

Professional Indemnity Insurance for Financial Institutions

Policy Schedule

Policy number

Policyholder

Address

Policy Period

Inception Date

Expiry Date

Both days inclusive at above address

Limit of Liability

USD in the aggregate for all Loss

Retention

each and every Claim

Retroactive Date

None

Continuity Date

Premium

Excluding insurance premium tax: USD

Total payable: USD

Endorsements

1.

2.

3.

Signed and dated on behalf of Dubai Insurance Co. psc

Date:

Signature:

Professional Indemnity Insurance for Financial Institutions

Whereas during the *Policy Period Claims* are first made or the *Insured* first becomes aware of circumstances that are reasonably expected to give rise to *Claims*, cover under this policy is afforded solely with respect to such *Claims* and circumstances that are notified to the *Insurer* as required herein.

1. Cover

1.1 Civil Liability

The *Insurer* shall pay on behalf of the *Insured* all *Loss* resulting from any *Claim*.

1.2 Emergency Mitigation Costs and Expenses

The *Insurer* shall indemnify the *Insured* for *Emergency Mitigation Costs and Expenses*.

Cover for *Emergency Mitigation Costs and Expenses* shall not exceed 10% of the *Limit of Liability* and shall be part of and not in addition to the *Limit of Liability*.

2. Definitions

2.1 **Claim** means the earliest of any:

- (i) written demand by a *Third Party* for compensation;
- (ii) confirmation in writing from a *Third Party* of an intention to pursue an action;
- (iii) civil proceeding commenced by a *Third Party* through the service of a complaint or similar pleading;
- (iv) arbitration proceeding commenced by a *Third Party* through the submission of a statement or claim or similar document; or
- (v) formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document;
- (vi) criminal proceeding commenced by a *Third Party* against an *Insured* for a *Wrongful Act*.

2.2 **Company** means the *Policyholder* or any *Subsidiary* thereof.

2.3 **Damages** means any amount that an *Insured* shall be legally liable to pay to a *Third Party* in respect of judgments or arbitral awards rendered against such *Insured*, or settlements entered into with the prior written consent of the *Insurer* for a *Wrongful Act*.

2.4 **Defence Costs** means all reasonable fees, costs and legal expenses, including disbursements, 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 the *Insured's* own costs in dealing with a *Claim*.

2.5 **Emergency Mitigation Costs and Expenses** means all reasonable payments incurred by the *Insured* following the notification of circumstances as required in this policy, which payments the *Insurer* determines to be:

- (i) solely and directly attributable to; and
- (ii) reasonably and necessarily incurred in;

the prevention or reduction in the amount of *Loss* which the *Insurer* reasonably accepts would have resulted from a *Claim*.

It does not mean or include:

- (a) an *Insured's* loss of opportunity, revenue or profits;
- (b) overheads, staff remuneration or management time of any *Insured*;
- (c) compensation or other payments made to customers, clients or potential claimants; or
- (d) any amounts which do not fall within the definition of *Loss*.

2.6 **Employee** means any natural person who is, has been or during the *Policy Period* becomes expressly engaged under a contract of employment with any *Company*.

Employee includes any principal, partner (which shall be deemed to include a member of a partnership as determined by the Limited Liability Partnerships Act 2000 and any subsequent amendments thereto) or director of the *Company*, but only when acting within the scope of their duties in the performance of *Professional Services* (as distinguished from carrying out duties as a principal, partner or director of the *Company* in relation to the *Company's* own affairs). However, *Employee* does not mean or include any independent broker, financial adviser, representative or agent, remunerated on a sales or commission basis, or any contractor.

2.7 **Insured** means

- (i) any *Company*;
- (ii) any *Employee*; or
- (iii)
 1. any spouse, civil partner, estate or legal representative of any *Employee*; and
 2. the administrators, heirs, legal representatives or executors of a deceased, incompetent, insolvent or bankrupt *Employee's* estate;solely in respect of their personal liability for *Loss* arising from a *Claim* for a *Wrongful Act* of such *Employee*.

2.8 **Insurer** means Dubai Insurance Company psc.

2.9 **Investigation** means any formal or official hearing, investigation or inquiry by a governmental or judicial agency in relation to the performance by the *Insured* of *Professional Services* :

An *Investigation* shall be deemed to be first made when the *Insured* is first compelled, required or identified to attend such hearing, investigation or inquiry.

Investigation shall not include routine regulatory supervision, inspection or compliance reviews or any investigation which focuses on an industry rather than an *Insured*. 2.10 **Legal Panel** means the firms of

solicitors appointed from time to time by the *Insurer* to provide representation on behalf of the *Insured*.

2.11 **Limit of Liability** means the amount specified as such in the Schedule.

2.12 **Loss** means *Damages* or *Defence Costs*. *Loss* shall not include any:

- (i) taxes;
- (ii) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages;
- (iii) fines or penalties unless insurable under the law governing this policy;
- (iv) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief;
- (v) benefits or overheads of, or charges or expenses incurred by any *Insured* including but not limited to the cost of any *Insured's* time;
- (vi) fees or commissions, for any *Professional Services* rendered or required to be rendered by the *Insured* or that portion of any settlement or award in an amount equal to such fees, charges, costs, commissions, or other compensation or payment charges; or
- (vii) any *Damages* and *Defence Costs* which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a *Claim* is brought.

2.13 **Policy Period** means the period of time specified as such in the Schedule.

2.14 **Policyholder** means the organisation specified as such in the Schedule.

2.15 **Pollutants** means any substance, solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including but not limited to, asbestos, asbestos products, mycota or by-products, lead, or lead containing products, smoke, vapours, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals, air emissions, odour, waste water, oil, oil products, medical waste and waste materials. Waste materials include but are not limited to recycled, reconditioned or reclaimed and nuclear materials.

2.16 **Premium** means the amount specified as such in the Schedule.

2.17 **Professional Services** means any financial or professional services provided to *Third Parties* by the *Company* and shall include all administrative, back office or other internal functions carried out to support the provision of those services.

2.18 **Related Claim** means any *Claims* arising out of, based upon or attributable to:

- (i) the same facts;
- (ii) the same alleged facts;
- (iii) the same circumstances;
- (iv) the same *Wrongful Act*; or
- (v) a continuous or related *Wrongful Act*.

2.19 **Retention** means the amount specified as such in the Schedule.

2.20 **Retroactive Date** means the date specified as such in the Schedule.

2.21 **Security** means a bond or share represented by an official instrument of a type commonly dealt in on a securities exchange and which is either one of a class or series or by its terms is divisible into a class or series of shares, participations, interest or obligations.

2.22 **Submission** means each and every signed proposal form, the statements, warranties, and representations therein, its attachments and all other material information submitted to the *Insurer* in respect of this *Policy Period*.

2.23 **Subsidiary** means any entity during the time that the *Policyholder* either directly or indirectly:

- (i) controls the composition of the board of directors;
- (ii) controls more than half of the voting power; or
- (iii) holds more than half of the issued share capital.

Subsidiary shall not include any entity that meets the criteria in (i) – (iii) above for the first time during the *Policy Period* where such entity:

1. at the date of its acquisition by the *Insured*:
 - (a) has total gross assets which are more than 15% of the *Insured's* total consolidated gross assets as recorded in the latest audited financial statements of the *Policyholder* prior to inception of the policy;
 - (b) derives more than 20% of its overall revenue from its operations in the United States of America its territories and possessions;
 - (c) has incurred any loss of the type covered by this policy with a quantum greater than the *Retention* within the past 5 years of operating as the former business; or
 - (d) generates the majority of its gross revenue via the internet, or from factoring, accounts receivable financing or invoice discounting.
2. is created by the *Insured* for the purpose of acquiring assets and liabilities (that are not assets and liabilities of a *Company*) which after such acquisition shall:
 - (a) have total gross assets which are more than 15% of the *Insured's* total consolidated gross assets as recorded in the latest audited financial statements of the *Policyholder* prior to inception of the policy;
 - (b) derive more than 20% of its overall revenue from its operations in the United States of America its territories and possessions; or
 - (c) generate the majority of its gross revenue via the internet, or from factoring, accounts receivable financing or invoice discounting.

Should the *Policyholder*, wish for cover to be extended to include entities not automatically covered by the foregoing, then the *Policyholder* shall give the *Insurer* sufficient details to permit the *Insurer* to assess and evaluate the potential increase in exposure. The *Insurer* shall have the right, but not the duty, to offer cover for such an entity. In the event that coverage is provided, the *Insurer* shall be entitled to amend the policy terms and conditions in respect of such an entity, during the *Policy Period*, including but not limited to, charging a reasonable additional premium.

For any *Subsidiary*, cover under this policy shall only apply to *Claims* for *Wrongful Acts* committed while such entity is a *Subsidiary* of the *Policyholder*.

2.24 **Terrorism** means 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.

2.25 **Third Party** means any entity or natural person except:

- (i) any *Company*, including any parent, successor or assign of the *Policyholder*, or any entity in which an *Insured* or the management of any *Company* has an executive or controlling interest, or such entity's successor or assign;
- (ii) any principal, partner or director of any *Company* or any *Employee* in their capacity as such;
- (iii) any person who is a shareholder or bondholder of any *Company*, or a holder of any similar corporate benefit or obligation in their capacity as such; or
- (iv) any person acting on behalf of any *Company*

2.26 **Transaction** means any one of the following events:

- (i) the *Policyholder* 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;
- (ii) an administrator, liquidator or receiver is appointed to the *Policyholder*.

2.27 **Wrongful Act** means any actual or alleged act, error or omission committed in the performance of or failure to perform *Professional Services* by:

- (i) any *Company*;
- (ii) any *Employee*; and/or
- (iii) any other person for whose conduct any *Company* is, or is alleged to be, legally liable.

3. Exclusions

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses*:

3.1 Bodily Injury/ Property Damage

arising out of, based upon or attributable to:

- i. 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; or
- ii. damage to or loss of or destruction of tangible property or loss of use thereof;

3.2 Conduct

arising out of, based upon or attributable to:

- i. the gaining of or intentional attempt to gain profit, remuneration or advantage to which the *Insured* was not legally entitled; or
- ii. the committing of a dishonest, fraudulent or criminal act;

in the event that any of the above is established by final adjudication of a judicial or arbitral tribunal or by an admission by an *Insured*.

3.3 Contractual Liability

arising out of, based upon, or attributable to any liability under any contract or agreement except to the extent such liability would have attached to the *Insured* in the absence of such contract or agreement.

3.4 Government and Regulator

arising out of, based upon, or attributable to actions by or on behalf of or at the behest of any government, government body, governmental or administrative agency, official trade body, self-regulatory organisation or any other regulator (any of which is "Regulator"), except:

- i. when acting solely in the capacity of a client or customer of any *Company*;
- ii. where such Regulator has indemnified a customer or client of the *Company*, to whom the *Insured* owes a legal duty or obligation, and is assignee of or becomes subrogated to any or all of the rights that such customer or client has or had against the *Insured*;
- iii. when such Regulator is acting on behalf of or for the benefit of one or more individual parties who each would, but for such *Claim*, have standing to bring the said *Claim* as a claimant directly against the *Insured*, and the Regulator makes such *Claim* in its capacity as such; or
- iv. an *Investigation*.

3.5 Infrastructure

arising out of, based upon or attributable to:

- i. software or mechanical failure;
- ii. electrical failure, including any electrical power interruption, surge, brown out or black out; or
- iii. telecommunications or satellite systems failure;

outside the control of any *Insured*.

This exclusion shall not apply to any *Claim* to the extent that it results from a *Wrongful Act* committed by an *Employee* in using the systems of the *Company*.

3.6 Insolvency

arising out of, based upon or attributable to the insolvency, liquidation, administration or receivership of an *Insured*.

3.7 Lender's Liability

arising out of, based upon, or attributable to an *Insured's* failure to provide, continue, honour or extend any actual or alleged loan, or transaction in the nature of a loan (including a lease), or an extension of credit or other financing, or any actual or alleged commitment thereto, whether authorised or unauthorised.

3.8 Market Abuse

arising out of, based upon, or attributable to any actual or alleged conduct which constitutes market abuse pursuant to the provisions of the Financial Services and Markets Act 2000.

3.9 Proprietary Risks

arising out of, based upon, or attributable to:

- i. a proprietary trading loss, a proprietary financial loss or a proprietary business loss where the *Insured* is acting for its own account; or
- ii. any liability under a contract of insurance or reinsurance to pay benefits or indemnity due to an *Insured's* capacity as an insurer or reinsurer of such contract of insurance or reinsurance; or
- iii. any claim brought against an *Insured* in respect of a *Transaction* where the *Insured* has acted as a principal or counterparty.

3.10 North American Investment Banking

arising out of, based upon, or attributable to:

- i. the underwriting, securitising, syndicating, promoting, or market making of any debt or equity security or other evidence of indebtedness, or any loan or other extension of credit, or any other similar investment banking activity;
- ii. the rendering of advice or recommendations regarding any actual, attempted or threatened merger, acquisition, divestiture, tender offer, proxy contest, leveraged buy-out, privatisation, insolvency proceeding, reorganisation, capital restructuring, re-capitalisation, spin-offs, primary or secondary offerings of debt or equity securities or other evidence of indebtedness, dissolution or sale of all or substantially all of the assets or stock of a business entity or any effort to raise or furnish capital or financing for any enterprise or entity;
- iii. the rendering of a fairness opinion regarding the valuation of any assets or business entity not held by the *Insured* as trustee; or
- iv. any acquisition or sale of securities by the *Insured* for their own account; or any disclosure requirements in connection with (i), (ii) or (iii) above;

by an *Insured* where legal action or litigation:

- a. is brought in the courts of the United States of America or Canada (or their territories or protectorates);
- b. arises out of any legal action or litigation brought outside the United States of America or Canada (or their territories or protectorates) to enforce a judgment of a United States of America or Canadian court;
- c. arises out of any of the activities of the *Insured* listed in (i), (ii), (iii) or (iv) above in the United States of America or Canada (or their territories or protectorates); or
- d. is threatened or contemplated and there is a prospect that that actual legal action or litigation shall be:
 - (1) brought before the courts of the United States of America or Canada (or their territories or protectorates);
 - (2) brought outside the United States of America or Canada (or their territories or protectorates) to enforce a judgment of a United States of America or Canadian Court; or
 - (3) arise out of the activities of the *Insured* listed in (i), (ii), (iii) or (vi) above in the United States of America or Canada (or their territories or protectorates).

3.11 Pollution

arising out of, based upon or attributable to any direction, request or effort to: (a) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *Pollutants*, or (b) respond to or assess the effects of *Pollutants*.

3.12 Prior Acts

arising out of based upon, attributable to [or in any way involving] any *Wrongful Act* which first takes place before the *Retroactive Date* (if any).

3.13 Prior Claims / Circumstances

- (i) arising out of, based upon or attributable to any *Claim* made prior to the inception of this *Policy Period* including any *Related Claim* thereto, or
- (ii) arising out of, based upon or attributable to any circumstances or occurrence known to the *Insured* prior to the Inception Date of this *Policy Period* and which the *Insured* knew or could reasonably have foreseen might give rise to a *Claim*.

3.14 SEC

arising out of, based upon, or attributable to, any actual or alleged violation of any responsibilities, obligations or duties imposed by the Securities Act 1933 (USA) as amended or the Securities Exchange Act 1934 (USA) as amended; any rules or regulations of the Securities and Exchange Commission (USA) promulgated under either the Securities Act 1933 (USA) as amended or the Securities Act 1934 (USA) as amended; or any similar US federal, state or common law relating to matters addressed in the acts, rules or regulations referred to above.

4. Claims

4.1 Allocation

In the event that any *Claim* involves both covered matters and matters or persons not covered under this policy, a fair and proper allocation of any cost of defence, damages, judgments and/or settlements shall be made between each *Insured* and the *Insurer* taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this policy.

4.2 Circumstances

The *Policyholder* shall as soon as reasonably practicable during the *Policy Period* notify the *Insurer* at the address listed in 4.3 **Claim Notifications** below of any circumstances of which any *Insured* first becomes aware during the *Policy Period* which are reasonably expected to give rise to a *Claim*. In the event that it has not been practicable for the *Policyholder* to give such notice during the *Policy Period*, then written notice given within 30 days of the Expiry Date of the *Policy Period*, but only in relation to circumstances the *Insured* becomes aware of in the *Policy Period*, shall be deemed to have been given during the *Policy Period*.

The notice must include at least the following:

- (i) a statement that it is intended to serve as notice of circumstances of which the *Insured* has become aware within the *Policy Period* which are reasonably expected to give rise to a *Claim*;
- (ii) the reasons for anticipating that *Claim* (including full particulars as to the nature and date(s) of the potential *Wrongful Act(s)*);
- (iii) the identity of any potential claimant(s);
- (iv) the identity of any *Insured* involved in such circumstances; and
- (v) the date within the *Policy Period* and manner in which the *Insured* first became aware of such circumstances.

Provided that notice has been given in accordance with the requirements of this clause, any later *Claim* arising out of such notified circumstance (and any *Related Claims*) shall be deemed to have been made during the *Policy Period*.

There shall be no cover under this policy with respect to any such *Claim* or *Related Claim* where the circumstances have not been notified in accordance with this clause.

4.3 Claim Notifications

The *Policyholder* shall give written notice to the *Insurer* of any *Claim* first made against an *Insured* during the *Policy Period* as soon as reasonably practicable following first awareness of such *Claim* by any partner, director, or officer of the *Company* and, in any event, during the *Policy Period*.

In the event that it has not been practicable for the *Policyholder* to give such notice during the *Policy Period*, then written notice given within 30 days of the Expiry Date of the *Policy Period* shall be deemed to have been given during the *Policy Period*.

There shall be no cover for any *Claim* which is not notified in accordance with this clause. All

notifications must be in writing to:

DUBAI INSURANCE CO. CLAIMS
Financial Lines Claims Department
Dubai Insurance Company psc

Rigga Street

Deira, Dubai

United Arab Emirates

or by facsimile to +971 4 2693727;

or by email to: info@dubins.ae

If posted, the date of posting shall constitute the date that notice was given, and proof of posting shall be sufficient proof of notice.

4.4 Cooperation

The *Insured* shall at their own cost:

- v. render all reasonable assistance to the *Insurer* and co-operate in the defence of any *Claim* and the assertion of indemnification and contribution rights;
- vi. use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any *Loss* under this policy; and
- vii. give such information and assistance to the *Insurer* as the *Insurer* may reasonably require to enable it to investigate any *Loss* or determine the *Insurer's* liability under this policy.

4.5 Defence

The *Insurer* does not assume any duty to defend, and the *Insured* shall defend and contest any *Claim* made against them unless the *Insurer*, in its sole and absolute discretion, elects in writing to take over and conduct the defence and settlement of any *Claim*. If the *Insurer* does not so elect, it shall be entitled, but not required, to participate fully in such defence and the negotiation of any settlement. In the event that the *Insurer* decides that representation by a solicitor is necessary (such decision to be at the sole discretion of the *Insurer*) then the *Insured* shall select one from the *Legal Panel* to provide such legal representation.

4.6 Insurer's Consent

No *Insured* shall admit or assume any liability, enter into any settlement agreement or consent to any judgment in relation to any *Claim* without the prior written consent of the *Insurer*, other than where provided for under the terms of the **Emergency Mitigation Costs and Expenses** cover.

4.7 Fraudulent Claims

If any *Insured* shall give any notice or claim cover for any *Loss* under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such *Loss* shall be excluded from cover under the policy, and the *Insurer* shall have the right, in its sole and absolute discretion, to avoid its obligations under or avoid this policy in its entirety, and in such case, all cover for *Loss* under the policy

shall be forfeited, all premium shall be deemed fully earned and non-refundable and the *Insured* shall reimburse the *Insurer* for any payments already made under this policy.

4.8 Payment of Defence Costs

The *Insurer* shall pay *Defence Costs* covered by this policy promptly after sufficiently detailed invoices for those costs are received by the *Insurer*. However, any *Defence Costs* that are actually paid shall be repayable to *Insurers* by the *Insured* in the event and to the extent that it is determined under the *Policy* that they were not entitled to a payment of *Defence Costs*.

4.9 Related Claims

If during the *Policy Period*, a *Claim* is made and notified or circumstances are notified in accordance with the requirements of this policy, then any *Related Claim* made after expiry of the *Policy Period* shall be accepted by the *Insurer* as having been:

- viii. made at the same time as the notified *Claim* was made or the *Insured* first became aware of circumstances; and
- ix. notified at the same time as the notified *Claim* or notified circumstances was first notified to the *Insurer*.

All *Related Claims* shall be deemed to be one single *Claim* and deemed to be made at the date of the first *Claim* of the series or at the date of the first circumstances notified, whichever is first.

4.10 Settlement

The *Insurer* shall be under no obligation (save where requested by the *Policyholder*) to make any payment to any *Insured* other than direct to the *Policyholder* and may unless otherwise requested by the *Policyholder* make payment of all *Losses* insured hereunder to the *Policyholder*. All such payments shall constitute a full and complete release and discharge of the *Insurer's* liabilities in respect of all and any such *Loss* whether suffered directly by the *Policyholder* or not.

5. General Provisions

5.1 Assignment

This policy and any rights under or in respect of it cannot be assigned by the *Policyholder* and/or any *Insured* without the prior written consent of the *Insurer*.

5.2 Cancellation

This policy may be cancelled:

- (i) by the *Insurer* pursuant to and in accordance with 5.8 **Premium Payment** for non-payment of premium; or
- (ii) by the *Policyholder* with effect immediately upon the *Insurer's* receipt of written notice of such cancellation. In such a situation, the *Insurer* shall retain:
 - (a) where no *Claim* or circumstances have been notified to the *Insurer*, the short rate proportion (unexpired portion of *Premium* less handling charges) of the premium stated in the Schedule or varied by endorsement; or
 - (b) where a *Claim* or circumstances have been notified to the *Insurer*, the entire premium stated in the Schedule or varied by endorsement;
- (iii) by mutual agreement between the *Insurer* and the *Policyholder*.

5.3 Change of Control

The *Insurer* shall not be liable to make any payment or to provide any services in connection with any *Claim* arising out of, based upon or attributable to a *Wrongful Act* committed after the occurrence of a *Transaction*.

If during the *Policy Period* an administrator, liquidator or receiver is appointed to a *Subsidiary*, then the cover provided under this policy with respect to such *Subsidiary* is amended to apply only to *Wrongful Acts* committed prior to the date of such appointment.

5.4 Complaints

In the event that you have a complaint against Dubai Insurance Company psc, you should write to:

Dubai Insurance Company psc

Rigga Street

Dubai, United Arab Emirates.

All customers shall receive an acknowledgement within 5 working days.

5.5 Contract (Rights of Third Parties) Act 1999

This Policy is not intended to confer any directly enforceable benefit upon any third party other than the *Company* or an *Insured* and no other third parties shall acquire any rights in relation to this policy under the Contracts (Rights of Third Parties) Act 1999, or any re-enactment thereof, to enforce any term of this contract or otherwise.

5.6 Dispute Resolution

Where, following receipt by the *Insurer* of all information reasonably required to provide such decision:

- x. a final decision has been given by the *Insurer* regarding any aspect of this policy or any matter relating to cover thereunder;
- xi. that decision is disputed between the *Insurer* and the *Insured*; and
- xii. such dispute cannot be resolved within 14 days of the date on which such decision is communicated to the *Policyholder* or its insurance broker,

the dispute shall be referred to arbitration under The Insurance & Reinsurance Arbitration Society (“A.R.I.A.S (UK)”) Arbitration Rules by either party.

The Arbitration Tribunal (the “Tribunal”) shall consist of three arbitrators, one to be appointed by the *Insured* party involved in the arbitration, one to be appointed by the *Insurer* and the third to be appointed by the two appointed arbitrators. The third member of the Tribunal shall be appointed as soon as practicable (and no later than 28 days) after the appointment of the two party-appointed arbitrators. The Tribunal shall be constituted upon the appointment of the third arbitrator.

The arbitrators shall be persons (including those who have retired) with not less than ten years’ experience of insurance within the industry or as lawyers or other professional advisers serving the industry.

Where a party fails to appoint an arbitrator within 14 days of being called upon to do so or where the two party-appointed arbitrators fail to appoint a third within 28 days of their appointment, then upon application, A.R.I.A.S (UK) shall appoint an arbitrator to fill the vacancy. At any time prior to such an appointment by A.R.I.A.S (UK) the party or arbitrators in default may make such appointment.

The Tribunal may at its sole discretion make such orders and directions as it considers necessary for the final determination of the matters in dispute. The Tribunal shall have the widest discretion permitted under the law governing the arbitral procedure when making such orders or directions. The seat of arbitration shall be Dubai, United Arab Emirates and the law governing the arbitration shall be under the law of United Arab Emirates.

5.7 Plurals, Headings and Titles

The descriptions in the headings and titles of this policy are solely for reference and convenience and do not lend any meaning to this contract. Words and expressions in the singular shall include the plural and vice versa. In this policy, words in italic typeface have special meaning and are defined. Words that are not specifically defined in this policy have the meaning normally attributed to them.

Any reference to specific legislation shall include any amendments to or re-enactments of such legislation.

5.8 Premium Payment

The *Policyholder* undertakes that the premium shall be paid to the *Insurer* within 60 days of inception of this policy.

Where additional premium has resulted from a mid-term amendment to the Policy, the additional

premium payment date shall be deemed to be 60 days from the point of the *Insurer's* acceptance of the amendment and the *Policyholder* undertakes that the premium shall be paid by that date.

If the premium due under this policy has not been paid to the *Insurer* by the 60th day from the Inception Date of this policy the *Insurer* shall have the right to cancel this policy ab initio by notifying the *Policyholder* in writing direct or via the insurance broker as appropriate. If the premium due as a result of a mid-term amendment to the policy has not been paid by the 60th day from the point of the *Insurer's* acceptance of the amendment, the *Insurer* shall have the right to cancel the amendment to the policy by notifying the *Policyholder* in writing direct or via the insurance broker as appropriate.

It is agreed that the *Insurer* shall give not less than 30 days prior notice of cancellation under this clause to the *Policyholder* in writing direct or via the insurance broker as appropriate. If the premium (or additional premium as the case may be) due is paid in full to the *Insurer* before the notice period expires, notice of cancellation shall automatically be revoked. If not, the policy (or the amendment to the policy if appropriate) shall automatically be cancelled from the date the relevant payment fell due.

The *Policyholder* shall have the burden of establishing that all such payments have been made.

5.9 Scope and Governing Law

Where legally permissible and subject to all terms and conditions of this policy, this policy shall apply to any *Claim* made against any *Insured* anywhere in the world.

Any interpretation of this policy relating to its construction, validity or operation shall be made exclusively in accordance with the laws of United Arab Emirates and in accordance with the English text or its true Arabic Translation as it appears in this policy.

5.10 Subrogation

The *Insured* shall take all steps necessary, or such steps as are required by the *Insurer* before or after any payment by the *Insurer* under this policy, to preserve the rights and remedies which the *Insured* may have to recover the *Loss*. If any payment is to be made under this policy in respect of a *Claim*, the *Insurer* shall be subrogated to all rights of recovery of the *Insured* whether or not payment has in fact been made and whether or not the *Insured* has been fully compensated for its actual *Loss*. The *Insurer* shall be entitled to pursue and enforce such rights in the name of the *Insured*, who, both before and after payment under this policy, shall provide the *Insurer* with all reasonable assistance and co-operation in doing so, including the execution of all necessary instruments and papers. The *Insured* shall not do anything which shall prejudice the *Insurer's* rights under this clause.

The *Insurer* agrees not to exercise any such rights of recovery against any *Employee* unless the *Claim* is brought about or contributed to by dishonest, fraudulent or intentional criminal acts or omissions of the *Employee*.

In its sole discretion, the *Insurer* may, in writing, waive any of its rights set forth in this clause Any amounts recovered in accordance with this clause shall be applied in the following order:

- i. to compensate the *Insurer* and the *Insured* for the costs incurred in making the recovery (such payment to be allocated between the *Insurer* and the *Insured* in the same proportions as they have borne the costs thereof); and
- ii. to the *Insurer* up to the amount of the *Loss* paid by the *Insurer*; and
- iii. to the *Insured* in respect of any uninsured element of the *Claim* (including the *Retention* under 6.3

Limit and Retention).

5.12 Innocent Non-Disclosure

In granting cover to the *Insured*, the *Insurer* has relied upon the material statements and particulars in the *Submission* which are the basis of cover and shall be considered incorporated into and constitute part of this policy.

The *Insurer* shall not exercise its right to avoid this policy on the grounds of any alleged non-disclosure or misrepresentation of facts or alleged untrue statements in the *Submission*, provided that the *Insured* shall establish to the *Insurer's* reasonable satisfaction that such alleged non-disclosure, misrepresentation or untrue statement was free of any fraudulent conduct or intent to deceive. Where such non-disclosure, misrepresentation or untrue statement has prejudiced the *Insurer's* consideration of terms under this policy, the *Insurer* shall be entitled to charge an additional premium and/or amend policy terms and conditions in light of such prejudice.

6. Limit and Retention

6.1 Limit of Liability

- i. The total aggregate amount payable by the *Insurer* under this policy shall not exceed the *Limit of Liability*.
- ii. Sub-limits of liability are part of and not payable in addition to the *Limit of Liability*.
- iii. *Defence Costs* are part of and not payable in addition to the *Limit of Liability*.
- iv. Where a *Claim* is made against more than one *Insured* under this policy, this shall not operate to increase the total amount payable by the *Insurer* under this policy.
- v. The *Limit of Liability* is the total sum payable by the *Insurer* in the aggregate for all *Claims*. Any *Loss* paid by the *Insurer* under this policy in respect of a *Claim* against an *Insured* shall erode the aggregate *Limit of Liability* available for all other *Claims* against that and any other *Insured*. In no circumstances shall the liability of the *Insurer* exceed the *Limit of Liability*.

6.2 Other Insurance / Indemnification

Unless otherwise required by law, cover under this policy is provided only as excess over any self-insurance or other applicable insurance, unless such other insurance is written only as specific excess insurance over the *Limit of Liability*. This policy shall not cover *Defence Costs* in relation to any *Claim* where another insurance policy imposes upon another insurer a duty to defend such *Claim*.

6.3 Retention

The *Insurer* shall be liable only for *Loss* and *Emergency Mitigation Costs and Expenses* which exceed the *Retention* when added together. The *Retention* is to be borne by the *Company* and is to remain uninsured. The *Retention* is not part of the *Limit of Liability*. A single *Retention* shall apply to each *Claim*.



7. Policy Administration

The *Policyholder* shall act on behalf of itself and each and every *Insured* with respect to:

- (i) negotiating the terms and conditions of and binding cover;
- (ii) the exercise of all rights of *Insureds* under this policy;
- (iii) all notices (including but not limited to notices relating to the cancellation provisions in this policy);
- (iv) premiums;
- (v) endorsements and amendments to this policy;
- (vi) the appointment of a member of the *Legal Panel* to defend a *Claim*;
- (vii) dispute resolution; and
- (viii) the receipt of all amounts payable to any *Insured* by the *Insurer* under this policy.

SPECIMEN

ELECTIVE ENDORSEMENTS

The following endorsements, effective xxx, attach to policy number xxx issued to xxx:

1. Copyright Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* arising out of, based upon, or attributable to any actual or alleged misuse, plagiarism, infringement or violation of any copyright, trademark, patent, service mark, trade name, trade secret, design rights, database rights, rights in respect of domain names, rights of confidentiality or other intellectual property rights in whatever jurisdiction they may arise and whether or not formally registered.

All other terms, exclusions and conditions remain unaltered.

2. Per Claimant Retention Endorsement

- (i) The *Retention* stated in the Schedule to this policy is deleted in its entirety and replaced with the following:

Retention per *Claimant USD*

- (ii) **6.3 Retention** is deleted in its entirety and replaced by the following:

The *Insurer* shall only be liable for the amount of *Loss or Emergency Mitigation Costs and Expenses* that is in excess of each applicable *Retention*. Each *Retention* amount shall be borne by the *Company* and shall remain uninsured. A *Retention* shall apply to each *Claimant* in respect of each *Claim*, whether it is made separately, or collectively with others.

Where a *Claim* is made by any *Third Party* on a representative basis (including but not limited to a class action, or a *Claim* by a *Regulator* when such *Regulator* is acting on behalf of or for the benefit of one or more individual parties who each would, but for such *Claim*, have standing to bring the said *Claim* as a *Claimant* directly against the *Insured*, and the *Regulator* makes such *Claim* in its capacity as such) in relation to loss suffered by of one or more *Claimants*, then for the purposes of this endorsement, a *Retention* amount shall be payable for each *Claimant* represented.

For the purposes of this endorsement only the following definitions apply: *Claimant*

means each individual *Third Party* to whom or to which:

- (a) an *Insured* is obliged to make restitution; or
(b) any sum is payable as a consequence of the *Insured's* civil liability; in respect of which the *Insured* is entitled to indemnity under this policy.

Regulator means any government, government body, governmental or administrative agency, official trade body, self-regulatory organisation or any other regulator.

All other terms, exclusions and conditions remain unaltered.

3. Mis-Selling Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* in respect of any *Claim* arising out of, based upon, attributable to any *Mis-selling* of any of the following:

- (i) Home Income Plans: including any form of equity release plan, home income plan, or equity drawdown plan (whether mortgage, pension or otherwise);
- (ii) With Profit Plan/Guaranteed Annuities (including GAR or Non GAR): including guaranteed annuities, non-guaranteed annuities, with profit plans, any form of annuity plan or plan from which an annuity is recoverable;
- (iii) Tax Exempt Special Savings Accounts (TESSAs) or Individual Saving Accounts (ISAs): including allegations that preferential rates or conditions were offered in connection with ISAs as opposed to TESSAs;
- (iv) Mortgage Endowments: including mortgage endowment products and products of a similar nature purchased to provide financial benefits intended to repay the underlying original mortgage and including any failure of such products;
- (v) Free Standing Additional Voluntary Contributions: including Free Standing Additional Voluntary Contributions policies (FSAVCs) in any of the categories identified as potentially reviewable by the ABI and the PIA Press Releases relating to FSAVCs dated 19 October 1998 and/or the FSA Consultation Paper dated 27 August 1999 and including those cases falling within the scope of the FSAVC Model Guidance issued in May 2000 and any subsequent revisions thereto and including any sale of such products;
- (vi) Pension Policies: including any opt out, transfer or non-joiner of any occupational pension scheme prior to 13 August 1994 or any pension identified in a *Mis-selling* review undertaken by the SIB, PIA, ABI or FSA;
- (vii) Split Capital Closed End Funds or Split Capital Investment Trusts (“Splits”): including those identified in any review or investigation by the Financial Services Ombudsman, the FSA or any other regulatory body, including into breach of FSA rules and/or subsequent reviews and investigations;
- (viii) Precipice Bonds: including any product of the type identified by the FSA in its Guidance Note 7 (2003) “Precipice Bonds”, made on 19 February 2003, which include, but are not limited to those which provide a fixed level of income (or have an income option) over a fixed investment period displaying the following characteristics:
 - a. return of initial capital invested at the end of the investment period is linked by a pre-set formula to the performance of an equity index, a combination of indices or a ‘basket’ of selected stocks (typically from an index or indices) and reductions in the amount of initial capital repaid are geared in relation to falls in the related index.
 - b. The customer is exposed to a range of outcomes in respect of the return of his/her initial capital invested.

- c. If the equity index/indices perform within certain thresholds, full repayment of initial capital invested occurs but if the performance is outside (usually less good than) the thresholds, the customer could lose a substantial part, or even all, of his/her initial capital invested.

and any product, however structured, which displays the characteristics and benefits described in a. to c. above;

- (ix) Guaranteed Capital Bonds or Guaranteed Equity Bonds;
- (x) Mortgagees, on the basis that preferential rates or conditions were offered to new borrowers as opposed to existing borrowers; and
- (xi) Pension Policies: to the extent that any *Mis-selling* relates in any way to the issue of the suitability of advice given to customers in relation to pension switching. This exclusion includes but is not limited to *Mis-selling* of the types identified in the FSA's "Quality of Advice – A report on the findings of a thematic review" document dated December 2008 and of *Mis-selling* types identified in any subsequent reviews by the FSA or any other regulatory body or subsequent releases by the FSA or other regulatory body relating to the issue of the advice given to customers in relation to pension switching.

For the purposes of this endorsement *Mis-selling* in relation to a product means:

1. breach of regulatory requirements as to suitability of such product;
2. misrepresentation; negligence; breach of contract or breach of statutory duty in failing to give full and proper advice in relation to such products or failing to ensure customers fully understood those products, before agreeing to purchase or invest in them;
3. the product providing lower capital growth, income or return of capital invested or having a different risk-profile than that represented by the *Insured* or the *Insured's* representative; or
4. failure to inform a customer or prospective customer of any preferential rate or conditions being made available to any other customer or prospective customer.

All other terms, exclusions and conditions remain unaltered.

4. Conflicts Of Interest Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* in respect of any *Claim* arising out of, based upon or attributable to any *Conflict of Interest* in connection with the performance of or failure to perform any *Professional Services*.

For the purposes of this endorsement *Conflict of Interest* means competing professional or personal obligations or financial interests between:

- (i) any *Insured* and any of its clients or customers, or
- (ii) individual clients or categories of clients or customers of any *Insured*

that could result in an *Insured* gaining a benefit for itself or for any other person or group at the expense of or derived from the interests of any of the *Insured's* clients or customers.

All other terms, exclusions and conditions remain unaltered.

5. Intentional Acts Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* in respect of any *Claim* arising out of, based upon, attributable to any intentional *Corporate or Business Policy*.

For the purposes of this endorsement *Corporate or Business Policy* means any policy which has been approved, condoned, ratified or endorsed by two or more of any *Company's Management* and which financially disadvantages all of such *Company's* clients or any group or class of the *Company's* clients and which results in the *Company* making a financial gain to which they were not entitled.

For the purposes of this endorsement *Company's Management* means any executive committee, management committee or business unit manager of a *Company*.

All other terms, exclusions and conditions remain unaltered.

6. Lost Documents

Notwithstanding **3. Exclusions, 3.1 Bodily Injury/ Property Damage**, the *Insurer* shall pay costs and expenses reasonably incurred by or on behalf of an *Insured*, with the prior written consent of the *Insurer*, in replacing or restoring any *Document* belonging to a *Third Party*:

- (i) for which an *Insured* is legally responsible; and
- (ii) which, during the *Policy Period*, has been destroyed, damaged, lost, distorted, erased or mislaid solely in the performance of or failure to perform *Professional Services*,

provided that:

- a. the destruction of damage to or loss of the *Document* is sustained while such *Document* is either:
 - (1) in transit; or
 - (2) in the custody of the *Insured* or any person to whom the *Insured* has entrusted it in the ordinary course of their provision of *Professional Services*;
- b. the lost or mislaid *Document* has been the subject of a diligent search by or on behalf of the *Insured*;
- c. the amount of any *Claim* for such costs and expenses shall be supported by evidence of expenditure that shall be subject to approval by a competent person to be nominated by the *Insurer* with the consent of the *Policyholder*; and
- d. the *Insurer* shall not be liable for any *Claim* arising out of wear, tear and/or gradual deterioration, moth and vermin, or other matters beyond the *Insured's* control.

For the purposes of this endorsement:

- (A) *Document* means any of the following in physical form:
 - (i) any *Security* issued in bearer or registered form;
 - (ii) any other negotiable and non-negotiable instrument or contract representing money, and

other valuable papers, including books of account and other records; and

(iii) *Data Processing Media*.

(B) *Data Processing Media* means the physical components or materials on which data or computer programmes are recorded.

(C) transit is deemed to commence upon receipt of the *Document* from or on behalf of the *Insured* by the transporting person and to end immediately upon delivery to the designated recipient or its agent.

The maximum aggregate amount payable by the *Insurer* under this endorsement shall not exceed USD 150,000 and shall be part of and not in addition to the *Limit of Liability*.

A separate retention of USD__instead of the *Retention* shall apply to each *Claim* covered under this Extension.

All other terms, exclusions and conditions remain unaltered

FOR INSURANCE COMPANIES ONLY:

7. Claims Reserves Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* arising out of, based upon or attributable to the adequacy or inadequacy of any claim reserves of an *Insured* or of any entity to which the *Insured* provides *Professional Services*.

All other terms, exclusions and conditions remain unaltered.

8. Underwriting Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* arising out of, based upon or attributable to amounts due or claimed to be due under any policy or contract or treaty of insurance, reinsurance, suretyship, annuity or endowment.

All other terms, exclusions and conditions remain unaltered.

FOR FUND MANAGERS ONLY:

9. Market Timing & Late Trading Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* arising out of, based upon, attributable to *Late Trading* or *Market Timing*.

For the purposes of this endorsement only:

Late Trading means:

- (i) placing orders to buy or sell hedge fund or mutual fund shares after the close of a trading day, but receiving the price based on the mutual fund's net asset value for that trading day;
- (ii) violations of laws, rules or regulations relating to the rule of forward pricing; or
- (iii) allegations that, after the close of trading, hedge funds or other investors were allowed to cancel orders of mutual fund shares or securities that were made prior to the close of trading;
- (iv) the types of late trading practices described in the 3rd September 2003 complaint filed by the New

York Attorney General in the action styled State of New York v. Canary Capital Partners, LLC, et al., Supreme Court of the State of New York; or

- (v) any other transaction deemed to be late trading by any regulation, law, rule or participant in any hedge or mutual fund market.

Market Timing means:

- (i) intentionally permitting *Short-term Trading* of hedge fund or mutual fund shares;
- (ii) written or oral representations regarding the use of *Short-term Trading* timing trading techniques in a hedge or mutual fund's shares, or written or oral representations regarding the hedge or mutual fund's efforts to monitor or prevent *Short-term Trading* or timing trading in its shares;
- (iii) the receipt of fees or other compensation in exchange for trading privileges not available to other investors in hedge fund or mutual fund shares;
- (iv) the types of market timing practices described in the 3rd September 2003 compliant filed by the New York Attorney General in the action styled State of New York v. Canary Capital partners, LLC, et al. Supreme Court of the State of New York; or
- (v) any other act, error or omission in connection with the trading of hedge or mutual fund's shares designed to take advantage of inefficiencies in a method any hedge or mutual fund uses to price its shares.

Short-term Trading means:

- (i) selling or exchanging shares in a hedge fund or mutual fund less than 180 days after their purchase, or any other period of time greater than 180 days if so described by the hedge fund or mutual fund as short-term trading; or
- (ii) any act, error or omission connected to violation of laws, rules or regulations relating to short term purchases, sales or redemptions of hedge or mutual fund shares.

All other terms, exclusions and conditions remain unaltered

FOR INVESTMENT BANKS ONLY:

10. Laddering, Spinning & Tying Exclusion

This policy shall not cover *Loss or Emergency Mitigation Costs and Expenses* arising out of, based upon or attributable to any actual or alleged instances of:

- (i) violation or conduct, in relation to an *Offering*, which would, if it occurred within the jurisdiction of the SEC or US National Association of Securities Dealers, amount to violation of any of:
 - a. Regulations S-K or M of the Securities Exchange Commission;
 - b. Conduct Rules 2110 (Standards of Commercial Honor and Principles of Trade), 2440 (Fair Prices and Commissions), 2710 (Corporate Financing), 2711 (Research Analysts and Research Reports), 2790 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) or Proposed New Rule 2712 (IPO Allocations and Distributions) of the US National Association of Securities Dealers, or
 - c. any similar federal or state law or regulation (whether statutory, regulatory or common law).

(ii) *Laddering, Spinning or Tying.*

For the purposes of this endorsement only:

Laddering shall include, but not be limited to improper solicitations or agreements, whether express or implied, relating to any *Offering*, including, but not limited to, solicitations or tie-in agreements to provide bank loans to support the price of a security in the aftermarket; solicitations or tie-in agreements to purchase: (i) additional shares of the *Company's* stock at predetermined prices; or (ii) shares of another corporation's stock;

Spinning shall include, but not be limited to solicitation or receipt of any excessive, additional, undisclosed, improper or illegal *Compensation* relating to an *Offering*, or *Compensation* greater than that disclosed in the prospectus or registration statement relating to the *offering*; and solicitation or receipt of shares in an *Offering* in return for, as consideration for, or as part of an arrangement concerning, the provision of investment banking business or corporate finance business to an *Insured* whether before or after the solicitation or receipt of such shares;

Tying shall include, but not be limited to using the provision or withholding of credit to influence a client to use other services and breach, or matters which would, if they occurred within the United States of America, amount to a breach, of US Code, Title 12, Chapter 22 or any similar federal or state law or regulation (whether statutory, regulatory or common law).

Offering means the public or private sale of any securities, including, but not limited to, an initial public offering, secondary offering or a private placement.

Compensation means any commissions, payments, fees, compensation or any other type or remuneration including kickbacks, bribes or any other similar type of payments.

All other terms, exclusions and conditions of this policy remain unaltered.