, design, specification or other professional services provided by or on behalf of the **Insured**;
 6. directly or indirectly based on arising out of, or in any way involving any issue or offer for sale, or sale, of an **Investment** in the **Company** or in its holding company. However, the **Insurer** may consider providing such cover upon written request. If the **Insurer** agrees to provide such cover, it shall be recorded by way of endorsement;
 7. directly or indirectly based on, arising out of, or in any way involving **Terrorism**;
 8. directly or indirectly based on arising out of or in any way involving any **Claim** made (whether in the name of the **Company** or not) or instigated by, or on behalf of, or for the benefit of, any **Parent Company**;
 9. directly or indirectly based on, arising out of or in any way involving:
 - (a) any **North American Claim**;
 - (b) the actual or attempted enforcement, upholding or registration against the **Insured** by any arbitrator, tribunal or court outside **North America** of any damages or other monetary awards, order judgement or negotiated settlements, claimant's costs and expenses and other costs and expenses connected with or arising out of any **North American Claims**; or
 - (c) any **Claim** brought against the **Insured** as a consequence of the operation of any branch or **Subsidiary** or **Outside Entity** in **North America**;
 10. directly or indirectly based on, arising out of, or in any way involving:
 - (a) **Pollution**;
 - (b) any direction or request that the **Company** or the **Insured Persons** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**, or any voluntary decision to do so, including without limitation any claim for financial loss to the **Company**, its shareholders, bondholders or its creditors based on, arising out of, or in any way involving the matters described in sub-sections (a) or (b) of this sub-section III.A.10,

provided that this exclusion shall not apply insofar as such **Loss** is covered by sub-section II.C;

11. directly or indirectly based on, arising out of, or in any way involving **Asbestos, Asbestos Dust or Asbestos Containing Materials**.

B. Additional Exclusions Applicable to Loss, other than Defence Costs

The **Insurer** shall not be liable for **Loss**, other than **Defence Costs**, directly or indirectly based on, arising out of, or in any way involving:

1. any dishonesty or fraud found by way of any judgement or other final adjudication to have been committed by an **Insured Person**;
2. an **Insured Person** found by way of judgement or other final adjudication to have gained any profit or advantage or to have received any remuneration to which he was not legally entitled.

For the purposes of this section III, **Loss** shall include any costs and expenses otherwise covered under sub-section I.C.

C. Severability of Exclusions

No fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** for the purposes of applying the exclusions set forth in this section III.

IV. Conditions

A. Limits of Liability and Retentions

1. Aggregate Limit

The maximum aggregate liability of the **Insurer** for all **Loss** resulting from all **Claims** first made during the **Policy Period** shall be the **Limit of Liability** set forth in the **Schedule**, regardless of the number of **Insureds** the **Insurer** is liable to indemnify.

2. Retentions

The **Insurer's** liability for **Loss** arising from any single **Claim** shall apply only to that part of such **Loss** which is excess of the applicable **Retention** set forth in the **Schedule**. If different parts of any single **Loss** arising from a single **Claim** are subject to different **Retentions**, the applicable **Retentions** shall be applied separately to each part of such **Loss**, but the sum of such **Retentions** shall not exceed the largest applicable **Retention**. The **Insureds** shall bear at their own risk the amount of any applicable **Retention**.

3. Discovery Period

The purchase of any **Discovery Period** shall not increase or reinstate the applicable **Limit of Liability**, which shall be the **Insurer's** maximum liability for the **Policy Period** and **Discovery Period**, combined.

4. Related Claims

All **Related Claims** shall be deemed one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period** or the **Discovery Period**.

5. Defence Costs

Defence Costs incurred by the **Insurer**, or by the **Insured** with the written consent of the **Insurer**, are part of and not in addition to the applicable **Limit of Liability** and the payment by the **Insurer** of **Defence Costs** reduces the **Limit of Liability**.

B. Proposal, Representations and Severability

1. In granting coverage under this **Policy**, the **Insurer** has relied upon the statements and representations in the **Proposal** and it is agreed that the **Proposal** shall form the basis of and is incorporated into the **Policy**. The **Insureds** shall not conceal or misrepresent any material fact or circumstance when completing the **Proposal**.
2. The **Proposal** shall be construed as a separate application for cover by each of the **Insureds** with respect to the declarations and statements contained therein. Other than with respect to sub-section B.3 below, no fact relating to, or statement of, or knowledge possessed by, any **Insured** shall be imputed to any other **Insured** for the purpose of determining the availability of cover.
3. The **Insureds** agree that in the event that any statements or representations made in the **Proposal** are inaccurate or incomplete, the **Insurer** shall be entitled to avoid the **Policy** with respect to any of the following **Insureds**:
 - (a) any natural person **Insured** who knew the facts that were not fully and accurately disclosed in the **Proposal**;
 - (b) any **Insured** that is a corporation, to the extent it indemnifies any natural person **Insured** referenced in sub-section B.3.(a) above.

C. Defence and Cooperation

1. The **Insurer** shall have the right but is not obliged to conduct in the name of the **Insured** the defence and settlement of any **Claim** covered by this **Policy**, and to appoint lawyers or other representatives for this purpose even if any of the allegations are groundless, false or fraudulent. The **Insurer's** right to defend shall cease upon exhaustion of the **Limit of Liability**.
2. With respect to any **Claim** or **Circumstance** notified:
 - (a) the **Insured** shall execute all papers required and shall do everything necessary to defend such **Claim** and provide the **Insurer** with all information, documentation, assistance and co-operation as the **Insurer** reasonably requests; and

- (b) the **Insurer** shall advance **Defence Costs** excess of any applicable **Retention**, provided that if and to the extent it is finally established that any such **Defence Costs** are not covered under this **Policy**, the **Insureds**, severally according to their interests, hereby agree to repay the **Insurer** such non-covered **Defence Costs**.
3. The **Insured** shall not settle or offer to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim**, without the **Insurer's** prior written consent. The **Insurer** shall not be liable for, and any applicable **Retention** shall not be depleted or exhausted by, any settlement, **Loss** or **Defence Costs**, assumed obligation or admission to which it has not consented.
4. The **Insurer** shall not unreasonably withhold any consent referred to in this section.
5. The **Insured** agrees that in the event of a **Claim** the **Insured** shall do nothing that shall prejudice the **Insurer's** position or its potential or actual rights of recovery. The **Insured** shall at all times use reasonable endeavours to do, and concur in doing, all such things as are reasonably practicable to avoid or diminish any **Loss** and to assist with the defence and/or settlement of any **Claim**. The **Insurer** may make any investigation it deems necessary.

D. Notice

1. Claims

- (a) The **Policyholder** shall, as a condition precedent to its rights under this **Policy**, give to the **Insurer** written notice as soon as practicable after receipt of notice of any **Claim** or after the **Policyholder** becomes aware of any **Circumstances** and in any event notice shall be given to the **Insurer**:
- (i) during the **Policy Period** or any applicable **Discovery Period**; or
 - (ii) (in respect of any **Claim**) within 60 days after the end of the **Policy Period** or any applicable **Discovery Period**.
- (b) Notification of any **Claim** and/or **Circumstances** must be sent to the **Insurer** at the Claims Department, Professional & Financial Risks, PO Box 509, St Mark's Court, Chart Way, Horsham, Sussex RH12 1WS, for the attention of the Professional & Financial Risks Claims Manager. Each notification shall so far as practicable provide full details of the **Claim** or **Circumstances** including, but not limited to:
- (i) the identity of the claimant or potential claimant;
 - (ii) the nature of the **Claim**;
 - (iii) the likely quantum of the **Claim**; and
 - (iv) the **Policyholder's** preliminary views (if any) on the merits of such **Claim**
- and the **Policyholder** shall provide the **Insurer** with such further information and documentation as it may reasonably require.

- (c) Any **Claim** arising from any notification of **Circumstances** shall be deemed to have been made in the **Policy Period** (including any applicable **Discovery Period**) in which the **Circumstances** were first notified to the **Insurer**.
- (d) Subject to the provisions of sub-section IV.L, the **Insurer** shall not avoid any **Claim** on the grounds of the breach of this section but where in the opinion of the **Insurer** the **Policyholder** has prejudiced the handling or settlement of any **Claim** the amount payable in respect of such **Claim** (including costs and expenses) shall be reduced to such sum as in the **Insurer's** opinion would have been payable in the absence of such prejudice.

2. Other

Any other communications under this **Policy** or notices pursuant to the **Discovery Period** provisions of this **Policy** shall be in writing and given by first class post or fax properly addressed to the appropriate party. Notice to the **Insureds** may be given to the **Policyholder** at the address shown in Item 1 of the **Policy Schedule**. Any notice to the **Insurer** shall be given to the Insurer at the address stated in the **Policy Schedule**. Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee or one business day following the date such notice is sent, whichever is earlier.

E. Subrogation and Recoveries

- 1. In the event of any payment under this **Policy**, the **Insurer** shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery. The **Insured** shall do everything necessary to secure and preserve such rights, including the execution of such documents as are necessary to enable the **Insurer** effectively to bring proceedings in the name of the **Insured**.
- 2. Provided however that in no event shall the **Insurer** exercise its rights of subrogation against an **Insured** save where such **Insured** has been fraudulent, committed a criminal act or obtained any profit or advantage to which he was not legally entitled.
- 3. All recoveries obtained by the **Insured** from other parties shall be allocated, after the settlement of any claim under this **Policy** as follows:
 - (a) firstly, to the benefit of the **Insured** to reduce or extinguish the amount of the **Insured's Loss** to the extent that it would have been paid but for the fact that such **Loss** exceeds the **Limit of Liability** together with any **Retention** where applicable;
 - (b) secondly, to the benefit of the **Insurer** for all sums paid in settlement of **Loss**;
 - (c) thirdly, to the benefit of the **Insured** for the amount of the **Retention**.

All recoveries shall be applied as herein only after deduction of the reasonable cost of obtaining such recovery. All recoveries made prior to settlement of any claim shall be held for the benefit of the **Insurer** and applied as stated herein after settlement if any is made.

F. Authorisation Clause

It is a condition of this **Policy** that the **Policyholder** shall act on behalf of all **Insureds** with respect to the giving and receiving of notice of any **Claim, Circumstance or Loss**, the payment of premiums and the receiving of any return premiums that may become due under this **Policy**, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this **Policy** (except the giving of notice to apply for the **Discovery Period**), and the **Insureds** agree that the **Policyholder** shall so act on their behalf.

G. Alteration and Assignment

No change in, modification of, or assignment of interest under this **Policy** shall be effective except when made by written endorsement to this **Policy** which is signed by an authorised signatory of the **Insurer**.

H. Changes of Control

1. Acquisition of Policyholder

If, during the **Policy Period**, any of the following events occur:

- (a) the acquisition of the entire issued share capital of the **Policyholder** or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Policyholder** into or with another entity such that the **Policyholder** is not the surviving entity; or
- (b) the obtaining by any person, entity or affiliated group of persons or entities of the right to elect, appoint or designate at least fifty per cent. (50%) of the directors of the **Policyholder**,

cover shall continue in full force and effect until the expiry of the **Policy Period**, but only with respect to **Loss** where the events causing **Loss** occurred prior to such event.

2. Cessation of Subsidiaries

If during the **Policy Period** an organisation ceases to be a **Subsidiary**, cover with respect to such **Subsidiary** shall continue in full force and effect until the expiry of the **Policy Period** but only with respect to **Loss** where the events causing **Loss** occurred prior to the date such organisation ceased to be a **Subsidiary**.

Any **Claim** arising pursuant to sub-sections H.1 or H.2 may be notified during the **Policy Period** and any applicable **Discovery Period**.

I. Other Insurance

This **Policy** shall be specifically excess of any other valid and collectible insurance (including but not limited to any insurance which is stated to be primary, contributory, excess, contingent or otherwise), unless such other insurance is specifically excess of this **Policy**.

For the avoidance of doubt, a **Loss** which is covered partly by this **Policy** and partly by another policy (including policies of which this is a renewal) issued by the **Insurer** to the **Insured** for which any previous applicable discovery period has not expired, shall be limited to the larger amount of cover under the previous policy or this **Policy** and shall on no account be cumulative.

J. Arbitration

Any dispute arising out of or in connection with this **Policy** shall be referred to a sole arbitrator, who shall be a Queen's Counsel specialising in insurance law. The sole arbitrator shall be appointed by agreement between the parties or, failing such agreement within 30 days of one party receiving written notice of a nomination being made by the other party, by the Chairman for the time being of the Bar Council. The arbitration shall be held in London and in the English language.

K. Disputes as to contesting to Legal Proceedings

1. Subject to the provisions of sub-section K.2 below, in the event of a disagreement arising between the **Insurer** and the **Insured** as to whether or not to contest or settle legal proceedings or proceed with appeals, the issue shall be remitted to a Queen's Counsel whose decision on the probability of successfully defending the **Claim** or the acceptability of the proposed terms of settlement or the probability of succeeding on appeal shall be final. The identity of such Queen's Counsel shall be agreed by the parties or, failing such agreement within 30 days of one party receiving written notice of a nomination being made by the other party, by the Chairman for the time being of the Bar Council.
2. In the event that Queen's Counsel or Junior Counsel is instructed in connection with the defence of a **Claim**, the parties shall remit any issue between them to the said Counsel as to whether or not to contest or settle legal proceedings or proceed with appeals.
3. Any appointment under the provisions of this section shall be as expert and not as arbitrator.
4. The costs of the said expert determination shall be deemed to form part of the **Defence Costs**.
5. All references to Queen's Counsel in this section include, where proceedings have been commenced in jurisdictions outside England and Wales, a lawyer of similar status.
6. Reference to the Chairman for the time being of the Bar Council in this section include, where proceedings have been commenced in jurisdictions outside England and Wales, a similar appointee.

L. Insurer's Waiver to Rights

1. Save where the circumstances set out in sub-section L.2 below apply, in the event of the **Insurer** being entitled to avoid this **Policy** from inception or from the time of any variation in cover (including at renewal) the **Insurer** may at its discretion maintain this insurance in full force but exclude the consequences of any matter which ought to have been disclosed at inception or at the time of any variation in cover (including at renewal).

2. In the event of non-disclosure or misrepresentation at any renewal the **Insurer** shall waive its rights to avoid this **Policy** provided that:
- (a) the **Insured** is able to establish to the satisfaction of the **Insurer** that such non-disclosure or misrepresentation was innocent and free from any fraudulent conduct or intent to deceive;
 - (b) the premium and terms shall be adjusted at the discretion of the **Insurer** to those which would have applied had such circumstances been disclosed; and
 - (c) where the **Policyholder** should have notified during a preceding policy period a **Claim, Circumstance or Loss**, and the indemnity or cover to which the **Insured** would have been entitled was in any way more restricted than that provided at the date of notification, the Insurer shall be liable only to the extent applicable during such preceding policy period.

M. Partial Invalidity

Should any provision of this **Policy** be, or become, invalid or unenforceable pursuant to the law to which this **Policy** is subject, such provision shall be deemed to be deleted and all other terms and conditions of this **Policy** shall remain in full force and effect.

N. Third Party Rights

A person who is not a party to this **Policy** has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this **Policy** but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

O. Territory

Unless otherwise endorsed, cover shall extend worldwide excluding **North America**.

V. Governing Law

Unless the parties have agreed otherwise in writing any dispute concerning the interpretation of the **Policy** shall be governed and construed in accordance with English law and shall be resolved within the non-exclusive jurisdiction of the courts of England and Wales.

VI. Subsidiaries

If a **Subsidiary** has been acquired by the **Company** prior to the **Policy Period**, such **Subsidiary** shall be covered under this **Policy** in relation only to **Wrongful Acts** committed or alleged to have been committed after the date on which such **Subsidiary** was acquired by the **Company**.

VII. Retention

1. Retention

Any **Retention** shall be borne by the **Company** or the **Insured Persons**, as applicable, in respect of each and every **Claim**.

2. Company Failure to Indemnify

If the **Company** is permitted or required to indemnify the **Insured Persons** in respect of any **Loss** suffered by them but fails to do so, the **Insurer** shall pay such **Loss** directly to the **Insured Persons** on behalf of the **Company**, provided that the **Company** shall be liable to pay any applicable **Retention**

VIII. Allocation

If an **Insured** incurs both **Loss** covered by this **Policy** and loss not covered by this **Policy** (either because a **Claim** is made against both **Insured Persons** and the **Company** or because a **Claim** includes both **Loss** which is covered and that which is not) the **Insurer** shall negotiate in good faith with the **Insured** to determine a fair and reasonable allocation of the **Loss** taking into account the relative legal exposures of the parties with respect to covered and uncovered matters.

If the **Insured** and the **Insurer** cannot agree on an allocation in respect of **Loss**, the **Insured** and the **Insurer** agree to remit the issue of allocation to a Queen's Counsel, (whose identity shall be agreed between the parties and in default of agreement within 30 days of one party receiving written notice of a nomination being made by the other party, shall be chosen by the Chairman for the time being of the Bar Council) whose decision shall be binding. The Queen's Counsel shall be directed to apportion all costs of the determination, and shall act as an expert and not as an arbitrator.

All references to Queen's Counsel in this section include, where proceedings have been commenced in jurisdictions outside England and Wales, a lawyer of similar status.

Reference to the Chairman for the time being of the Bar Council or his nominee include, where proceedings have been commenced in jurisdictions outside England and Wales, a similar appointee.

COMPLAINTS PROCEDURE

We aim to provide you with a first class service. If we have not delivered the service that you expect or you are concerned about the service provided, we would like the opportunity to put things right.

Our complaints process

- Initially, please raise your concerns with your usual business contact.
- If your complaint is not resolved or you are not happy with our response and the course of action proposed, you can progress your complaint to our Customer Relations Office.
- A separate investigation will then be carried out in an attempt to resolve your complaint and a final decision issued. However, if resolution is not possible they will issue a response within 8 weeks of your original complaint.

Customer Relations Contact Details

Customer Relations Manager
Royal & Sun Alliance Insurance plc
Bowling Mill
Dean Clough Industrial Park
Halifax
HX3 5WA

Tel. No: 0800 1076160

Fax No: 01422 325146

Email: halifax.customerrelationsoffice@uk.royalsun.com

What to do if you are still not satisfied

If you are still not satisfied Royal & SunAlliance is regulated by the Financial Services Authority whose arbitration service is the Financial Ombudsman Service, and you may be able to refer your complaint to them.

Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London
E14 9SR

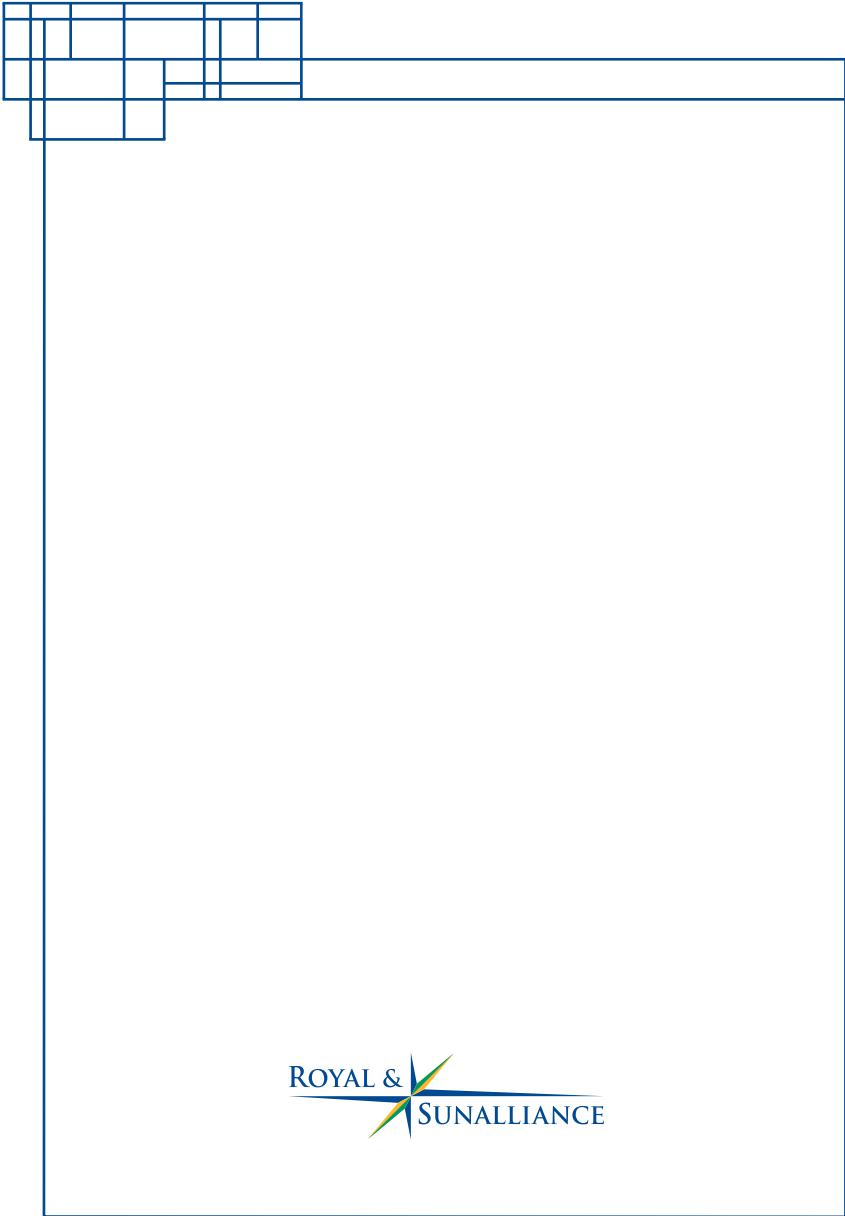
Tel. No: 0845 0801800

Email: enquiries@financial-ombudsman.org.uk

Website: www.financial-ombudsman.org.uk

Your rights

Your rights as a customer to take legal action remain unaffected by the existence or use of any complaint procedures referred to above. However, the Financial Ombudsman Service will not adjudicate on any cases where litigation has commenced.



Royal & Sun Alliance Insurance plc (No. 93792).
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