

Professional Indemnity Insurance Section (Miscellaneous)

Definitions

Operative Wording

The operative wording applicable to this **Section** as specified in the **Schedule**.

NB This wording is only operative when the reference **AGCSPIMISC010309** is specified in the Professional Indemnity section of the **Schedule**.

Bodily Injury

Physical injury, sickness, disease or death of a natural person; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.

Claim

Any:

- a) written demand for compensation in respect of a **Wrongful Act** of an **Insured**; or
- b) civil, regulatory or administrative proceedings whereby a **Wrongful Act** of an **Insured** is alleged.

Company

The **Policyholder** or any **Subsidiary** (including any predecessor business).

Damages

Any amount that an **Insured** shall be legally liable to pay to a **Third Party** in respect of judgments or arbitral awards rendered against an **Insured**, or for settlements negotiated by the **Insurer** with the consent of the **Policyholder**.

Defence Costs

Reasonable fees, costs and expenses incurred by or on behalf of an **Insured**, with the prior written consent of the **Insurer**, in the investigation, defence, adjustment, settlement or appeal of any **Claim**. It shall not include any element of an **Insured's** own time costs or lost profits incurred in dealing with a **Claim**.

Documents

All documents of any nature whatsoever including computer records and electronic or digitised data; but does not include any currency, negotiable instruments or records thereof.

Employee

Any natural person who is, has been or during the period of insurance becomes expressly engaged under a contract of employment with the **Company**.

Employee shall not include any principal, partner, director or **Member** of any **Insured** in their capacity as such.

Fraud/Dishonesty

Fraudulent or dishonest conduct:

- a) not condoned, expressly or implicitly by any principal, partner, director or **Member** of the **Company**; and

b) that results in liability of the **Company** to any **Third Party**.

Insured

The **Company** or any **Insured Person**.

Insured Person

- a) any natural person, who is or has been a principal, partner, director or **Member** of the **Company** in their capacity as such;
- b) any **Employee**;
- c) any natural person employed by the **Company** to whom the Financial Conduct Authority has given its approval to perform Controlled Function 30 for the **Company** pursuant to Section 59 of the Financial Services and Markets Act 2000 or any re-enactment thereof;
- d) any spouse, civil partner, estate or legal representative of any **Insured Person** for **Loss** arising from a **Claim** for a **Wrongful Act** of such an **Insured Person** listed in a), b), c) above;
- e) the administrator, heirs, legal representatives or executor of a deceased, incompetent, insolvent or bankrupt **Insured Person's** estate for **Loss** arising from a **Claim** for a **Wrongful Act** of such **Insured Person** listed in a), b), c) above.

Legal Panel

The firms of solicitors appointed from time to time by the **Insurer** to provide representation on behalf of an **Insured** under this **Section**.

Limit of Liability

The amount specified as such in the **Schedule**.

Limited Liability Partnership

A partnership as determined by the Limited Liability Partnerships Act 2000 and any subsequent amendments thereto.

Loss

Damages or **Defence Costs**, however **Loss** shall not include and this **Section** shall not cover any:

- a) taxes;
- b) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages;
- c) fines or penalties unless insurable by law;
- d) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief;
- e) benefits or overheads of, or charges or expenses incurred by any **Insured** including but not limited to the cost of any **Insured's** time;
- f) fees or commissions, for any **Professional Services** rendered or required to be rendered by an **Insured** or that portion of any settlement or award in an amount equal to such fees, commissions, or other compensation; or
- g) matters which may be deemed uninsurable under the law governing this **Section** or the jurisdiction in which a **Claim** is brought.

Member

A member of a **Limited Liability Partnership**.

Policyholder

The entity specified as such in the **Schedule**.

Pollutants

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

Professional Services

The professional services and/or activities of the **Policyholder** and any **Subsidiary** as specified in the **Schedule**.

Property Damage

Damage to or loss of or destruction of tangible property or loss of use thereof.

Related Claim

Any **Claims** alleging, arising out of, based upon or attributable to the same facts or alleged facts, or circumstances or the same **Wrongful Act**, or a continuous repeated or related **Wrongful Act**.

Retention

The amount specified as such in the **Schedule**

Retroactive Date

The date specified as such in the **Schedule**.

Settlement Value

In respect of any **Claim** covered under this **Section**:

- a) the full amount claimed; or
- b) any settlement offer from the claimant(s) which is capable of acceptance.

Where the claimant(s)' costs, if applicable, are not quantified by the claimant, the **Insurer** will also pay a reasonable sum to an **Insured** to represent these costs.

Submission

- a) each and every signed proposal form, the statements, warranties, and representations therein, its attachments;
 - b) the financial statements of any **Company**; and
 - c) other documents of any **Company** filed with a regulator and all other material information;
- submitted to the **Insurer** in connection with this **Section** or the **Policy**.

Subsidiary

Any entity in which the **Company**, either directly or indirectly through one or more entities;

- a) controls the composition of the board of directors;
- b) controls more than half of the voting power; or
- c) holds more than half of the issued share capital;

on or before the inception date of this **Section**.

For any **Subsidiary** or any **Insured** thereof, cover under this **Section** shall only apply to **Wrongful Acts** committed while such entity is a **Subsidiary** of the **Company**.

Terrorism

An act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s), 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.

Third Party

Any entity or natural person except (i) any **Insured**; or (ii) any other entity or natural person having a financial interest or executive role in the operation of the **Company**.

Transaction

Any one of the following events:

- a) the **Company** consolidates with or merges into or sells all or a majority of its assets to any other person or entity or group of persons and/or entities acting in concert;
- b) an administrator, liquidator or receiver is appointed to the **Company**.

Wrongful Act

Any actual or alleged act, error or omission committed solely in the performance of or failure to perform **Professional Services**.

Cover

A Professional Liability Coverage

The **Insurer** will pay on behalf of an **Insured** all **Loss** resulting from any **Claim** first made against an **Insured** during the **Period of Insurance** and notified to the **Insurer** as required by this **Section** for a civil liability arising from an **Insured's Professional Services**.

B Automatic Acquisition

If during the **Period of Insurance** the **Policyholder** obtains, either directly or indirectly:

- a) control of the composition of the board of directors;
- b) control of more than half of the voting power; or
- c) a holding of more than half of the issued share capital;

of another entity then the definition of **Subsidiary** shall be extended to include such entity provided that:

- i) the entity has annual revenue for the last complete accounting period prior to the acquisition, of less than 10% of the total annual revenue of the **Company** declared in the latest Annual Report and Accounts as at inception;
- ii) the entity is not incorporated, domiciled or providing **Professional Services** in the United States of America or Canada or any of their territories;
- iii) the entity is not regulated by the US Securities and Exchange Commission;
- iv) the entity is not aware of any claims (either paid or notified) or circumstances within the preceding five years of a type which may have been covered had they been notified under a professional liability policy similar in scope and breadth of coverage to the cover afforded hereunder; and
- v) the business activities of the entity fall within the definition of **Professional Services**

In all other circumstances, the **Policyholder** may request an extension of this **Section** for such entity. The **Insurer** shall have the right but not the duty to offer cover for such entity and the **Policyholder** shall give the **Insurer** sufficient details to permit the **Insurer** to assess and evaluate the potential increase in exposure. In the event that coverage is provided, the **Insurer** shall be entitled to amend the terms and conditions of this **Section**, during the **Period of Insurance**, including but not limited to, the charging of a reasonable additional premium.

C Court Attendance

For any person described in i) and ii) below who actually attends a court or an arbitration or an adjudication hearing as a witness in connection with a **Claim** notified under and covered by this **Section**, the **Insurer** will pay the following rates per day for each day on which attendance in court has been required:

- i) for any principal, partner, director or **Member** of an **Insured**: £300
- ii) for any **Employee**: £150

No **Retention** shall apply to this Cover.

