

# MAURITIUS BAR ASSOCIATION



## BAR COUNCIL

*Chairperson: Narghis Bundhun SC*

*Secretary: Varuna Roy Bunwaree Goburdhun    Treasurer: Rubna B. Daood Daureeawo*

*Members: Jacques Tsang Mang Kin, Ghanshyamdas Bhanji Soni, Angelique A. Desvaux De Marigny & Didier B.A.Dodin*

*Co-opted Members: Isme Azam Neerooa & Dinay Reetoo*

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**18.09.2020**

Dear Members,

You are invited to attend the rescheduled Special General Meeting of the Mauritius Bar Association to be held on 01st October 2020 at 14:30 at the Seat of the MBA, 4th Floor, Court View Building, Pope Hennessy Street, Port Louis.

Regards

**Varuna R. Bunwaree Goburdhun**  
**Secretary of the Bar Council**

## **PROFESSIONAL INDEMNITY INSURANCE COVER EXPLANATORY MEMORANDUM**

In 2018, the Bar Council hosted the Bar Conference. The theme of the Conference was the 3Is initiative- Innovation, Innovation, Integrity, Independence. One of the objectives of the Conference was to raise funds to subscribe to specific projects such as the MBA App which was launched during the Conference. Another of the objectives was to enable the raising of funds to subscribe to a basic professional indemnity insurance cover and to subscribe to an international legal research database for members of the MBA.

These projects were to be funded from the surplus for the year 2018 which amount to MUR 1,940,973 at the close of the financial year on 31<sup>st</sup> December 2018.

The outgoing 2018 Council prepared a budget which included:

- A budgeted amount of MUR 600,000 for the subscription to an international legal research database
- A budgeted amount of MUR 500,000 for the subscription to a Group Professional Indemnity Insurance

This budget was adopted unanimously at the AGM dated 31<sup>st</sup> January 2019.

The 2019 Council pursued this objective by seeking and obtaining quotes from the following insurance companies:

- Mauritius Union Assurance
- SICOM
- Swan Ltd

The Council held lengthy discussions with all three companies in order to negotiate the best deal for the MBA. The final proposals of all 3 insurance companies were sent to an insurance adviser for advice. Attached is the high-level comparison received.

Based on the advice of the insurance adviser, the MBA resolved to opt for the proposal of SICOM which is summarized in the Table below.

As per the premium to be borne by the MBA, you will note that the subscription may be paid out from the yearly revenue of the MBA on the basis that members settle their mandatory membership fees. The policy is therefore sustainable for the forthcoming years.

Members who wish for an additional cover will be able to take an extension.

Members who wish to opt out of the policy will need to do so in writing to the MBA.

Members are requested to vote for the subscription to the policy proposed by SICOM.

INSURED	All compliant members of the MBA										
TYPE OF INSURANCE	Professional Indemnity										
PERIOD OF INSURANCE	12 months as from date to be advised										
COVER	To indemnify the Insured against all sums which the Insured is legally liable to pay as damages and claimant's costs and expenses as a result of any claim made against the Insured and notified to the Insurer during the period of insurance, arising out of the negligent act, error or omission in the conduct of the Insured's business										
MINIMUM COMPULSORY LIMIT OF LIABILITY (PER MEMBER)	Rs 500,000 any one occurrence/period of insurance										
ANNUAL PREMIUM (PER MEMBER)	<table> <tr> <th>Categories</th><th>Annual Premium(Inclusive of all fees)</th></tr> <tr> <td>1-5 years' experience</td><td>Rs 750</td></tr> <tr> <td>6-10 years' experience</td><td>Rs 850</td></tr> <tr> <td>&gt; 10 years' experience</td><td>Rs 1,250</td></tr> <tr> <td>Senior Counsel</td><td>Rs 1,250</td></tr> </table>	Categories	Annual Premium(Inclusive of all fees)	1-5 years' experience	Rs 750	6-10 years' experience	Rs 850	> 10 years' experience	Rs 1,250	Senior Counsel	Rs 1,250
Categories	Annual Premium(Inclusive of all fees)										
1-5 years' experience	Rs 750										
6-10 years' experience	Rs 850										
> 10 years' experience	Rs 1,250										
Senior Counsel	Rs 1,250										
DEDUCTIBLE (EXCESS)	Rs 25,000 each and every claim including costs and expenses										
TERRITORIAL LIMITS CLAIMS JURISDICTION	Mauritius										
OTHER CONDITIONS	<ul style="list-style-type: none"> <li>As per SICOM standard policy wording, including Money laundering exclusion</li> <li>Extended reporting period of 24 months at 150% additional annual premium</li> <li>Policy is on a Claims Made basis. That is Coverage is triggered when a claim is made against the insured during the policy period, regardless of when the wrongful act that gave rise to the claim took place, subject to the Retroactive coverage date provided in the policy</li> </ul> <p>Single Policy to be issued for all members (100% adherence of complaint members)</p>										
SUBJECTIVITIES	<ul style="list-style-type: none"> <li>No Known or reported claims and/or circumstances to date, including notification received by the Insured so far but which have yet to materialize into a claim against him/her</li> <li>Proof of Membership</li> <li>Signed and dated proposal form completed for each applicant.</li> <li>This quotation is subject to receipt, review and written underwriting approval prior to inception of the subjectivities outlined herein. Furthermore, this quotation is strictly conditional upon no material change in the risk occurring between the date of quotation and the inception date of the proposed policy. Any such material change shall include but not be limited to any claim (or notice of circumstance that may be reasonably expected to give rise to a claim) under any policy of which the policy</li> </ul>										

	<p>being proposed by this quotation is a renewal, a replacement or where it is excess of a policy being notified of such claim or circumstance. In the event of such change in risk, SICOM General Insurance Ltd may, at its sole discretion, modify or withdraw this quote, whether or not this quote has already been accepted by the proposed Insured.</p>
FREE EXTENSION	<p>GROUP PERSONAL ACCIDENT INSURANCE COVER</p> <p>Bodily injury resulting solely and directly from accident caused by outward violent and visible means which shall directly and independently of any cause result in Death or Permanent Disablement.</p>

## Professional Indemnity Policy

### SCHEDULE

**Insurers** : SICOM GENERAL INSURANCE LTD

**Policy No** : to be advised

**Policy Holder** : The Mauritius Bar Association

**Insured** : Compliant members of the Mauritius Bar Association,  
as per list to be submitted

**Principal Address** : C/O the Mauritius Bar Association ,  
4th floor, Court View Building, Pope Hennessy Street,  
Port Louis - Mauritius

**Professional Business** : Lawyers/ Barristers

**Limit of Liability** : Rs 500,000 in the aggregate, costs and expenses  
inclusive

**Period of Insurance** : From: TBA To:  
(both dates inclusive)

**Excess** : Rs 25,000 each and every claim, costs and expenses  
inclusive

**Premium** : Rs TBA  
(Inclusive of all fees)

**Retroactive Date** : Inception date of policy

**Geographical Limits** : Mauritius

**Jurisdictional Limits** : Mauritius

**Date of Proposal** : TBA

**Endorsements** : TBA

For and on behalf of  
SICOM GENERAL INSURANCE LTD

Date: .....

.....  
Authorised Officer

**THIS POLICY PROVIDES CLAIMS MADE COVERAGE WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD. PLEASE READ THE ENTIRE POLICY CAREFULLY.**

This Policy is governed by "Livre III, Titre Douzième, Chapitre Troisième of the Mauritius Civil Code" except to the extent the articles mentioned in Article 1983-12 are varied by terms and conditions herein.

## Insuring Clauses

### 1. Legal liability

The **Insurers** agree, subject to the terms, limitations, exclusions and conditions of this policy, to pay on behalf of the **Insured** any damages and claimants' costs which the **Insured** shall become legally liable to pay in respect of any **Claim** arising from the conduct of the **Insured's Professional Business** and first made against the **Insured** during the **Period of Insurance** in respect of any actual or alleged:

- (a) negligence or breach of professional duty;
- (b) negligent misstatement or negligent misrepresentation;
- (c) breach of a duty of care or confidence including any misuse of information which is either confidential or subject to statutory restrictions on its use;
- (d) loss of or damage to any **Documents**;
- (e) infringement of intellectual property rights (including copyright, trademark, design, title, slogan or moral rights) or any act of passing off;
- (f) libel or slander;
- (g) dishonesty of **Employees**;
- (h) acts or omissions of **Service Providers**; or
- (i) civil liability not listed in (a) to (h) above.

### 2. Costs and Expenses

The **Insurers** agree, subject to the terms, limitations, exclusions and conditions of this policy, to pay on behalf of the **Insured** necessary and reasonable legal costs and expenses incurred with the **Insurers'** prior written consent, such consent not to be unreasonably withheld, in the investigation, defence or settlement of any claim covered under this policy.

Costs and expenses do not include:

- (a) damages or costs awarded against the **Insured** (which are covered under insuring clause 1 above);
- (b) remuneration of whatsoever nature due to the **Insured** or to any **Director, Partner, Member** or **Employee** of the **Insured**; or
- (c) any internal costs or expenses of the **Insured**.

In no event shall **Insurer's** liability under this policy (including extensions) exceed the amount stated as the limit of liability in the **Schedule**.

## Extensions

The following extensions shall apply to claims first made against the **Insured** during the **Period of Insurance** and arising from the conduct of the **Insured's Professional Business**. They shall be subject to the limit of liability stated in the **Schedule** and to all other terms, limitations, exclusions and conditions of this policy.

### 1. Continuous Cover

Irrespective of exclusion 18. Known Circumstances, cover under this policy is extended to include **Claims** first notified to the **Insurers** during the **Period of Insurance** which arise out of circumstances which prior to the inception of this policy the **Insured** knew would or could reasonably have expected to give rise to a **Claim** but failed to notify the **Insurers**, provided always that:

- (a) the **Insurers** have provided professional indemnity insurance continuously to the **Insured** since the date of such circumstance; and
- (b) the **Insured** has not given notice of such circumstances under any other contract of insurance, whether underwritten by the **Insurers** or by others; and
- (c) the failure of the **Insured** to give prior notice of such circumstances to the **Insurers** was neither deliberate nor reckless and was free of any fraudulent conduct or intent to deceive.

**Claims** falling to be dealt with under this policy solely by virtue of this extension shall be subject to the following additional conditions:

- (i) Where the **Insured's** failure to give timeous notice of such circumstances has resulted in prejudice to the **Insurers**; in the handling or settlement of any claim, the amount of any loss sustained by the **Insured** or in the obtaining of reimbursement from any source, then the amount of cover afforded (including liability for claimant's costs) shall be reduced to such sum as in the **Insurers'** reasonable opinion would have been payable by them in the absence of such prejudice.
- (ii) The amount of cover available under this extension shall be limited to the lesser of the amount of cover remaining under the policy of insurance in force at the time of the circumstances or the remaining amount of cover available under this policy.
- (iii) If the cover available under this policy is greater or wider in scope than that to which the **Insured** would have been entitled under the policy of insurance in force at the time of the circumstances then the **Insurers** shall only be liable to cover the **Insured** for such amount and on such terms as would have been available to the **Insured** under the policy of insurance in force at the time of the circumstances, save that nothing in this

extension shall entitle the **Insured** to cover wider or more extensive than is otherwise available under this policy.

## **2. Employee Indemnification**

If the **Insured** requests, the **Insurers** will treat a **Claim** made against any **Employee** as if the **Claim** were made against the **Insured**, provided always that such **Employee** shall observe, fulfil and be subject to all the terms, conditions and exclusions of this policy as if they were the **Insured** and provided also that the **Employee** does not have any direct or indirect financial interest in the proceeds of the **Claim** and has not made any profit or gain out of the transaction giving rise to the **Claim**.

## **3. Consultants and Sub-contractors**

Any Claim arising from any act, error or omission committed or alleged to have been committed by any consultant, sub-contractor or agent for whose acts, error or omissions the **Insured** is liable PROVIDED ALWAYS THAT no indemnity shall extend to any such consultant, sub-contractor or agent.

## **4. Joint Ventures/Consortia**

Provided that the **Insured** has declared to the **Insurers** all fees/turnover received from a joint venture or consortium, the cover provided under this policy is extended to include the **Insured's** liability to pay in respect of any **Claim** as a direct result of its participation in such joint venture or consortium.

This extension shall indemnify the **Insured's** liability only and does not extend to cover the **Insured's** liability which has been assumed on behalf of any other member of a joint venture or consortium and/or pursuant to any joint & several liability provisions. No other participant in such joint venture or consortium, and no other third party, shall have any rights under this policy, and neither shall the **Insurers** be liable to pay a contribution to any insurer of any other participant in such joint venture or consortium.

# **Definitions**

## **1. Claim**

The term "**Claim**" means a demand by a third party for compensation or damages from or the assertion of a right against any **Insured**.

All claims consequent upon or attributable to one originating source or cause (including but not limited to the dishonest, fraudulent, criminal or malicious acts of any one person or of persons acting in collusion) shall be deemed to be one **Claim**.

## **2. Director**

The term "**Director**" has the meaning given by section 128 of the Companies Act 2001.

## **3. Document**

The term "**Document**" means:



- (a) all documents and electronic data but excluding stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, drafts, postal orders, money orders, bills of exchange, promissory notes, securities, negotiable instruments and the like; and
- (b) separable programmes, instructions or data for physical incorporation into any **Computer**; belonging to the **Insured** or for which the **Insured** is legally responsible, whilst in the custody of the **Insured**, or in the custody of any person to or with whom they have been entrusted, lodged or deposited by the **Insured** in the ordinary course of the **Insured's Professional Business**.

#### 4. Employee

The term "**Employee**" means any person, other than a **Director**, **Partner** or **Member** of the **Insured**, who is or was:

- (a) under a contract of service or apprenticeship with the **Insured**; or
- (b) supplied to or hired or borrowed by the **Insured**; or
- (c) under any work experience or similar scheme with the **Insured**;

whilst employed by the **Insured** or engaged by and under the control of the **Insured** in connection with the **Insured's Professional Business**.

#### 5. Geographical Limits

The term "**Geographical Limits**" means those territories stated as such in the **Schedule**.

#### 6. Insured

The term "**Insured**" means:

- (a) the person or entity stated as such in the **Schedule** ;
- (b) any individual who is, has been or may become during the period of cover a Principal, a Partner, Director or Employee of the firm named in the Schedule but only in respect of Claims arising out of work performed for and/or on behalf of the Firm or Company named in the Schedule.

#### 7. Insurers

The term "**Insurers**" means the insurance company or underwriters specified as such in the **Schedule**.

#### 8. Jurisdictional Limits

The term "**Jurisdictional Limits**" means those territories stated as such in the **Schedule**.

#### 9. Member

The term "**Member**" means any person holding that position within a limited liability partnership.

#### 10. Partner

The term "**Partner**" means any person forming part of a partnership which subsists between persons carrying on a business in common with a view of profit.

**11. Period of Insurance**

The term “**Period of Insurance**” means the period stated as such in the **Schedule**.

**12. Pollution**

The term “**Pollution**” means the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, viruses, bacteria, fumes, acids, alkalis, chemicals and waste (including, but not limited to material to be recycled, reconditioned or reclaimed).

**13. Premium**

The term “**Premium**” means the amount stated as such in the **Schedule** plus all applicable taxes.

**14. Professional Business**

The term “**Professional Business**” means the activities stated as such in the **Schedule** and as more fully disclosed in the **Proposal**.

**15. Proposal**

The term “**Proposal**” means the written proposal prepared by the **Insured** and any other information provided to the **Insurers** by the **Insured**.

**16. Retroactive Date**

The term “**Retroactive Date**” means the date (if any) stated as such in the **Schedule**.

Where a **Retroactive Date** is specified in the **Schedule**, then cover under this policy shall only be provided in respect of events occurring or acts, errors or omissions first committed or allegedly first committed on or after the **Retroactive Date**.

Where no **Retroactive Date** is specified in the **Schedule**, cover under this policy shall be provided in respect of events occurring or acts, errors or omission irrespective of when they were committed or allegedly committed.

**17. Schedule**

The term “**Schedule**” means the document titled schedule or declarations that includes the name and address of the **Insured**, the **Premium** and other variables to this policy (including endorsement clauses) and is incorporated in this policy and accepted by the **Insured**.

**18. Service Provider**

The term “**Service Provider**” means a business the **Insured** does not own, operate, or control, but that the **Insured** hires for a fee under a written contract to perform services on behalf of the **Insured** in the course of the **Insured’s Professional Business**.

**19. Subsidiary**

The term “**Subsidiary**” means any company in respect of which the **Insured** prior to the inception date of this policy:

(a) controls the composition of the board of directors; or

- (b) controls more than half of the voting power at a general meeting of shareholders; or
- (c) holds more than half of the issued share capital (regardless of class of share).

## 20. Terrorism

The term “**Terrorism**” means the use of force or violence and/or the threat thereof, by any person or groups 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 and/or to put the public, or any section of the public, in fear.

## 21. USA Claim

The term “**USA Claim**” means any **Claim** made or legal proceedings instituted within the United States of America and/or territories or possessions which come under the jurisdiction of the United States of America including the enforcement by courts of any other country of any award or judgment in connection therewith.

For the avoidance of doubt, this policy will only cover **USA Claims** when the **Jurisdictional Limits** include the United States of America.

## Exclusions

The Insurers shall not be liable under this policy for any damages, claimants’ costs, costs and expenses or any other liability or payment which results directly or indirectly from, is in consequence of, or is in any way related to:

### 1. Aids

any liability arising from any condition directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HTLV III) or Lymphadenopathy Associated Virus (LAV) or the mutants, derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named.

### 2. Asbestos

asbestos in whatever form or quantity;

### 3. Bodily Injury/Property Damage

(a) bodily injury, mental injury, mental anguish, shock, sickness, disease or death sustained by any person (other than emotional distress arising from any libel or slander); or

(b) any loss of, damage to or destruction of property, including loss of use

unless such liability directly results from breach of a professional duty owed by the Insured in the course of the Insured's Professional Business to a third party;

#### **4. Client Account Payment Service**

The provision by the Insured of any invoice paying or bank account money transfer service to its clients;

#### **5. Computer Loss General Exclusion**

Notwithstanding any provision of this Policy including any special exclusion or extension or other provision not included herein which would otherwise override a general exclusion, this Policy does not cover:

- a) loss or destruction of or damage to any property whatsoever (including a computer) or any loss or expense whatsoever resulting or arising therefrom;
- b) any legal liability of whatsoever nature;
- c) any consequential loss;

directly or indirectly caused by or contributed to by or consisting of or arising from the incapacity or failure of any computer, correctly or at all,

- (i) to treat any date as the correct date or true calendar date or correctly or appropriately to recognise, manipulate, interpret, process, store, receive or to respond to any data or information, or to carry out any command or instruction, in regard to or in connection with any such date; or
- (ii) to capture, save, retain or to process any information or code as a result of the operation of any command which has been programmed into any computer, being a command which causes the loss of data or the inability to capture, save, retain or correctly to process such data in regard to or in connection with any such date; or
- (iii) to capture, save, retain or to process any information or code due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and/or programmes;
- (iv) to capture, save, retain or to process any data as a result of the action of any computer virus or other corrupting, harmful or otherwise unauthorised code or instruction including trojan horse, time or logic bomb or worm or any other destructive code, media or programme or interference.

A computer includes any computer, data processing equipment, microchip, integrated circuit or similar device in computer or non-computer equipment or any computer software, tools, operating system or any computer hardware or

peripherals and the information or data electronically or otherwise stored in or on any of the above, whether the property of the Insured or not.

**Special Extension to the above General Exclusion.**

- A. Loss or destruction of or damage to the insured property by fire, explosion, lightning, earthquake or by the special perils referred to in B below or indemnified by the Glass, Employer's Liability, Stated Benefits, Group Personal Accident or Motor section is not excluded by this General Exclusion.
- B. The special perils that are not excluded for the purpose of this special extension are damage caused by:

1. storm, wind, water, hail or snow excluding damage to property
  - (a) arising from its undergoing any process necessarily involving the use or application of water;
  - (b) caused by tidal wave originating from earthquake or volcanic eruption;
  - (c) in the underground workings of any mine;
  - (d) in the open (other than buildings structures and plant designed to exist or operate in the open) \* ;
  - (e) any structure not completely roofed \*;
  - (f) being retaining walls \*;

\* Unless so described and specifically insured as a separate item

2. aircraft and other aerial devices or articles dropped therefrom;
3. impact by animals, trees, aerals, satellite dishes or vehicles excluding damage to such animals, trees, aerals, satellite dishes or vehicles or property in or on such vehicles.

These special perils do not cover wear and tear or gradual deterioration.

- C. The above General Exclusion also does not apply to consequential loss as insured by any Business Interruption Indemnity provided by this policy to the extent that such consequential loss results from damage to insured property by the perils referred to in A above.
- D. This Special Extension will not insure any loss destruction, damage or consequential loss if it would not have been insured in the absence of this Computer Loss General Exclusion and this Special Extension.
- E. This Special Extension shall not apply to any Public Liability Indemnity.

## **6. Computer Viruses and Unauthorised Use**

- (a) the transmission of any Computer Virus; and/or
- (b) the failure to prevent unauthorised use of or access to any Computer;

**7. Consortia and Joint Ventures**

the operation or existence of any joint venture or consortium in which the Insured has an interest other than to the extent that cover is provided under extension 4. Joint Ventures/Consortia;

**8. Contractual Liability**

any liability assumed by the Insured under any express warranty (except a warranty of authority), agreement or guarantee unless such liability would have attached to the Insured in the absence of such express warranty, agreement or guarantee;

**9. Dishonest and Malicious Acts**

- (a) any dishonest, fraudulent, criminal or malicious act or omission of the Insured, other than as provided by insuring clause 1.(g);
- (b) any dishonest, fraudulent, criminal or malicious act or omission committed by any person after the Insured had or should have had reasonable cause for suspicion of any dishonest, fraudulent, criminal or malicious act or omission in relation to that person even if otherwise covered under insuring clause 1.(g);

No person committing or condoning a dishonest, fraudulent, criminal or malicious act or omission shall be entitled to any recovery under this policy.

**10. Employers' Liability and Employment Practices Liability**

- (a) bodily injury, mental injury, mental anguish, shock, sickness, disease or death sustained by any Employee, Director, Partner or Member whilst in the course of their employment for or on behalf of the Insured; or
- (b) any breach of any obligation owed by the Insured as an employer or potential employer to any actual or prospective Employee, Director, Partner or Member;

**11. Fees, commissions and Remuneration**

Any fees, commissions or remuneration of any kind;

**12. Financial Interest**

a Claim made against the Insured by:

- (a) any other person falling within the definition of the Insured;
- (b) any parent or Subsidiary company of the Insured;
- (c) any person or entity having a financial, executive or controlling interest in the Insured; or
- (d) any company or entity in which the Insured or any Director, Partner or Member of the Insured has a financial, executive or controlling interest;

unless such Claim is for indemnity or contribution in respect of a Claim made by an independent third party against such company, person or entity and such Claim directly

results from breach of a professional duty owed by the Insured in the course of the Insured's Professional Business to that third party;

**13. Fines/Penalties**

any fine or penalty, punitive, exemplary, restitutionary or non-compensatory damages (other than exemplary damages in respect of libel or slander);

**14. Geographical Limits**

the conduct of the Insured's Professional Business outside the Geographical Limits;

**15. Insolvency/Bankruptcy of the Insured**

the insolvency, bankruptcy or liquidation of the Insured;

**16. Intentional Acts**

any act or omission of any Insured or their consultants, sub-contractors or agents committed or alleged to have been committed with a reckless disregard for the consequences thereof, or any wilful breach of any statute, contract or duty by any Insured or their consultants, sub-contractors or agents provided always that:

(a) this Exclusion shall not apply unless such conduct is established by final adjudication or judgement;

(b) this Exclusion shall not apply to any Insured not committing such acts

**17. Jurisdictional Limits**

any claims action or proceeding brought in a court or before an arbitration tribunal or made under the laws of any territory outside the Jurisdictional Limits;

**18. Known Circumstances**

any Claim or circumstances existing prior to or at the inception of this policy and which the Insured knew or ought reasonably to have known was likely to give rise to a Claim or to the incurring of costs and expenses other than as provided by Continuous Cover;

**19. Management Liability**

any personal liability incurred by a Director, Partner, Member or officer when acting in that capacity, or when managing the Insured's business or liability for a breach of fiduciary duty other than when performing Professional Business services for a client;

**20. Market Fluctuation**

the depreciation, failure to appreciate or loss of investments occurring as a result of fluctuations in any financial market, including but not limited to stock or commodity markets, unless such Claim arises from a breach of professional duty by the Insured in the conduct of the Professional Business;

**21. Money Laundering**

the concealment, disguise, conversion or transfer of Criminal Property or with any act, error or omission facilitating the acquisition, retention, use or control of Criminal Property;

22. Nuclear Energy Risks NMA 1975 (a)  
This Policy shall exclude Nuclear Energy Risks.

For all purposes of this Policy Nuclear Energy Risks shall mean all first and/or third party insurances (other than Workers' Compensation and Employers' Liability) in respect of:

- (I) All Property on the site of a nuclear power station.  
Nuclear Reactors, reactor buildings and plant and equipment therein on any site other than a nuclear power station.
- (II) All Property, on any site (including but not limited to the sites referred to in (I) above) used or having been used for:
  - (a) the generation of nuclear energy or
  - (b) the production, use or storage of nuclear material.
- (III) Any other Property eligible for insurance by the relevant local Nuclear Insurance Pool and/or Association but only to the extent of the requirements of that local Pool and/or Association.

The supply of goods and services to any of the sites, described in (I) to (III), above unless such insurances shall exclude the perils of irradiation and contamination by Nuclear Material.

Except as under-noted, Nuclear Energy Risks shall not include:

- (i) Any insurance in respect of the construction or erection or installation or replacement or repair or maintenance or decommissioning of Property as described in (I) to (III) above (including contractors' plant and equipment).
- (ii) Any Machinery Breakdown or other Engineering insurance not coming within the scope of (i) above.

Provided always that such insurance shall exclude the perils of irradiation and contamination by Nuclear Material.

However, the above exemption shall not extend to:

1. The provision of any insurance whatsoever in respect of:

- (a) Nuclear Material;



- (b) Any Property in the High Radioactivity Zone or Area of any Nuclear Installation as from the introduction of Nuclear Material or for reactor installations - as from fuel loading or first criticality where so agreed with the relevant local Nuclear Insurance Pool and/or Association.

The provision of any insurance for the under-noted perils:

- Fire, lightning, explosion;
- Earthquake;
- Aircraft and other aerial devices or articles dropped therefrom;
- Irradiation and radioactive contamination;
- Any other peril insured by the relevant local Nuclear Insurance Pool and/or Association;

in respect of any other Property not specified in 1 above which directly involves the production, use or storage of Nuclear Material as from the introduction of Nuclear Material into such Property.

#### Definitions:

“Nuclear Material” means Nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a Nuclear Reactor, either alone or in combination with some other material; and

“Radioactive Products or Waste” means any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

“Nuclear Installation” means:

- (i) Any Nuclear Reactor;
- (ii) Any factory using nuclear fuel for the production of Nuclear Material, or any factory for the processing of Nuclear Material, including any factory for the reprocessing of irradiated nuclear fuel; and
- (iii) Any facility where Nuclear Material is stored, other than storage incidental to the carriage of such material.

**“Nuclear Reactor”** means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons.

**“Production, use or storage of Nuclear Material”** means the production, manufacture, enrichment, conditioning, processing, reprocessing, use, storage, handling and disposal of Nuclear Material.

**“Property”** shall mean all land, buildings, structures, plant, equipment, vehicles, contents (including but not limited to liquids and gases) and all materials of whatever description whether fixed or not.

**“High Radioactivity Zone or Area”** means:

- (i) for Nuclear Power Stations and Nuclear Reactors, the vessel or structure which immediately contains the core (including its supports and shrouding) and all the contents thereof, the fuel elements, the control rods and the irradiated fuel store; and
- (ii) for non-reactor Nuclear Installations, any area where the level of radioactivity requires the provision of a biological shield.

#### **Nuclear Exclusion Extension**

Unless specifically agreed for an insured loss involving nuclear material under determined circumstances, this insurance does not cover loss or damage caused directly or indirectly by any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

Nuclear material, nuclear fission or fusion, nuclear radiation, nuclear waste from the use of nuclear fuels, nuclear explosives or any nuclear weapon.

#### **Definitions:**

**“Nuclear material”** as defined in NMA 1975.

**“Nuclear fission”** means a nuclear reaction in which a heavy nucleus splits spontaneously or on impact with another particle with the release of energy.

**“Nuclear fusion”** means a nuclear reaction in which atomic nuclei of low atomic number fuse to form a heavier nucleus with the release of energy.

**“Nuclear radiation”** means the absorption of electro-magnetic radiation by a nucleus having a magnetic moment when in an external magnetic field.

**“Nuclear waste”** as defined in NMA 1975.

**“Nuclear fuels”** means a substance that will sustain a fission chain reaction so that it can be used as a source of nuclear energy.

**“Nuclear explosives”** means an explosive involving the release of energy by nuclear fission or fusion or both.

**“Nuclear weapon” means a nuclear device designed, used or usable for inflicting bodily harm or property damage.**

**23. Patents**

**any actual or alleged infringement of any patent;**

**24. Pollution**

**Pollution;**

**25. Products**

**goods or products sold, supplied, repaired, altered, manufactured, constructed, installed or maintained by the Insured or by any person acting for or on behalf of the Insured.**

**26. Property**

**the ownership, possession or use by or on behalf of the Insured of any land, buildings, aircraft, watercraft, vessel, automobile or any other vehicle or mechanically propelled mobile machinery;**

**27. Radioactive Contamination or Explosive Nuclear Assemblies**

**(a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;**

**(b) any legal liability of whatsoever nature;**

**directly or indirectly caused by or contributed to by or arising from:**

**(i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;**

**(ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;**

**28. Retroactive Date**

**any event occurring or any act, error, or omission committed or alleged to have been committed prior to the Retroactive Date (if any) stated in the Schedule;**

**29. Subsidiaries**

**any act, error or omission of any Subsidiary unless such Subsidiary has been included in the Proposal .**

**30. Taxation, Competition, Restraint of Trade and Anti-Trust**

**any breach of any regulation or legislation governing taxation, competition, restraint of trade or anti-trust;**

**31. Trading Loss**

**any trading losses or trading liabilities or trading debts incurred by any business managed by or carried on by the Insured;**

### **32. Toxic Mould**

**any claim involving in any way the actual or potential presence of mould, mildew or fungi of any kind or whatsoever, whether or not directly or indirectly caused by or resulting from the conduct of the Insured's Business.**

### **33. War, Civil War and Terrorism Exclusion Clause**

Notwithstanding any provision to the contrary within this Insurance or any endorsement thereto it is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence of the loss:

1. War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war;
2. Permanent or temporary dispossession resulting from confiscation, commandeering or requisition by any lawfully constituted authority;
3. Mutiny, civil commotion assuming the proportions of or amounting to a popular or military uprising, insurrection, rebellion, revolution, military or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or state of siege;
4. Terrorist Activity as defined herein
  - A. 'Terrorist Activity' shall mean any deliberate, unlawful act that:
    1. is declared by any authorised governmental official to be or to involve a, terrorist activity or acts of terrorism; or
    2. includes, involves, or is associated with the use or threatened use of force, violence or harm against any person, tangible or intangible property, the environment, or any natural resources, where the act or threatened act is intended, in whole or in part, to:
      - (a) promote or further any political, ideological, philosophical, racial, ethnic, social or religious cause or objective of the perpetrator or any organization, association or group affiliated with the perpetrator;
      - (b) influence, disrupt or interfere with any government related operations, activities or policies;
      - (c) intimidate, coerce or frighten the general public or any segment of the general public; or
      - (d) disrupt or interfere with a national economy or any segment of a national economy; or
    3. includes, involves, or is associated with, in whole or in part, any of the following activities, or the threat thereof:
      - (a) hijacking or sabotage of any form of transportation or conveyance, including but not limited to spacecraft, satellite, aircraft, train,

- vessel, or motor vehicle;
- (b) hostage taking or kidnapping;
- (c) the use of any biological or chemical agent, material, device or weapon including biological or chemical contamination as defined herein.

For the purpose of (c) "contamination" means the contamination, poisoning, or prevention and/or limitation of the use of objects due to the effects of chemical and/or biological substances.

- (d) the use of radioactive or nuclear agent, material, device or weapon;
- (e) the use of any missile, bomb, incendiary device, grenade, explosive or firearm;
- (f) the interference with or disruption of basic public or commercial services and systems, including but not limited to the following services or systems: electricity, natural gas, power, postal communications, telecommunications, information, public transportation, water, fuel, sewer or waste disposal;
- (g) the injuring or assassination of any elected or appointed government official or any government employee;
- (h) the seizure, blockage, interference with, disruption of, or damage to any government buildings, institutions, functions, events, tangible or intangible property or other assets; or
- (i) the seizure, blockage, interference with, disruption of, or damage to tunnels, roads, streets, highways, or other places of public transportation or conveyance.

B. Any of the activities listed in Section A (3) above shall be considered Terrorist Activity except where the Insured can conclusively demonstrate to the Insurer that the foregoing activities or threats thereof were motivated solely by personal objectives of the perpetrator that are unrelated, in whole or in part, to any intention to

- 1) promote or further any political, ideological, philosophical, racial, ethnic, social or religious cause or objective of the perpetrator or any organization, association or group affiliated with the perpetrator;
- 2) influence, disrupt or interfere with any government related operations, activities or policies;
- 3) intimidate, coerce or frighten the general public or any segment of the general public; or
- 4) disrupt or interfere with a national economy or any segment of a national economy.

This clause also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to points 1), 2), 3) and/or 4) above.

If the Insurer alleges that by reason of this exclusion, any loss, damage, cost or expense is not covered by this Insurance the burden of proving the contrary shall be upon the insured.

In the event that any part of this clause is found to be invalid or unenforceable, the

remainder shall remain in full force and effect

#### 34. COMMUNICABLE DISEASE EXCLUSION

1. Notwithstanding any provision to the contrary within this Insurance, this Insurance excludes all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defense cost, cost, expense or any other amount incurred by or accruing to the insured, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 2.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 2.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 2.3. the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress or damage to human health, human welfare or property damage.

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#### 35. Additional Nuclear Exclusion

Unless specifically agreed in respect of an insured loss involving Nuclear Material under determined circumstances, this Insurance does not cover legal liability, loss (including consequential loss) or damage, cost or expense caused directly or indirectly by any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

Nuclear Material, Nuclear Fission or Fusion, Nuclear Radiation, Nuclear Waste from the use of Nuclear Fuels, Nuclear Explosives or any Nuclear Weapon.

For the sake of clarity, the above exclusion does not cover legal liability, loss (including consequential loss) or damage, cost or expense caused directly or indirectly by or contributed to by or arising from ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

Definitions:

'Nuclear material' as defined in NMA 1975 (A)

'Nuclear fission' means a nuclear reaction in which a heavy nucleus splits spontaneously or on impact with another particle with the release of energy.

"Nuclear fusion" means a nuclear reaction in which atomic nuclei of low atomic number fuse to form a heavier nucleus with the release of energy.

'Nuclear radiation' means the absorption of electro-magnetic radiation by a nucleus having a magnetic moment when in an external magnetic field.

'Nuclear waste' means Radioactive Products or waste as defined in NMA 1975 (A)

'Nuclear fuels' means a substance that will sustain a fission chain reaction so that it can be used as a source of nuclear energy.

'Nuclear explosives' means an explosive involving the release of energy by nuclear fission or fusion or both.

'Nuclear weapon' means a nuclear device designed, used or capable of being used for the inflicting of bodily harm or property damage.

**36. Currency and/ or indice Manipulation and the like e.g. LIBOR.**

**37. Misinformation or incorrect information when soliciting potential investors or clients.**

**38. BIOLOGICAL OR CHEMICALS MATERIALS**

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.  
All other terms and conditions remain unchanged.

**39. MECHANICAL BREAKDOWN**

It is hereby declared and agreed that :  
The Insurers shall not be liable for any claim arising from or in consequence of alleged or actual Mechanical breakdown of the Insured's computer system or any parts thereof.  
All other terms and conditions remain unchanged.

**40. INVESTMENT BANKING**

It is hereby declared and agreed that:

The Insurers shall not be liable for any claim arising from or in consequence of alleged or actual Investment Banking activities or duties undertaken or performed by the Insured.  
All other terms and conditions remain unchanged.

#### **41. NO INNOCENT NON-DISCLOSURE**

It is hereby declared and agreed that:

The Insurers shall not be liable for any claim arising from or in consequence of alleged or actual Non-disclosure of information to the Insurers that may in any way prejudice Insurers rights that would have otherwise not have been if the information was disclosed prior to the loss or the binding over coverage.  
All other terms and conditions remain unchanged.

## **Claims Conditions**

### **1. Claims Notification**

The **Insured** shall give written notice to the **Insurers** as soon as reasonably practicable, but within the **Period of Insurance**, of:

- (a) any **Claim**; or
- (b) the receipt of any notice of an intention to make a **Claim**; or
- (c) any circumstances of which the **Insured** shall become aware which is likely to give rise to a **Claim**, giving detailed reasons for the anticipation of such **Claim**, together with full particulars as to dates and persons involved.

Such notice having been given as required by (b) or (c) above, any subsequent **Claim** made shall be deemed to have been made during the **Period of Insurance**.

### **2. Claims Handling**

(a) The **Insured** and any person acting on behalf of the **Insured** shall:

- (i) not admit liability in part or in full for or settle or attempt to settle any **Claim** or incur any costs and expenses in connection with any **Claim** without the **Insurers'** prior written consent (such consent not to be unreasonably withheld); and
- (ii) give all such information or assistance possible and forward all documents as the **Insurers** may require to enable them to investigate, settle or defend any **Claim**.

(b) The **Insurers** shall be entitled, but not obliged, at any time to take over and conduct in the name of the **Insured** the defence or settlement of any **Claim** or to prosecute in the name of the **Insured** for their own benefit any claim for payment, indemnity or damages or otherwise against any third party.

(c) The **Insured** shall not be required to contest any **Claim** unless Queen's Counsel (to be mutually agreed upon by the **Insured** and the **Insurers** or, in default of agreement, to be appointed by the President for the time being of the Law Society) shall advise that the defence of such **Claim** has 50 percent or greater prospect of success.



- (d) The **Insurers** shall not settle any **Claim** without the consent of the **Insured**. If, however, the **Insured** shall refuse to consent to any settlement recommended by the **Insurers** and shall elect to contest a **Claim**, then the **Insurers'** liability for such **Claim** (including costs and expenses) shall not exceed the amount for which the **Claim** could have been settled inclusive of costs and expenses incurred with their consent up to the date of such refusal, and then only up to the limit of liability stated in the **Schedule**. At any stage of a claim **Insurers** can pay the **Insured** the applicable limit of liability or what remains after any earlier payment from that limit of liability. **Insurers** will pay costs and expenses already incurred at the date of **Insurers'** payment. **Insurers** will then have no further liability for that claim or its costs and expenses.
- (e) The **Insured** shall not, except as may be required by law or during the ordinary course of the **Insured's Professional Business**, disclose to anyone the existence of this policy without the **Insurers'** prior written consent. For the avoidance of doubt, a requirement to disclose the existence of this policy is not a requirement to disclose its terms and conditions. However, the **Insured** may at any time request a proof of professional indemnity cover from its insurance intermediary who has arranged this policy and the disclosure of such proof of professional indemnity cover to any third party shall not be considered by the **Insurers** as a breach of this claims condition 2(e).

## General Conditions

### 1. Limit of Liability

In no event shall **Insurers'** liability under this policy exceed the amount stated as the limit of liability in the **Schedule**.

Insurance policies can operate on different bases; please refer to the **Schedule** and to the applicable explanation below of how the limit of liability operates under this policy.

#### (a) Aggregate Limit

When the limit of liability is stated in this policy or in the **Schedule** as "in the aggregate", "in all" or any term or phrase having the same or similar meaning then the **Insurers'** liability under this policy, including any extensions or endorsements, shall not exceed the limit of liability in the aggregate during any one **Period of Insurance**, irrespective of the number of claims made and the number of parties against whom such claims may be made.

#### (b) Any One Claim Limit

When the limit of liability is stated in this policy or in the **Schedule** as "any one claim", "each and every claim" or any term or phrase having the same or similar meaning then the **Insurers'** liability under this policy, including any extensions or endorsements, shall not exceed the limit of liability in respect of each **Claim**.

#### (c) Costs and Expenses Inclusive

When the limit of liability is stated in the **Schedule** as "including costs and expenses", "costs inclusive" or any term or phrase having the same or similar meaning then the costs and expenses shall form part of and not be in addition to the limit of liability and the

maximum amount that the **Insurers** shall be liable to pay under this policy shall not exceed the limit of liability stated in the **Schedule**.

**(d) Costs and Expenses in Addition**

When the limit of liability is stated in the **Schedule** as “excluding costs and expenses”, “costs and expenses in addition” or any term or phrase having the same or similar meaning then the **Insurers** shall be liable for such amounts as are covered under insuring clause 2. in addition to the limit of liability. However, if the **Insured’s** liability for any **Claim**, as finally settled or disposed of, exceeds the limit of liability stated in the **Schedule** then the **Insurers’** liability for costs and expenses under insuring clause 2. shall be limited to the same proportion that the limit of liability bears to the sum required to settle or dispose of the **Claim**. By acceptance of the inclusion of this clause the **Insured** specifically agrees to reimburse the **Insurers** for any overpayment of their proportion of costs and expenses.

**(e) Sub-Limits of Liability**

Any sub-limit of liability stated in this policy or in the **Schedule** applies as if it was the limit of liability for the claims specified for that sub-limit of liability and is deemed to be part of and not in addition to the limit of liability specified in the **Schedule** unless specifically stated to the contrary in this policy or in the **Schedule**

**(f) United States of America Claims**

Irrespective of the basis of the limit of liability stated in the **Schedule** or elsewhere, and when the **Jurisdictional Limits** includes the USA; the limit of liability shall always be in the aggregate and costs and expenses inclusive in respect of **USA Claims**, as detailed in general conditions 1. (a) and 1. (c). This limit of liability is deemed to be part of and not in addition to the limit of liability stated in the **Schedule**.

**2. Excess**

The **Insurers** shall only be liable to pay after the **Insured** has paid the applicable excess stated in the **Schedule**, which shall apply to each and every claim and shall be inclusive of costs and expenses (unless specifically stated to the contrary in the **Schedule**). However, even if the basis of the excess in the **Schedule** states otherwise, in respect of **USA Claims** the excess shall always apply to each and every claim and shall be inclusive of costs and expenses.

**3. Material Alterations**

The **Insured** shall give written notice to the **Insurers** as soon as reasonably practicable thereafter of any material change or change in circumstances affecting the nature of the **Insured’s Professional Business** and, until the **Insurers** have agreed in writing to accept the altered risk, the **Insurers** shall not provide any cover in respect of liability arising from such material change or change in circumstances.

**4. Disclosure**

The **Insured** must have provided the **Proposal** with reasonable skill and care and after having made all reasonable and appropriate enquiries.

If the **Insured** has made any misrepresentation or non-disclosure of any material facts or circumstances then the **Insurers** will not seek to avoid this policy, unless either:

- (a) the **Insurers** reasonably believe such misrepresentation or non-disclosure was deliberate or reckless; or
- (b) the **Insurers** would not have underwritten this policy on any terms if the facts or circumstances had been disclosed or not misrepresented.

Subject to the paragraph above, if the **Insured** made any misrepresentation or non-disclosure of any material facts and the **Insurers** would still have underwritten this policy but on different terms had the facts been disclosed or not misrepresented, then **Insurers** may instead:

- (i) reduce proportionately the amount paid or payable on any claim by reference to the ratio which the premium actually charged bears to the premium which **Insurers** would have charged had the **Insured** told **Insurers** about a material fact or circumstance. The same reduction shall be applied to any claims which have already been paid and any overpayment of such claims by **Insurers** shall be repaid by the **Insured**; and/or
- (ii) treat the policy as if it had included such additional terms (other than terms relating to premium) as **Insurers** would have imposed had the **Insured** told **Insurers** about a material fact or circumstance. Any such additional terms apply equally to existing, past and future claims.

## 5. Subrogation

The **Insurers** shall be subrogated to all the **Insured's** rights of recovery against any person, including but not limited to **Service Providers**, to the extent of any payment made under this policy and the **Insured** shall take all steps necessary to preserve the **Insurers'** rights of subrogation and shall give all such assistance in the exercise of rights of recovery as the **Insurers** may require. The **Insurers** agree not to exercise any such rights against any **Director, Member or Employee** of the **Insured** unless the claim is brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of that **Director, Member or Employee**. In this general condition **Employee** shall not include any **Service Provider**.

## 6. Fraudulent Claims

If the **Insured** makes a fraudulent claim under this policy then the **Insurers**:

- (a) will not pay such fraudulent claim;
- (b) may recover from the **Insured** any sums that they paid the **Insured** in respect of the claim; and
- (c) may give the **Insured** notice to terminate this policy with effect from the time of the fraudulent act.

A fraudulent claim includes supporting a claim by fraudulent documents, devices or statements (whether or not the claim itself is genuine) and exaggerated claims.

If the **Insurers** do terminate this policy then the **Insurers** will refuse all liability to the **Insured** for claims under this policy occurring after the time of the fraudulent act; and they

will not return any of the **Premium**. Such termination of policy by **Insurers** will not affect the policy with respect to a claim occurring prior to the fraudulent act.

#### **7. Premium Payment**

If the **Premium** has not been paid within 60 days of inception, the **Insurers** may cancel this policy by giving 30 days written notice to the **Insured** or to its insurance broker. In the event of cancellation, premium is due to the **Insurers** on a pro rata basis for the period that the **Insurers** were on risk but the full **Premium** shall be payable in the event of notification of a **Claim** or of any circumstances before the effective date of termination. If the **Premium** is paid in full to the **Insurers** before the notice period expires, notice of cancellation shall automatically be revoked. If not, this policy shall automatically terminate at the end of the notice period.

#### **8. Cancellation**

This policy may be cancelled at any time by the **Insured** giving notice of cancellation in writing to the **Insurers**. **Insurers** shall retain the proportion of the **Premium** for the period up to the receipt of the cancellation notice.

However, if the **Insured** reports to **Insurers** any **Claim** or any circumstance prior to the receipt of the cancellation notice, then the **Insurers** shall retain the entire **Premium** whether or not any payment is ever made.

#### **9. Third Party Rights**

The parties to this policy are the **Insurers** and the **Insured**. A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available other than by virtue of the Act.

#### **10. Waiver**

Any waiver by the **Insurers** of any provision of this policy will not prevent the **Insurers** from relying on such provision, term or condition in the future.

#### **11. Sanctions**

The **Insurers** shall not be deemed to provide cover and shall not pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment or such claim or provision of such benefit would expose the **Insurers** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the United Kingdom or the United States of America.

#### **12. Applicable Law and Jurisdiction**

This policy shall be governed by and construed in accordance with the laws of Mauritius.

It is agreed that the indemnity provided herein shall not apply to:-

1. Compensation for damages in respect of judgements delivered or obtained otherwise than by a court of competent jurisdiction in Mauritius.

2. Costs and expenses of litigation recovered by any claimant which are not incurred in and recoverable in Mauritius.

It being the intention of this Clause that this Policy shall only indemnify the Insured in accordance with customary practices, conditions and judgements normally applying in Mauritius.

### 13. Disputes Clause

Disputes arising from or in connection with this insurance may be referred by the Insured to a recognized mediation service. Any disputes arising from or in connection with this insurance shall be governed by the Laws of Mauritius.

### 14. Arbitration

If any difference shall arise as to the amount to be paid under this Policy (liability being otherwise admitted) such difference shall be referred to an Arbitrator to be appointed by the parties in accordance with the Statutory Provisions on that behalf for the time being in force.

### 15. Statutes

A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment, and includes any subordinate legislation for the time being in force made under it.

### 16. Other Insurance

The **Insurers** will not make any payment under this policy where the **Insured** would be entitled to be paid under any other insurance if this policy did not exist except in respect of any amount in excess of the amount that would have been payable under such other insurance had this policy not been effected.

### 17. Breach of Condition

Where the **Insured's** breach of or non-compliance with any condition of this policy has resulted in prejudice to the **Insurers** in the handling or settlement of any claim, the amount of any loss sustained by the **Insured** or in the obtaining of reimbursement from any source, then the amount of cover afforded (including liability for claimant's costs) shall be reduced to such sum as in the **Insurers'** reasonable opinion would have been payable by them in the absence of such prejudice.

If any payment on account of any such rejected or reduced claim has already been made the **Insured** will immediately repay to the **Insurers** all such payments which the **Insurers** determine should not have been made.

### 18. Extended reporting Period

If this Insurance is not renewed for any reason other than non-payment of premium, then the Insured shall be entitled to an extension of the Insurance Period (a "Discovery Period") of 24 months from the expiry of the Insurance Period, at any

additional premium that may be applicable .

The cover granted during a Discovery Period applies only to a Claim made against the Insured during the Discovery Period for a wrongful act by the Insured committed during the insurance Period.

The cover granted during a Discovery Period applies only if this Insurance is not replaced or succeeded by any other insurance or insurance policy affording substantially similar cover.

For the avoidance of doubt, claims arising out of wrongful acts prior to the Insurance Period shall not be covered during the Discovery Period.

The extended reporting period shall in no way extend the terms and conditions or the Sum Insured prevailing at expiry of the Insurance.

#### **19. Professional Indemnity Special Condition**

It is a condition precedent to liability that the Insured/Insured persons are fully qualified and registered with the relevant Industry Body/ Association in terms of legislation as applicable. In the absence of such legislation, Insurers shall have sole discretion in determining the minimum acceptable qualification and registration as required

The Insurers shall not be liable to indemnify the Insured in respect of a claim or loss resulting from any third-party claim arising directly or indirectly out of failure by the Insured to meet the requirements, conditions, obligations and restrictions imposed upon the Insured in terms of the Insured's operating licenses (and any similar Acts/Laws in other Territories).

**GROUP PERSONAL ACCIDENT INSURANCE POLICY**

This Policy should be read carefully and should be returned immediately to the Company if it is found to be incorrect or not providing the cover required.

*This Policy is governed by "Livre III, Titre Douzième, Chapitre Troisième of the Mauritius Civil Code" except to the extent the articles mentioned in Article 1983-12 are varied by terms and conditions herein,*

WHEREAS the Insured named in the Schedule attached hereto has by a Proposal which shall be the basis and form part of this Contract applied to SICOM General Insurance Limited (hereinafter called "the Company" or "the Insurer") for the Insurance hereinafter contained.

NOW THIS POLICY WITNESSETH that, in consideration of the Premium as stipulated in the Schedule and subject to the definitions, terms, exceptions and conditions contained herein or endorsed or otherwise expressed hereon, the Company agrees that, if during the period of Insurance any of the Insured Person shall sustain Bodily Injury within the Territorial Limits mentioned in the Schedule, the Company shall pay to the Insured benefit in accordance with the Schedule of Benefit Entitlement attached herewith.

## **INTERPRETATION**

This Policy, the Schedules and any Endorsements shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule or any endorsement shall bear such meaning wherever it may appear.

## **DEFINITIONS**

- (i) “Annual Earnings” mean the basic salary inclusive of all extra remuneration as awarded under the Additional Remuneration Act or similar legislation plus thirteenth month bonus, if any, earned by the Insured person solely from the Insured during the period of insurance and as such excludes overtime and any other allowances.

Provided that, for the purpose of claims settlement, “Annual Earnings” shall mean the basic monthly salary inclusive of all extra remuneration awarded under the Additional Remuneration Act or Similar Legislation for the last twelve months prior to date of accidental Bodily Injury plus thirteenth month bonus, if any, but excluding overtime and any other allowances.

- (ii) “Bodily Injury” means bodily injury fatal or non fatal or blindness resulting solely and directly from accident caused by violent accidental external and visible means which shall directly and independently of any other cause, except illness directly resulting from medical or surgical treatment rendered necessary by such injury, result in Death or Disablement.
- (iii) “Permanent Total Disablement” means disablement which entirely prevents the Insured Person from attending to any business or occupation (of any and every kind) and which lasts 24 calendar months and at the expiry of the period is beyond hope of improvement or any one of the impairment described under the heading Total and Permanent Disablement in the Schedule of Benefit Entitlement.
- (iv) “Permanent Partial Disablement” means disablement resulting from Bodily Injury as described under the heading Permanent Partial Disablement in the Schedule of Benefit Entitlement.
- (v) “Temporary Total Disablement” means disablement which entirely prevents the Insured Person from attending to his business or occupation (of any and every kind) or if he has no business or occupation, from attending to his usual duties.



- (vi) “Medical Expenses” means the medical expenses (including operation fees, cost of medicine, surgical appliances, hospital or nursing home charges and ambulance charges but excluding other travelling expenses) necessarily incurred and expended in connection with any injury by accident within the meaning of the Policy subject, if the Company so requires, to the Medical Attendant’s detailed account being submitted to and approved by the Company.
- (vii) Word in the masculine gender shall include the feminine.

## **CONDITIONS**

### **1. INFORMATION ABOUT THE INSURED PERSON**

The Insured shall maintain a proper record of the name of each Insured Person together with his Annual Earnings and shall at all times allow the Company to inspect such records.

The Insured shall also notify immediately in writing to the Company of any change in occupation, pursuits or of any disease, physical defect or infirmity by which an Insured Person may become affected.

### **2. PREMIUM ADJUSTMENT**

The premium as stipulated in the Schedule shall be the amount payable at the inception of the Policy.

The premium and all renewal premiums that may be accepted shall, as far as applicable, be regulated by the amount of Annual Earnings paid by the Insured to the Insured Persons and the Insured shall supply the Company with such earnings within one month from the expiry date of such period of insurance. If the amount so paid shall differ from the amount on which the premium has been paid the difference in premium shall be met by a further payment to the Company or by a refund by the Company as the case may be.

### **3. PREMIUM PAYMENT**

The Insured shall effect payment of the premium due as per instructions specified in the debit note and/or any premium warranty clause issued by the Company.

### **4. LIMIT OF LIABILITY**

**The Liability of the Company in respect of any one occurrence, any one Insured Person and any one period shall not exceed the amounts set out in the Policy Schedule.**

**5. VALIDITY**

No alteration in the terms of this Policy and no endorsement shall be valid unless signed by an authorised officer of the Company

**6. NON ASSIGNABILITY**

The Company shall not be bound to notice or be affected by notice of any trust, charge, lien, assignment or other dealing with this Policy and the receipt for any benefit paid hereunder shall in all cases effectually discharge the Company.

**7. CLAIMS PROCEDURE**

- (i) In the event of an Insured Person sustaining any injury in respect of which a claim arises under this Policy:**

  - (a) written notice thereof shall be given to the Company by the Insured as soon as possible and in any event within three calendar months after the date of the injury. If the Insured Person shall die, notice of death shall be given immediately,**
  - (b) the Insured Person or his legal personal representatives shall at his or their expense furnish to the Company such certificates, information and evidence as the Company may from time to time reasonably require in the form and of the nature prescribed by the Company,**
  - (c) the Company shall be allowed at its own expense upon reasonable notice to the Insured Person to have a medical examination of the Insured person from time to time or in the case of death upon a reasonable notice to the Insured Person's legal personal representative to have a post-mortem examination of the body.**
  - (d) as soon as possible after the occurrence of an accident which may be subject to a claim under this Policy, the Insured Person must obtain and follow the advice of a qualified Medical Practitioner. The Company shall not be liable for any consequences arising from failure by the Insured Person to obtain and follow such advice.**
- (ii) If the Insured shall make any claim knowing same to be false or fraudulent as regards amount or otherwise, this Policy shall become void and all claims hereunder shall be forfeited.**

**8. MISREPRESENTATION FRAUD AND DUTY OF FULL DISCLOSURE**

**Any withholding of facts or intentional false declaration made in bad faith by the Insured shall entail the nullity of Policy when such withholding or false declaration alters the nature of the risk or makes it appear less hazardous even though the fact withheld or misrepresented has been without influence on the loss and in such a case the Company shall retain the whole of the premium paid and shall be entitled to claim all premiums due and demandable.**

**In the event such withholding or false declaration was not made in bad faith the Company shall be entitled:**

- (a) If the fact is ascertained before the loss**
  - (i) either to maintain the Policy subject to the Insured agreeing to pay an increased premium or**
  - (ii) to cancel the Policy after giving 14 days notice to that effect to the Insured and refunding a proportionate part of the premium paid.**
- (b) If the fact is ascertained after the loss to reduce the indemnity payable in the proportion the premium paid bears to the premium which should have been paid.**

**9. AGGRAVATION IN RISK**

**During the currency of the Policy the Insured must report to the Company by registered letter any modification likely to aggravate the risk in such a manner that, had the new state of affairs existed at the writing of the Policy, the Company would have contracted or would only have done so against a higher premium (the word “modification” shall include any change in occupation, disease physical defect or infirmity contracted or sustained by any of the Insured Persons during the period of insurance).**

**Such report must be made prior to the modification if this is brought about by an act of the Insured and in other cases within eight days from the moment it has come to the Insured’s knowledge. In either case it shall be open to the Company:**

- either to cancel the Policy**
- or to claim an increased premium in which case if the Insured does not accept the new rate of premium the Policy shall be cancelled.**

**In the event of the abovementioned aggravation of risk being due to an act of the Insured the Company will be entitled in addition to claim damages.**

**10. OTHER INSURANCES**

**The Insured shall disclose to the Company any other insurance taken in respect of Medical Expenses. The disclosure shall amongst other things state the name of the other Insurer(s) and the sum(s) insured.**

**11. SUBROGATION**

**Upon payment of the indemnity the Company shall be subrogated in all the rights, actions and privileges of the Insured as provided for in Article 1983 – 50 of the Mauritian Civil Code.**

**In the event of any act of the Insured affecting the full effect of the subrogation in favour of the Company, either in its inception or its operation, the liability of the Company towards the Insured shall be reduced in whole or in part as provided for in the second paragraph of Article 1983 –50.**

**12. OBSERVANCE**

**The due observance and fulfilment of the Terms, Conditions and Exceptions of this Policy, insofar as they relate to anything to be done or complied with by the Insured and/or the Insured Person shall be conditions precedent to any payment under this Policy.**

**13. DURATION OF THE CONTRACT**

- (a) Subject to the provisions of paragraphs (b), (c) and (d) of the present Condition the duration of the contract shall be for the period expressed in the schedule attached to the present policy
- (b) The Company and the Insured shall be at liberty to terminate the contract at any time prior to the expiry date mentioned in the Schedule to the policy on the party so desiring giving 30 days notice in writing to that effect to the other party
- (c) In cases where the policy covers several risks, it shall be permissible to either the Company or the Insured to terminate by anticipation in the manner set out in paragraph (b) above the contract in respect of any one or more of the several risks insured
- (b) In the event of a cancellation by anticipation as provided in paragraphs (b) and (c) above the Company shall:
  - (i) when such cancellation is made at the request of the Insured, adjust the premium on the basis of the Company receiving or retaining

the customary short term premium, provided that no claim has been paid or is payable during the current period of insurance

- (ii) when such cancellation is made by the Company, refund or retain the premium on a pro-rata basis.

#### **14. CANCELLATION**

The present contract may be cancelled before its normal expiry date in the following cases, inter alia,

- (1) In the event of the death of the Insured or the transfer of the property insured as provided for in Articles 1983 - 48 and 49 of the Mauritius Civil Code
- (2) For non payment of premium (Articles 1983 - 21 to 24 of the Mauritius Civil Code)
- (3) In the event of aggravation of risk (Article 1983 - 25 of the Mauritius Civil Code)
- (4) In case of withholding of facts or intentional false declaration by the Insured (Article 1983 - 30 of the Mauritius Civil Code)
- (5) In the events set out in Article 1983 - 35 of the Mauritius Civil Code
- (6) In the event of bankruptcy of the Company or the Insured as provided for in Articles 1983 - 27 and 28 of the Mauritius Civil Code
- (7) In the event of the Company refusing to reduce the premium in circumstances provided for in Article 1983 - 29 of the Mauritius Civil Code

Whenever a party purports to cancel the present Contract, he shall give notice thereof to the other party by way of a registered letter, and in cases falling under Article 1983 - 35 of the Mauritius Civil Code, with avis de reception.

#### **15. ARBITRATION**

If the difference shall arise as to the amount to be paid under this Policy (liability being otherwise admitted) such difference shall be referred to an Arbitrator to be appointed by the parties in accordance with the Statutory Provisions in that behalf for the time being in force.

#### **16. APPLICABLE LAW AND JURISDICTION CLAUSE**

This policy shall be governed by and construed in accordance with the laws of Mauritius.

It is agreed that the indemnity provided herein shall not apply to:-

- 1. Compensation for damages in respect of judgements delivered or obtained otherwise than by a court of competent jurisdiction in Mauritius.

2. Costs and expenses of litigation recovered by any claimant which are not incurred in and recoverable in Mauritius.

it being the intention of this Clause that this Policy shall only indemnify the Insured in accordance with customary practices, conditions and judgements normally applying in Mauritius.

17. The compensation payable under this Policy is to the benefit of the Injured Person and in case of death to the benefit of his legal personal representatives.
18. All claims are payable in Mauritius in local currency.

SPECIMEN

## **EXCLUSIONS**

- 1. The Company shall not be liable in respect of Bodily Injury directly or indirectly caused by, arising out of or resulting from or traceable to:**
  - (a) the Insured Person being under the influence of alcohol, liquors or drugs (unless administered under the orders of a hospital or a qualified medical practitioner) or insanity or venereal diseases,**
  - (b) the Insured Person suffering from any physical defect or infirmity which existed prior to the accident,**
  - (c) the Insured Person wilfully exposing himself to needless peril (except in an attempt to save human life) or the Insured Person committing or attempting to commit suicide or engaging in any criminal act,**
  - (d) the Insured Person playing football for or against professional clubs or polo or underwater fishing or scuba diving or water skiing or hunting or all sports on ice or snow, board or roller, skating, any form of wrestling or combat (save in case of self defence), all sports in the air, or mountaineering (with the use of ropes or guides), skijoring or tobogganing or bobsleighting or participating in speed or endurance tests, or races of any kind (other than on foot) driving or riding motorcycles, autocycles, motor scooters and mopeds,**
  - (e) the Insured Person engaging in Air travel except as a fare paying passenger on a recognised airline operating on regular schedule air routes, or by any charter aircraft duly licensed as a recognized air carrier,**
  - (f) The Insured Person participating in any kind of race other than on foot or by bicycle. This exclusion does not apply to 'racing under sail' within a group policy,**
  - (g) Naval Military or air force services or operations,**
  - (h) Suicide or intentional self injury,**
  - (i) childbirth or pregnancy in the case of women,**
  - (j) nuclear fission, nuclear fusion or contamination by radioactivity,**
  - (k) participating in riots or strikes, or malicious acts.**

2. **The Company shall not be liable to pay compensation in respect of mental or nervous suffering, disorder or illness howsoever caused.**
3. **The Company shall not be liable in respect of:**
  1. **The insured person being engaged in Professional Sports or the insured person playing for or against professional sports team.**
  2. **Bodily Injury sustained by persons employed in:**
    - (a) **Manufacture, Storage, Filling, Breaking Down, Transport of fireworks, ammunition, fuses, cartridges, gunpowder, nitroglycerine or any explosive unless purely incidental to the main operations of the Insured;**
    - (b) **Gases and/or air under pressure in containers other than butane and the like in low pressure containers;**
    - (c) **Subaqueous work;**
    - (d) **Underground work;**
    - (e) **Construction and maintenance of coffer dams.**
4. **The Company shall not be liable in respect of bodily injury sustained in connection with:**
  - (a) **The fulfillment of any demands in the event of kidnap and/or ransom,**
  - (b) **Accidental death or injury arising out of chemical or biological substance which is not for peaceful means.**

**5. WAR, CIVIL WAR AND TERRORISM EXCLUSION**

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto it is agreed that this Policy excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence of the loss:

1. **War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war, subject to the Passive War clause;**
2. **Permanent or temporary dispossession resulting from confiscation, commandeering or requisition by any lawfully constituted authority;**
3. **Mutiny, civil commotion assuming the proportions of or amounting to a popular or military uprising, insurrection, rebellion, revolution, military or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or state of siege;**



4. Terrorist Activity as defined herein:

A. "Terrorist Activity" shall mean any deliberate, unlawful act that:

1. is declared by any authorised governmental official to be or to involve terrorism, terrorist activity or acts of terrorism; or
2. includes, involves, or is associated with the use or threatened use of force, violence or harm against any person, tangible or intangible property, the environment, or any natural resources, where the act or threatened act is intended, in whole or in part, to
  - (a) promote or further any political, ideological, philosophical, racial, ethnic, social or religious cause or objective of the perpetrator or any organization, association or group affiliated with the perpetrator;
  - (b) influence, disrupt or interfere with any government related operations, activities or policies;
  - (c) intimidate, coerce or frighten the general public or any segment of the general public; or
  - (d) disrupt or interfere with a national economy or any segment of a national economy; or
3. includes, involves, or is associated with, in whole or in part, any of the following activities, or the threat thereof:
  - (a) hijacking or sabotage of any form of transportation or conveyance, including but not limited to spacecraft, satellite, aircraft, train, vessel, or motor vehicle;
  - (b) hostage taking or kidnapping;
  - (c) the use of any biological or chemical agent, material, device or weapon including biological or chemical contamination as defined herein;

For the purpose of (c) "contamination" means the contamination, poisoning, or prevention and/or limitation of the use of objects due to the effects of chemical and/or biological substances.

- (d) the use of radioactive or nuclear agent, material, device or weapon;

- (e) the use of any missile, bomb, incendiary device, grenade, explosive or firearm;
- (f) the interference with or disruption of basic public or commercial services and systems, including but not limited to the following services or systems: electricity, natural gas, power, postal, communications, telecommunications, information, public transportation, water, fuel, sewer or waste disposal;
- (g) the injuring or assassination of any elected or appointed government official or any government employee;
- (h) the seizure, blockage, interference with, disruption of, or damage to any government buildings, institutions, functions, events, tangible or intangible property or other assets; or
- (i) the seizure, blockage, interference with, disruption of, or damage to tunnels, roads, streets, highways, or other places of public transportation or conveyance.

**B** Any of the activities listed in Section A (3) above shall be considered Terrorist Activity except where the Insured can conclusively demonstrate to the Insurer that the foregoing activities or threats thereof were motivated solely by personal objectives of the perpetrator that are unrelated, in whole or in part, to any intention to

- 1) promote or further any political, ideological, philosophical, racial, ethnic, social or religious cause or objective of the perpetrator or any organization, association or group affiliated with the perpetrator;
- 2) influence, disrupt or interfere with any government related operations, activities or policies;
- 3) intimidate, coerce or frighten the general public or any segment of the general public; or
- 4) disrupt or interfere with a national economy or any segment of a national economy.

This clause also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to points (1), (2), (3) and/or (4) above.

If the Insurer alleges that by reason of this exclusion, any loss, damage, cost or expense is not covered by this Policy the burden of proving the contrary shall be upon the Insured.

In the event that any part of this clause is found to be invalid or unforeseeable, the remainder shall remain in full force and effect.

**6. PASSIVE WAR CLAUSE**

This insurance does not cover death or disablement in any way caused or contributed to by war, whether war be declared or not, hostilities or any act of war or civil war when the Insured Person is taking an active part therein.

**7. AIDS EXCLUSION**

This insurance excludes liability arising from any condition directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HTLV III) or Lymphadenopathy Associated Virus (LAV) or the mutants, derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named.

**8. ASBESTOS**

This insurance shall not apply to and does not cover any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity provided that the loss or losses are caused or contributed to by the hazardous nature of asbestos.

**9. NUCLEAR ENERGY RISKS NMA 1975 (a)**

This Policy shall exclude Nuclear Energy Risks.

For all purposes of this Policy Nuclear Energy Risks shall mean all first and/or third party insurances (other than Workers' Compensation and Employers' Liability) in respect of:

- (I) All Property on the site of a nuclear power station.  
Nuclear Reactors, reactor buildings and plant and equipment therein on any site other than a nuclear power station.
- (II) All Property, on any site (including but not limited to the sites referred to in (I) above) used or having been used for:
  - a) the generation of nuclear energy or
  - b) the production, use or storage of nuclear material.

- (III) Any other Property eligible for insurance by the relevant local Nuclear Insurance Pool and/or Association but only to the extent of the requirements of that local Pool and/or Association.

The supply of goods and services to any of the sites, described in (I) to (III), above unless such insurances shall exclude the perils of irradiation and contamination by Nuclear Material.

Except as under-noted, Nuclear Energy Risks shall not include:

- (i) Any insurance in respect of the construction or erection or installation or replacement or repair or maintenance or decommissioning of Property as described in (I) to (III) above (including contractors' plant and equipment).
- (ii) Any Machinery Breakdown or other Engineering insurance not coming within the scope of (i) above.

Provided always that such insurance shall exclude the perils of irradiation and contamination by Nuclear Material.

However, the above exemption shall not extend to:

- 1. The provision of any insurance whatsoever in respect of:
  - (a) Nuclear Material;
  - (b) Any Property in the High Radioactivity Zone or Area of any Nuclear Installation as from the introduction of Nuclear Material or for reactor installations – as from fuel loading or first criticality where so agreed with the relevant local Nuclear Insurance Pool and/or Association.
- 2. The provision of any insurance for the under-noted perils:
  - Fire, lightning, explosion;
  - Earthquake;
  - Aircraft and other aerial devices or articles dropped therefrom;
  - Irradiation and radioactive contamination;
  - Any other peril insured by the relevant local Nuclear Insurance Pool and/or Association;

in respect of any other Property not specified in 1 above which directly involves the production, use or storage of Nuclear Material as from the introduction of Nuclear Material into such Property.

**Definitions:**

“Nuclear Material” means Nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a Nuclear Reactor, either alone or in combination with some other material; and

“Radioactive Products or Waste” means any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

“Nuclear Installation” means:

- (i) Any Nuclear Reactor;
- (ii) Any factory using nuclear fuel for the production of Nuclear Material, or any factory for the processing of Nuclear Material, including any factory for the reprocessing of irradiated nuclear fuel; and
- (iii) Any facility where Nuclear Material is stored, other than storage incidental to the carriage of such material.

“Nuclear Reactor” means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons.

“Production, use or storage of Nuclear Material” means the production, manufacture, enrichment, conditioning, processing, reprocessing, use, storage, handling and disposal of Nuclear Material.

“Property” shall mean all land, buildings, structures, plant, equipment, vehicles, contents (including but not limited to liquids and gases) and all materials of whatever description whether fixed or not.

“High Radioactivity Zone or Area” means:

- (i) for Nuclear Power Stations and Nuclear Reactors, the vessel or structure which immediately contains the core (including its supports and shrouding) and all the contents thereof, the fuel elements, the control rods and the irradiated fuel store; and
- (ii) for non-reactor Nuclear Installations, any area where the level of radioactivity requires the provision of a biological shield.

## **Nuclear Exclusion Extension**

Unless specifically agreed for an insured loss involving nuclear material under determined circumstances, this insurance does not cover loss or damage caused directly or indirectly by any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

Nuclear material, nuclear fission or fusion, nuclear radiation, nuclear waste from the use of nuclear fuels, nuclear explosives or any nuclear weapon.

### **Definitions:**

“Nuclear material” as defined in NMA 1975.

“Nuclear fission” means a nuclear reaction in which a heavy nucleus splits spontaneously or on impact with another particle with the release of energy.

“Nuclear fusion” means a nuclear reaction in which atomic nuclei of low atomic number fuse to form a heavier nucleus with the release of energy.

“Nuclear radiation” means the absorption of electro-magnetic radiation by a nucleus having a magnetic moment when in an external magnetic field.

“Nuclear waste” as defined in NMA 1975.

“Nuclear fuels” means a substance that will sustain a fission chain reaction so that it can be used as a source of nuclear energy.

“Nuclear explosives” means an explosive involving the release of energy by nuclear fission or fusion or both.

Nuclear weapon” means a nuclear device designed, used or usable for inflicting bodily harm or property damage.

## **10. COMPUTER LOSS GENERAL EXCLUSION**

General Exclusion applicable to all sections of this Policy insuring damage to property or the consequences of damage to property or any liability.

Notwithstanding any provision of this Policy including any special exclusion or extension or other provision not included herein which would otherwise override a general exclusion, this Policy does not cover:

- a) loss or destruction of or damage to any property whatsoever (including a computer) or any loss or expense whatsoever resulting or arising therefrom;
- b) any legal liability of whatsoever nature;
- c) any consequential loss;

directly or indirectly caused by or contributed to by or consisting of or arising from the incapacity or failure of any computer, correctly or at all,

- (i) to treat any date as the correct date or true calendar date. or correctly or appropriately to recognise, manipulate, interpret, process, store, receive or to respond to any data or information, or to carry out any command or instruction, in regard to or in connection with any such date; or

- (ii) to capture, save, retain or to process any information or code as a result of the operation of any command which has been programmed into any computer, being a command which causes the loss of data or the inability to capture, save, retain or correctly to process such data in regard to or in connection with any such date. or
- (iii) to capture, save, retain or to process any information or code due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and/or programmes,
- (iv) to capture, save, retain or to process any data as a result of the action of any computer virus or other corrupting, harmful or otherwise unauthorised code or instruction including trojan horse, time or logic bomb or worm or any other destructive code, media or programme or interference.

A computer includes any computer, data processing equipment, microchip, integrated circuit or similar device in computer or non-computer equipment or any computer software, tools, operating system or any computer hardware or peripherals and the information or data electronically or otherwise stored in or on any of the above, whether the property of the Insured or not.

Special Extension to the above General Exclusion.

- A. Loss or destruction of or damage to the insured property by fire, explosion, lightning, earthquake or by the special perils referred to in B below or indemnified by the Glass, Employer's Liability, Stated Benefits, Group Personal Accident or Motor section is not excluded by this General Exclusion.
- B. The special perils that are not excluded for the purpose of this special extension are damage caused by:
  - 1. storm, wind, water, hail or snow excluding damage to property
    - (a) arising from its undergoing any process necessarily involving the use or application of water;
    - (b) caused by tidal wave originating from earthquake or volcanic eruption;
    - (c) in the underground workings of any mine;
    - (d) in the open (other than buildings structures and plant designed to exist or operate in the open) \* ;
    - (e) any structure not completely roofed \*;
    - (f) being retaining walls \*;

\* Unless so described and specifically insured as a separate item

2. aircraft and other aerial devices or articles dropped therefrom;
3. impact by animals, trees, aerials, satellite dishes or vehicles excluding damage to such animals, trees, aerials, satellite dishes or vehicles or property in or on such vehicles.

These special perils do not cover wear and tear or gradual deterioration.

- C. The above General Exclusion also does not apply to consequential loss as insured by any Business Interruption Indemnity provided by this policy to the extent that such consequential loss results from damage to insured property by the perils referred to in A above.
- D. This Special Extension will not insure any loss destruction, damage or consequential loss if it would not have been insured in the absence of this Computer Loss General Exclusion and this Special Extension.
- E. This Special Extension shall not apply to any Public Liability Indemnity.

## 11. COMMUNICABLE DISEASE EXCLUSION

1. Notwithstanding any provision to the contrary within this Insurance, this Insurance excludes all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defense cost, cost, expense or any other amount incurred by or accruing to the insured, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 2.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 2.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 2.3. the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress or damage to human health, human welfare or property damage.



## **SCHEDULE OF BENEFIT ENTITLEMENT**

**Benefit entitlement: as stipulated in the Schedule**

### **PROVISOS**

1. No Benefit shall be payable:-
  - (a) Under Item 1, 2 and 3 unless the death or disablement occurs within twelve calendar months from the date of the Bodily Injury.
  - (b) Under Item 4 in respect of any one Bodily Injury, for more than 104 weeks from the commencement of the disablement.
  - (c) Under item 4 except with the consent of the Company, until the total amount thereof is ascertained and agreed.
  - (d) Under more than one item of Items 1, 2 and 3
  - (e) Under Item 4, where there is successive disablement under Items 2, 3 and 4 for any period beyond the date that the injury or wound which resulted in disablement has been healed or cured as far as reasonably possible notwithstanding that a loss as referred to in item 2 and 3 has been definitely established.
2. Upon payment to the Insured of any claim falling under:
  - (a) Item 1 or 2,
  - (b) Item 3 for which benefit as stated in the scale herein is 30% (thirty per cent) or more of the Benefit Per Person,  
  
all further liability of the Company under the Policy shall cease forthwith but only as regards Insured Person(s) in respect of whom such payment shall have been made.
3. In the event of the Insured Person being accepted for insurance whilst already suffering from a Permanent Partial Disablement, or if the Insurance be continued after such disablement notwithstanding the terms of Proviso 2(b) above it is hereby understood that should the Insured Person sustain any further disablement to any other limb and/or eye, benefit for such further disablement under Item 4 shall be calculated as that which would have been payable had the previous disability not existed.

## **SCALE OF PERMANENT DISABILITIES**

4. (i) The Percentage of the Benefit Per Person under Item 2 and 3 in respect of Permanent Total or Permanent Partial Disablement shall be as follows:

### **ITEM 2 - PERMANENT TOTAL DISABLEMENT**

Permanent Total Disablement	100%
Total Loss of sight of both eyes	100%
Loss of both arms or both hands	100%
Complete deafness of both ears, of traumatic origin	100%
Removal of the lower jaw	100%
Total loss of speech	100%
Loss of one arm and one leg	100%
Loss of one arm and one foot	100%
Loss of one hand and one leg	100%
Loss of both legs	100%
Loss of both feet	100%
Loss of one hand and one foot	100%

### **ITEM 3 - PERMANENT PARTIAL DISABLEMENT**

#### **HEAD**

Loss of osseous substance of the skull in all its thickness:

surface of at least 6 sq cm	30%
surface of 3 to 5 sq cm	20%
surface of less than 3 sq cm	10%
Partial removal of the lower jaw, rising section in its entirety or half of the maxillary bone	40%
Loss of one eye	30%
Complete deafness of one ear	15%

<b>UPPER LIMBS</b>	<b>RIGHT</b>	<b>LEFT</b>
Loss of one arm or hand	60%	50%
Considerable loss of osseous substance of the arm (definite and incurable lesion)	50%	40%
Total paralysis of the upper limb (incurable lesion of the nerves)	60%	50%
Total paralysis of the circumflex nerve	20%	15%
Shoulder ankylosis	35%	30%
Elbow ankylosis: in favourable position (15 degrees round the right angle)	25%	20%
in unfavourable position	40%	35%
Extensive loss of osseous substance of the two bones of the forearm (definite and incurable lesion)	40%	30%
Total paralysis of the median nerve	45%	35%
Total paralysis of the radial nerve at the torsion cradle	40%	35%
Total paralysis of the forearm radial nerve	30%	25%
Total paralysis of the hand radial nerve	20%	15%
Total paralysis of the cubital nerve	30%	25%
Ankylosis of the wrist in favourable position (straight and in pronation)	20%	15%
Ankylosis of the wrist in unfavourable position (flexion or strained extension or supine position)	30%	25%
Total loss of thumb	20%	15%
Partial loss of thumb (ungual phalanx)	10%	5%
Total ankylosis of thumb	15%	12%
Total amputation of forefinger	10%	8%
Amputation of two phalanges of forefinger	8%	7%

Amputation of the ungual phalanx of forefinger	4%	3%
Simultaneous amputation of thumb and forefinger	35%	25%
Amputation of thumb and a finger other than forefinger	25%	20%
Amputation of two fingers other than thumb and forefinger	12%	8%
Amputation of three fingers other than thumb and forefinger	20%	15%
Amputation of four fingers including thumb	45%	40%
Amputation of four fingers excluding thumb	30%	25%
Amputation of median finger	10%	8%
Amputation of a finger other than thumb, forefinger and Median	7%	3%

#### **LOWER LIMBS**

Amputation of thigh (upper half)	60%
Amputation of thigh (lower half) and leg	50%
Total loss of foot (tibio-tarsal disarticulation)	35%
Partial loss of foot (sub-ankle-bone disarticulation)	30%
Partial loss of foot (tibio-tarsal disarticulation)	25%
Partial loss of foot (tarso-metatarsal disarticulation)	30%
Total paralysis of lower limb (incurable nerve lesion)	60%
Complete paralysis of the external popliteal sciatic nerve	30%
Complete paralysis of the internal popliteal sciatic nerve	20%
Complete paralysis of two nerves (popliteal sciatic external and internal)	40%
Anchylosis of the hip	40%
Anchylosis of the knee	20%

Loss of osseous substance from thigh or both bones of the leg (incurable condition)	60%
Loss of osseous substance of the knee-pan with considerable separation of the fragments and considerable difficulty of movements in stretching the leg	30%
Loss of osseous substance of the knee-pan while the movements are preserved	15%
Shortening of the lower limb by at least 5cm	20%
Shortening of the lower limb by 3 cm to less than 5cm	15%
Shortening of the lower limb by less than 3 cm	10%
Total amputation of all the toes	20%
Amputation of four toes including big toe	15%
Amputation of four toes	10%
Amputation of big toe	8%
Amputation of two toes	5%
Amputation of one toe other than the big toe	3%
Anchylosis of the big toe	6%

- (ii) Anchylosis of the fingers (other than thumb and forefinger) and of the toes (other than the big toe) shall only entitle to 50% of the compensation which would be due for the loss of the said members.
- (iii) Permanent disabilities by accident not mentioned above shall be compensated in accordance with their seriousness as compared with that of those mentioned, the occupation of the Insured Person not being taken into consideration.
- (iv) The partial or total “functional” disablement, not specifically dealt with in the Schedule of Permanent Disabilities, of a limb or an organ is treated like the partial or total loss of the said limb or organ.
- (v) The total compensation payable in respect of several disablements due to the same accident is arrived at by adding together the various sums, but shall not exceed the total sum insured under Item 2 of the Schedule of Benefit Entitlement.
- (vi) If the Insured Person is left-handed, the percentages set out above for the various disabilities of the right upper limb and left upper limb will be transposed.