

LLOYD'S UNDERWRITING AGENTS PROFESSIONAL INDEMNITY

INSURANCE POLICY NUMBER .....

THIS IS A CLAIMS MADE POLICY. Except as otherwise provided herein, this policy covers only claims first made against the Insured during the period of the insurance contract as stated herein. Please read carefully.

Notice of claims or circumstances should be given to the Company via:

Chubb Insurance Company of Europe S.A. (herein called "the Company") hereby agrees, in consideration of the payment of the premium of ..... plus ..... Insurance Premium Tax, to insure to the extent and in the manner provided in this policy provided always that the total aggregate limit of the Company's liability over this policy, including any reinstatement provisions contained therein, shall not exceed .....

In witness thereof, the Company has issued this policy to be signed by a duly authorised employee of the Company.

Authorised Employee .....

Date .....

## SECTION 1

### LLOYD'S UNDERWRITING AGENTS PROFESSIONAL INDEMNITY INSURANCE

WHEREAS the firm or company, stated in Item 1 of the Schedule (hereinafter called "the Insured") has made to the Company a written proposal as dated in the Schedule (hereinafter called "the Proposal") containing particulars and statements which is hereby agreed are the basis of this contract are to be considered as incorporated herein.

#### INSURING CLAUSE

NOW WE the Company agree to indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages and claimants' costs and expenses as a result of any claim or claims made against the Insured during the Period of Insurance stated in Item 2 of the Schedule (hereinafter called "the Period of Insurance") arising out of

1. any negligent act, error or omission, breach of warranty of authority, breach of trust, libel, slander or defamation, unintentional breach of confidentiality, unintentional infringement of copyright, patent or registered design, committed or alleged to have been committed by
  - (a) the Insured, or
  - (b) any past, present or future employee or partner or director of the Insured, or
2. any dishonest, fraudulent, malicious or illegal act or omission committed or alleged to have been committed by any past, present or future employee of the Insured

in the normal course in pursuance of the Insured's business as a Lloyd's Underwriting Agent and/or as described in the Proposal (hereinafter called "the Insured's Business").

The terms "Lloyd's Underwriting Agent" shall mean a member's agent and/or managing agent on the Register of Underwriting Agents at Lloyd's and shall include their activities whilst acting as a co-ordination agent or registered Lloyd's adviser.

#### COSTS AND EXPENSES

The Company also agrees to pay all costs and expenses incurred in the investigation, defence or settlement of any claim or claims which fall to be dealt with under this policy (hereinafter called "Costs and Expenses").

#### LIMIT OF THE COMPANY'S LIABILITY

PROVIDED ALWAYS THAT the Company's total aggregate liability under this policy in respect of all claims made against the Insured during the Period of Insurance (which for the purposes of this clause shall include all Costs and Expenses) shall not exceed the Limit of Indemnity stated in Item 3 of the Schedule.

## EXCESS CLAUSE

PROVIDED ALWAYS THAT the Company shall only be liable for that part of each and every claim (which for the purpose of this clause shall be deemed to include all Costs and Expenses) which exceeds \_\_\_\_\_ which amount shall be borne by the Insured at their own risk.

All claims attributable to or arising out of the same original source or cause shall be treated as one claim for the purpose of this clause.

If any expenditure is incurred by the Company which by virtue of this clause is the responsibility of the Insured then such amount shall be reimbursed to the Company by the Insured forthwith.

This clause shall also apply to and include claims made under paragraph (c) of Extension 3. Loss of Documents and Extension 4. Fidelity. The amount to be borne by the Insured at their own risk under Extension 4. Fidelity shall be \_\_\_\_\_ each and every loss.

## EXTENSIONS

### 1. Indemnity to directors and employees

If the Insured so requires, the Company will indemnify any director or employee of the Insured in like manner to the Insured, provided always that all such persons shall, as though they were the Insured, observe, fulfil and be subject to the terms, conditions, and exclusions of this policy and provided that no indemnity shall be afforded to any person committing or condoning any dishonest, fraudulent, malicious or illegal act or omission.

### 2. Estate and legal personal representatives

If the Insured so requires, the Company will, in the event of the death of any person entitled to indemnity under this policy in respect of liability incurred, extend such indemnity in respect of that liability to the estate and legal personal representative of such person provided that such estate and legal personal representative shall, as though they were such person, observe, fulfil and be subject to the terms, conditions, and exclusions of this policy insofar as they can apply.

### 3. Loss of Documents

If, during the Period of Insurance the Insured shall discover that any Documents belonging to or entrusted to the Insured, which now or hereafter be, or be supposed to be or believed to be in the custody of the Insured or in the custody of any other person to or with whom such Documents have been entrusted, lodged or deposited by the Insured in the ordinary course of the Insured's Business as Lloyd's Underwriting Agents have been lost, destroyed or damaged the Company agrees

(a) to indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as compensation and claimants' costs and expenses as a result of any claim or claims made against the Insured in respect of their legal liability which the Insured may incur to any other person in consequence of such Documents having been lost destroyed or damaged and

(b) to pay Costs and Expenses in respect of (a) above, and

- (c) to indemnify the Insured in respect of all costs and expenses reasonably incurred by the Insured, with the written consent of the Company, in replacing or restoring such Documents

provided that the Company's total aggregate liability under this policy shall not be increased by reason of this extension and shall not exceed the sub-limit as stated in Item 3 of the schedule.

The terms "Documents" as used in this extension means documents of any nature whatsoever and shall include computer programmes or information stored, written or punched into card or tape or magnetic discs or tape or any other datamedia, but shall not include bearer bonds, coupons, bank-notes, currency and negotiable instruments.

#### Special exclusions applying to EXTENSION 3

The Company shall not be liable for any loss or damage or liability

1. directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
2. arising directly or indirectly from any dishonest, fraudulent, malicious, criminal or illegal act or omission of the Insured.

#### Special conditions applying to EXTENSION 3

1. The Insured shall, as a condition precedent to their right to be indemnified under this extension, maintain off site, duplicates of all computer records in the custody of the Insured.
2. Notwithstanding CONDITION 1 of this policy the Insured shall, as a condition precedent to their right to be indemnified under paragraph (c) of this extension, give to the Company notice in writing as soon as practicable upon the discovery that any Documents have been destroyed, damaged or mislaid.
4. Fidelity

The Company will indemnify the Insured against direct loss of property or securities belonging to them or for which they are legally responsible caused by one or more dishonest or fraudulent acts by employees of the Insured discovered during the Period of Insurance with the manifest intent to obtain an improper financial gain for

- (a) themselves, or
- (b) another person acting in collusion with them, or
- (c) an organisation acting in collusion with them

wherever committed and whether committed alone or in collusion with others,

provided that

1. the liability of the Company in respect of further dishonest or fraudulent acts by an employee shall cease from the time that the Insured or any company or any other entity forming part of the Insured or any partner, director, trustee or officer of the Insured or such company or other entity not in collusion with such employee shall have knowledge or information that such employee has committed any dishonest or fraudulent act whatsoever whether such act shall have been committed before or after the date of employment by the Insured.
2. if following any loss or losses the Insured is unable to identify the specific employee or employees concerned the evidence submitted by or on behalf of the Insured shall prove beyond reasonable doubt that the loss or losses were sustained as a result of any dishonest or fraudulent act or acts committed by one or more employees.

The term "improper financial gain" used in the foregoing does not include any employee benefits earned in the normal course of employment including salary, promotions, fees, bonuses and other similar emoluments.

For the purposes of this extension:

- i) directors shall not be deemed to be employees.
- ii) the Company's total aggregate liability under this policy shall not be increased by reason of this extension and shall not exceed the sub-limit as stated in Item 3 of the schedule.

## 5. Reinstatement

It is hereby understood and agreed that in the event of any payment by the Company which reduces or exhausts the Limit of Indemnity stated in Item 3 of the Schedule such Limit of indemnity shall be automatically reinstated by the amount of such payment provided that:

- (a) the aggregate of the amounts so reinstated shall not exceed the Limit of Indemnity stated in Item 3 of the Schedule, and
- (b) the Company's liability under this policy in respect of all related payments (being payments attributable to or arising out of the same original source or cause) which reduce or exhaust the Limit of Indemnity stated in Item 3 of the Schedule shall not exceed such Limit of Indemnity, and
- (c) the Company's total aggregate liability under this policy in respect of all related and unrelated payments which reduce or exhaust the Limit of Indemnity stated in Item 3 of the Schedule shall not exceed twice such Limit of Indemnity, and
- (d) in the event the Insured has additional insurance(s) in excess of this policy this clause will only operate when the limit(s) of indemnity contained in such insurance(s) has been exhausted by payments which, in accordance with the terms and conditions of such insurance(s), reduce or exhaust the limit(s) of indemnity thereunder.

## EXCLUSIONS

The Company shall not be liable to indemnify the Insured in respect of any claim

1. arising directly or indirectly from bodily injury, sickness, disease or death sustained by any person arising out of and in the course of his/her employment by the Insured under any contract or service or apprenticeship, or for any breach of any obligation owed by the Insured as an employer to any employee.
2. arising directly or indirectly from the ownership, possession or use by or on behalf of the Insured of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle.
3. arising directly or indirectly from any dishonest, fraudulent, malicious, criminal or illegal act or omission of the Insured.
4. arising directly or indirectly from any liability assumed by the Insured under any express warranty or guarantee unless such liability would have attached to the Insured notwithstanding such express warranty or guarantee.
5. arising out of or relating to goods or products, sold, supplied, repaired, altered, manufactured, installed or maintained by the Insured or any related company or by sub-contractors of the Insured, other than brochures, advertising material and the like issued by or on behalf of the Insured in the normal course and in pursuance of the Insured's Business.
6. for bodily injury, sickness, disease, or death sustained by any person or any loss, damage or destruction of property unless such claim emanates from negligent advice, design, specification, formula or a breach of duty owed in a professional capacity by the Insured.
7. arising out of or relating directly or indirectly to the insolvency or bankruptcy of the Insured.
8. based upon, attributable to, or in any way involving directly or indirectly from or in consequence of or in any way involving seepage, pollution or contamination of any kind.
9. in respect of which the Insured are entitled to indemnity under any other insurance except in respect of any excess beyond the amount which is payable under such other insurance.
10. arising out of any circumstance(s) which could give rise to a claim under this policy of which the Insured is aware, or ought reasonably to be aware, at inception of this policy, whether notified under any other insurance or not.
11. directly or indirectly caused by or contributed to by or arising from
  - (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel,
  - (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

12. for fines and penalties.
13. made against the Insured or any loss suffered by the Insured by reason of any event, act, error or omission committed or alleged to have been committed or occurring prior to the retroactive date stated in Item 4 of the Schedule.
14. from the failure of Equitas to settle claims on behalf of the Insured.
15. for depreciation (or failure to appreciate) in value of any investments, including securities, commodities, currencies, options and future transactions, or as a result of any actual or alleged representation, guarantee or warranty provided by or on behalf of the Insured as to the performance of such investments.
16. for extra contractual obligations, bad faith or other liability arising out of individual claims handled by the Insured.
17. by or on behalf of or at the behest of the Insured's parent company, or any subsidiary or affiliate of the Insured or of the Insured's parent company.
18. for:
  - (a) taxes;
  - (b) matters which are uninsurable under the laws pursuant to which this policy is to be construed.
19. based upon, arising out of or in consequence of the insolvency, conservatorship, receivership, bankruptcy or liquidation of any banking firm, investment company, investment banker, broker or dealer in securities or commodities; insurance or reinsurance company, insurance or reinsurance agent, broker or intermediary, joint underwriting association; or such organisations of a similar nature, or the failure to pay or suspension of payment by such entities.
20. based upon, arising out of or in consequence of any actual or alleged violations of the Securities Act of 1933, the Securities Exchange Act of 1934, any rules or regulations of the Securities Exchange Commission adopted thereunder, any like Federal State or provincial statute regulating the securities similar to the foregoing, any rules or regulations adopted pursuant thereto, all as they may be amended, or any other state, provincial or common law relating to securities.
21. based upon, arising out of or in consequence of any actual violation of the Racketeer Influenced and Corrupt Organisation Act, 18 USC 1961 etc seq; or similar statutory law of the United States of America or any statute or jurisdiction therein, and any amendments thereto and rules or regulations promulgated thereunder.

## CONDITIONS

1. Claims Notification

- (a) The Insured as a condition precedent to their right to be indemnified under this policy shall give to the Company notice in writing as soon as reasonably practicable of:-
- (i) any claim made against any Insured, or
  - (ii) the receipt of notice from any person or entity of their intention to make a claim against the Insured, or
  - (iii) any circumstances of which the Insured shall become aware which might reasonably be expected to give rise to a claim being made against the Insured.

Such notice having been given as required under (a) (ii) or (a) (iii) above, any claim which may subsequently be made arising out of such receipt of notice or circumstances shall be deemed to have been made during the Period of Insurance.

- (b) The Insured shall give the Company such information and co-operation as the Company may reasonably require and shall not disclose to anyone the existence of this policy without the Company's consent.

## 2. Claims handling

The Insured as a condition precedent to their right to be indemnified under this policy shall not admit liability for or settle any claim or incur any costs or expenses in connection therewith without the written consent of the Company who shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim.

The Insured shall not be required to contest any legal proceedings unless a Counsel to be mutually agreed upon by the Insured and the Company shall advise that such proceedings should be contested. The Insured shall be entitled at their own risk to contest any claim or proceedings which in the opinion of the Company should be compromised or settled provided that the Company shall not be liable for any damages and claimant's costs and expenses or any other costs and expenses incurred directly or indirectly as a result of the Insured's refusal to compromise or settle such claim or legal proceedings.

## 3. Waiver of subrogation against directors or employees

If any payment is made under this policy in respect of a loss or claim and the Company is thereupon subrogated to the Insured's rights of recovery in relation thereto, the Company agrees not to exercise any such rights against any director or employee of the Insured unless such loss or claim is brought about or contributed to by the dishonest, fraudulent, malicious, criminal or illegal act or omission of such director or employee.

## 4. Due observance

The due observance of and compliance with the terms, provisions and conditions of this policy insofar as they relate to anything to be done or complied with by the Insured, shall be conditions precedent to any liability of the Company.

## 5. Law of construction

The interpretation of this policy is governed by and shall be construed in accordance with English Law.

6. Arbitration

Any dispute or difference between the Insured and the Company arising from this policy shall be referred to a Queen's Counsel of the English Bar to be mutually agreed upon between the Insured and the Company or to any other part as may be mutually agreed whose decisions shall be final and binding and who shall have sole discretion as to the awarding of costs or expenses incurred in connection therewith.

7. Innocent non-disclosure

The Company will not exercise their right to avoid this policy where it is alleged that there has been non-disclosure or misrepresentation of facts or untrue statements in the Proposal, or other information as shown to the Company, provided that

- (a) once the matter comes to light it shall be promptly reported to the Company, and
- (b) the Insured shall establish to the Company's satisfaction that such alleged non-disclosure, misrepresentation or untrue statement, was innocent and free of any fraudulent conduct or intent to deceive, and
- (c) the Insured shall promptly pay any additional premium required by the Company.

8. Territory

The insurance afforded by this policy applies world-wide.

9. Changes in Exposure

This policy is issued and the premium computed on the basis of the information submitted to the Company as part of the application. In the event the Insured acquires any other entity or acquires substantially all of the assets of another entity or merges with another entity such that the Insured is the surviving entity or creates or acquires a subsidiary after the inception of the policy, the coverage afforded under this policy will continue in effect for ninety days with respect to any claims or circumstances occurring subsequent to such acquisition, merger or creation in any way involving the assets acquired or the assets, liabilities, directors, officers or employees of the entity acquired or merged with, or such subsidiary.

After the expiration of such ninety day period, no coverage will be afforded by this policy unless during such ninety day period.

- (a) written notice of such acquisition, merger or creation is given to the Company by the Insured; and
- (b) the Insured provides the Company with such information in connection therewith as the Company may deem necessary; and

- (c) the Insured accepts any special terms, conditions, exclusions or additional premium charge as may be required by the Company; and
- (d) the Company, at their sole discretion, agree by written endorsement to provide such coverage.

## SCHEDULE

Item 1. Firm or company:

Address:

Item 2. Period of Insurance:

Item 3. Limit of Indemnity:

Item 4. Retroactive Date:

Item 5. Proposal Date;

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