



**Bharti AXA General Insurance Company Limited**

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## POLICY WORDINGS

### DIRECTORS & OFFICERS LIABILITY AND CORPORATE REIMBURSEMENT INSURANCE POLICY

Relying upon the completeness and accuracy of the statements and disclosures in the **Application** (which is made a part of this **Policy**) for this **Policy**, in consideration of the payment of premium as due by ..... (hereafter referred to as the **Company / Policy holder**) and the subject to the terms, provisions, limitations, conditions and exclusions of this **Policy**, Bharti AXA General Insurance Company Ltd. agrees to indemnify the **Insured** in excess of the amount of the **Retention** and subject to the **Limit of Liability**, against such **Loss** as is herein provided.

#### 1. INSURING AGREEMENTS

##### 1.1. DIRECTORS AND OFFICERS LIABILITY

The loss of each **Insured** resulting from any **Claim**, first made against the **Insured** during the **Policy Period**, for any **Wrongful Act** in the **Insured's** capacity as a **Director, Officer or Employee** of the **Company**, shall be paid by the **Insurer**, except for and to the extent that the **Company** has indemnified the **Insured**.

##### 1.2. CORPORATE REIMBURSEMENT

The **Loss** of the **Company** resulting from any **Claim** first made against the **Insured** during the **Policy Period** for any **Wrongful Act** in the **Insured's** capacity as a **Director, Officer or Employee** of the **Company** shall be paid by the **Insurer**, but only when and to the extent that the **Company** has indemnified the **Insured** for the **Loss**.

The **Insurer**, subject to the terms and conditions of this **Policy**, shall advance **Defense Costs** resulting from any **Claim** before its final resolution as they are incurred.

#### 2. DEFINITIONS

- 2.1. **Associated Company** means any company of which more than 20% but less than or equal to 50% of the issued and the outstanding voting shares are owned by the **Policyholder** either directly or indirectly through one or more of its **Subsidiaries** on or before the commencement of the **Policy Period**.
- 2.2. **Application** means the proposal form duly completed by the **Policy holder** and any information and/or statements or materials supplied to the **Insurer** by the **Insured** and/or **Policy holder**
- 2.3. **Circumstance** means an incident, occurrence, fact, matter, act or omission which is likely to give rise to a **Claim** under the **Policy**.

2.4. **Claim** means:

- (i) any suit or proceeding brought by any person or organization against an **Insured** for pecuniary compensation or other relief, including non- financial relief;
- (ii) any written demand from any person or organization that it is the intention of the person or organization to hold an **Insured** responsible for the results of any specific **Wrongful Act**;
- (iii) any criminal action brought against an **Insured**;
- (iv) any managerial or regulatory proceeding or official investigation regarding any particular **Wrongful Act** of an **Insured**;

All claims resultant from the same **Wrongful Act(s)** or attributable to the same cause, or a series of continuous, repeated or related **Wrongful Acts** shall be deemed to be one **Claim** with a single **Limit of Liability** under this **Policy**, and only one **Retention** shall be applicable in respect of such **Claim** or **Claims**.

2.5. **Company** means the **Policyholder** specified in Item 1 of the **Schedule** and any **Subsidiary**.

2.6. **Continuity date(s)** means the date(s) specified in Item 6 of the **Schedule** which shall be the date from which the **Policyholder** has maintained continuous cover with the **Insurer**, or with any other insurer if the first proposal form submitted to such insurer is provided to and accepted by the **Insurer** at the commencement of this **Policy**, or such other date(s) as agreed with the **Insurer**.

2.7. **Defence Costs** means reasonable and essential fees, costs and expenses incurred with the written approval of the **Insurer** (as well as premiums for any appeal bond, attachment bond or similar bond, but without compulsion to apply for or furnish any bond) ensuing solely from the investigation, adjustment, settlement, defence and appeal of any **Claim** but shall not include the salary of any **Insured**.

2.8. **Director** or **Officer** means any natural person duly selected or designated as a **Director** or **Officer** of the **Company** while acting in their capacity as a **Director** or **Officer** on behalf of the named **Insured**.

2.9. **Discovery Period** means the period of time specified in Extension 4.1, immediately following the termination of this **Policy** during which written notice may be given to the **Insurer** of any **Claim** first made against the **Insured** during such period of time for any **Wrongful Act** occurring before the end of the **Policy Period** and otherwise covered by this **Policy**.

2.10. **Employee** means anybody who is:

- (i) under a contract of service or apprenticeship with the **Company**
- (ii) supplied to, hired or borrowed by the **Company** including persons undertaking study or work experience whilst employed or engaged by the Company in connection with its business.

2.11. **Employment Practice Claim** means any **Claim** or series of related **Claims** relating to a past, present or future **Employee** of the **Company** and arising out of any authentic or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty actually or allegedly committed or attempted by any one or more **Insured(s)** in their capacities as such against any past, present or prospective **Employee, Director** or **Officer** of the **Company**, in connection with any actual or alleged:

- (i) Wrongful, unlawful or unfair dismissal, discharge or termination of employment either actual or constructive, of employment;
- (ii) Breach of any written or oral employment contract or quasi-employment contract;
- (iii) Employment-related misrepresentation;
- (iv) Employment discrimination including sexual or other workplace harassment and discrimination on the

- grounds of racial or national origin, sex, sexual orientation, religion, maternity, pregnancy, age and disability;
- (v) Violation or non-compliance with legislation regulating working hours;
  - (vi) Wrongful failure to employ or promote;
  - (vii) Wrongful demotion;
  - (viii) Wrongful discipline;
  - (ix) Wrongful deprivation of a career opportunity;
  - (x) Failure to grant tenure;
  - (xi) Failure to adopt adequate workplace or employment policies and procedures;
  - (xii) Retaliatory treatment of whistleblowers and others;
  - (xiii) Negligent evaluation;
  - (xiv) Employment-related invasion of privacy;
  - (xv) Employment-related libel, slander, humiliation and defamation;
  - (xvi) Failure to furnish accurate job references;
  - (xvii) Employment-related wrongful infliction of mental anguish or emotional distress;
  - (xviii) Unlawful discrimination, whether direct, indirect, intentional or unintentional, or failure to provide adequate **Employee** policies and procedures.

2.12. **Insured** means any natural person who was, is, or shall become a **Director** or **Officer** of the **Company**. Cover will involuntarily apply to any natural person who becomes a **Director** or **Officer** after the commencement date of this **Policy**. **Insured** shall consist of any **Employee** of the **Company**, but only for a **Claim** or **Claims** alleging **Wrongful Act(s)** committed by the **Employee** in a managerial or supervisory capacity. With respect to an **Employment Practice Claim** only, **Insured** shall include any past, present or future **Employee** of the **Company**.

2.13. **Insurer** means Bharti AXA General Insurance Company Limited.

2.14. **Limit of Liability** means the maximum liability of the **Insurer** in the aggregate under this **Policy** for all financial **Loss** arising from all **Claims** made under this **Policy**. The **Limit of Liability** applies over and above any **Retention**.

2.15. **Loss** means damages, judgments, settlements and **Defence Costs**; but **Loss** does not include civil or criminal fines or penalties imposed legally, non-compensatory damages including disciplinary, punitive or exemplary damages (other than damages awarded for libel and slander), taxes, any amount for which the **Insured** is not legally liable, or matters which may be considered uninsurable under the law pursuant to which this **Policy** shall be interpreted.

2.16. **No Liability** means:

- (i) a final verdict of **No Liability** obtained prior to trial in favour of all **Insured(s)** on grounds of a motion to dismiss or a motion for summary judgment after the exhaustion of all appeals; or
- (ii) a final ruling of **No Liability** obtained after trial in favour of all **Insured(s)**, after the exhaustion of all appeals.

In no case shall the term **No Liability** be applicable to a **Claim** made against an **Insured** for which a settlement has occurred.

- 2.17. **Not-for-Profit Entity** means an entity or a trade association which for the purposes of this **Policy** shall mean a body of persons, whether incorporated or not, which is formed for the purpose of advancing the business interests of its members, or of persons represented by its members.
- 2.18. **Outside Entity** means any **Associated Company**, any **Not-for-Profit Entity** or any other corporation or other organization which has been listed by endorsement to this **Policy**.
- 2.19. **Policy** means the **Schedule**, insuring clause(s), definitions, exclusions, conditions, and other terms contained herein and any endorsement attached to and forming part of the **Policy** either at inception or during the **Policy Period** and the **Proposal**.
- 2.20. **Proposal** means the **Application** for insurance completed by the **Insured** and any ancillary information and documentation supplied by the **Insured** in connection with this insurance.
- 2.21. **Policyholder** means the organization specified in Item 1 of the **Schedule**.
- 2.22. **Policy Period** means the period of time from the inception/commencement date to the expiry date specified in Item 2 of the **Schedule** or the effective date of the cancellation of this **Policy**.
- 2.23. **Pollutants** include (but are not limited to) any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes (but is not limited to) material to be recycled, reconditioned or reclaimed.
- 2.24. **Retention** means the amount stated at Item 4 in the **Schedule** and is that part of each and every **Claim** or **Loss**, as applicable, which is payable by the **Insured**, the amount of which is specified in the **Policy Schedule**. The **Retention** does not form a part of the **Limit of Liability** and it shall be payable by the **Insured** before application of the **Limit of Liability**.
- 2.25. **Security** means any note, stock, bond, debenture, evidence of indebtedness, share or other equity or debt security of the **Company**, and shall include any certificate of interest or participation in, receipt for, warrant or other right to subscribe to or purchase, voting trust certificate relating to, certificate of deposit for, or other interest in any of the foregoing.
- 2.26. **Schedule** means the **Schedule** attached to this **Policy**.
- 2.27. **Single Wrongful Act** means a **Wrongful Act** or any related, continuous or repeated **Wrongful Act(s)**, whether committed by the **Insured** individually or by more than one **Insured** and whether directed to or affecting one or more than one person or legal entity.
- 2.28. **Subsidiary** means companies in which the **Policyholder** directly or indirectly;
- (i) controls the composition of the board of **Directors**; or
  - (ii) controls more than half of the voting power; or
  - (iii) holds more than half of the issued share capital.

Cover for any **Claim** against any of the **Directors**, **Officers** and **Employees** of any **Subsidiary** shall apply only for **Wrongful Act(s)** committed while such **Company** is a **Subsidiary** of the **Policyholder**. However, upon written request by the **Policyholder**, the **Insurer** shall consider, after assessment and evaluation of the increased exposure, granting cover for **Wrongful Act(s)** committed prior to the acquisition of the **Subsidiary** by the **Policyholder**.

- 2.29. **Transaction** means any one of the following events:
- (i) the **Policyholder** consolidates with or merges into or sells all or to a large extent all of its assets to any other person or entity or group of persons and/or entities acting together; or

- (ii) any person or entity, whether individually or together with any other person or persons, entity or entities acquires an amount of the outstanding shares representing more than 50 per cent of the voting power for the election of **Directors** of the **Policyholder**, or acquires the voting rights for such an amount of the shares.

2.30. **Wrongful Act** means any actual or alleged contravention or breach of duty, breach of trust, neglect, error, misstatement, deceptive or misleading statement, omission, breach of warranty of authority or other act by the **Directors, Officers** or **Employees** in their individual capacities as a **Director, Officer** or **Employee** of the **Company** or as a **Director** or **Officer** of any **Outside Entity**, or any issue claimed against them exclusively because of their standing as a **Director, Officer** or **Employee** of the **Company**.

### 3. EXCLUSIONS

The **Insurer** shall not be liable for any Loss on account of any **Claim**:

#### 3.1. **Known Circumstances and Claims**

- a. made against or intimated to the **Insured** prior to the commencement of the **Policy Period**; or
- b. notified under any previous insurance policy; or
- c. arising out of or connected with any facts or **Circumstances** which:
  - i. a **Director** or **Officer** was aware of prior to commencement of the **Policy Period**; or
  - ii. a reasonable person in the position of the **Director** or **Officer** would have considered may give rise to a **Claim** against the **Insured**.

#### 3.2. **Insured vs. Insured**

brought or maintained by or on behalf of the **Company** or any **Insured** in any capacity except a **Claim**:

- (i) for **Employment Practice Claim** brought by any **Insured**;
- (ii) brought or maintained by an **Insured** for contribution or indemnity, if the **Claim** directly results from another **Claim** otherwise covered under this **Policy**;
- (iii) by any shareholder derivative action brought or maintained on behalf of the **Company** without the solicitation, assistance or participation of any **Insured** or the **Company**;
- (iv) brought or maintained by a liquidator, receiver or administrative receiver either directly or derivatively on behalf of the **Company** without the solicitation, assistance or participation of any **Insured** or the **Company**;
- (v) brought or maintained by any former **Director** or **Officer**, partner, trustee or **Employee** of the **Insured** who has not served in that capacity during the period of 12 months immediately preceding the **Claim**.

#### 3.3. **Bodily Injury and Property Damage**

for bodily injury, mental anguish, emotional distress, sickness, disease or death of any person, or for damage or destruction of any tangible property including loss of use thereof, or for defamation or violation of a person's right of privacy. This exclusion does not apply in respect of any actual or alleged mental anguish, emotional distress, defamation or violation of a person's right to privacy in any **Claim** by a past, present or prospective **Employee** of the **Company** for any **Employment Practice Claim**.

#### 3.4. **Pollution**

for the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants** into or on real or personal property, water or the atmosphere; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so.

### 3.5. **Continuity Date**

based upon, arising out of or attributable to any **Wrongful Act** that occurred prior to the **Continuity Date** set forth in Item 6 of the **Schedule** to this **Policy**, provided that nothing contained within this exclusion is interpreted as releasing the **Insured** from their obligation to disclose as a material fact all details of **Claims** made or outstanding or events likely to give rise to a **Claim**.

### 3.6. **Nuclear Risks**

arising out of or connected with ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or the radioactive, toxic, explosive or other hazardous properties of any explosive assembly or its nuclear components

### 3.7. **Outside Directorship**

arising out of any act or omission in the **Insured's** capacity as a **Director** or **Officer** of any entity other than the **Company**, or by reason of the **Insured's** status as a **Director**, **Officer** or **Employee** of the other entity, other than as provided in Extension 4.6 of this **Policy**.

### 3.8. **War Risks**

arising out of or connected with war, invasions, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power or arising out of or connected with confiscation, nationalization or damage to property by or under the order of any government or public or local authority.

### 3.9. **Terrorism**

arising from or in any way related to death, injury, illness, loss, damage, liability, cost or expense of any nature directly or indirectly caused by, resulting from or in connection with, any act of terrorism regardless of any contributing cause or event.

For the purpose of this exclusion, terrorism means an act, including but not limited to the use or threat of force or violence, by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government, which from its nature or context is committed for or in connection with political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public or any section of the public in fear.

This **Policy** also excludes death, injury, illness, loss, damage, liability, cost or expense of any 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 this exclusion.

### 3.10. **Fraud**

for any fraudulent act or omission or any willful violation of any statute or regulation if a ruling or other final adjudication adverse to any Insured establishes that such Insured committed such an act, omission or willful violation.

### 3.11. **Personal Profit**

Based upon, arising out of or attributable to any **Insured** gaining any personal profit, remuneration or financial advantage to which such **Insured** was not legally entitled.

### 3.12. Products or services

- (i) brought by or on behalf of any client or customer of the **Company** in connection with products or services provided by the **Company**; or
- (ii) arising directly or indirectly out of any breach of duty in respect of any professional services or professional advice by the **Insured**
- (iii) arising directly or indirectly out of any breach of any contract for the provision of any professional services or professional advice by the **Insured**
- (iv) the **Policy holder's** or an **Insured's** performance of or failure to perform professional services for others for a fee, or any act, error, or omission relating thereto.

### 3.13. Offering of Securities and/or Prospectus

arising out of

- (i) any public or private offering of **Securities** for the raising of capital by equity, debt or any other means; or
- (ii) the issue of any prospectus or similar document or the making of any written or oral representation in connection with exclusion 3.13 (i) above.

### 3.14. Major Shareholder

brought by or on behalf of any shareholder holding or controlling (directly or beneficially) 10% or more of the voting shares or rights or issued capital of the **Company**.

### 3.15. Asbestos

whatsoever, directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

### 3.16. Silica

in respect of any liability directly or indirectly caused by or alleged to be caused by or contributed to, in whole or in part, by or arising out of the presence, ingestion, inhalation or absorption of exposure to silica products, silica fibres, silica dust or silica in any form, or to any obligation of the Insured to indemnify any party because of personal injury arising out of the presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form.

### 3.17. Plagiarism

any actual or alleged breach of copyright or infringement of copyright or patent.

### 3.18. Trustee or Fiduciary under Law

in a capacity as trustee or fiduciary under law (statutory or non-statutory including common) or administrator of any pension, profit sharing or **Employee** benefits programme, including but not limited to an actual or alleged violation of the responsibilities, obligations or duties imposed by the **Employee** Provident Fund Act of 1952 (India) or the Payment of Gratuity Act, 1972 (India), **Employee** Pensions Scheme, 1995 (India), **Employee** Retirement Income Security Act of 1974 (USA) or the Pensions Act 1995 (UK) and any amendments to any of the foregoing thereto or any similar provisions of the law from time to time in force, common or statutory, of any state, territory, jurisdiction, or political subdivision thereof.

### 3.19. Failure to Maintain Insurance

arising out of failure or omission to effect or maintain insurance.

## 4. EXTENSIONS

Subject to all of the terms, definitions, exclusions and conditions of this **Policy**, cover is extended as follows:

### 4.1 Discovery Period

If the **Insurer** declines the renewal of this **Policy**, then the **Policyholder** shall have the right to obtain a 12 month **Discovery Period** for 75% of the annual premium. A longer **Discovery Period** may be obtainable at the **Insurer's** sole discretion for a premium to be determined by the **Insurer**.

The **Insured** shall be permitted to a 30 day **Discovery Period** at no extra premium if this **Policy** is not renewed by either the **Policyholder** or the **Insurer**. If the **Policyholder** opts for purchase of **Discovery Period**, this 30 day **Discovery Period** shall be part of and not in addition to the purchased **Discovery Period**.

To procure the **Discovery Period**, the **Policyholder** must apply for its purchase in writing within 15 days of the termination date of the **Policy** and must pay the extra premium by the termination date. The entire premium for the **Discovery Period** is deemed fully earned and non-refundable after payment.

If a **Transaction** takes place, then the **Policyholder** shall not have the right to purchase a **Discovery Period** as set out above.

### 4.2 Extension to cover Employment Practices Claim

The **Insurer** shall indemnify any **Insured** for **Loss** arising from an **Employment Practice Claim** as explained in Definition 2.11.

### 4.3 Heirs, Estates and Legal Representatives

This **Policy** provides cover for **Claims** for the **Wrongful Act(s)** of **Insured(s)** made against their heirs, estates or legal representatives of **Insured(s)** who are deceased or against the legal representatives of attorneys of **Insured** who are incompetent, infirm, disabled, insolvent or bankrupt to the extent that in the absence of such death, incompetence, infirmity, disability, insolvency or bankruptcy, such **Claims** would have been covered under this **Policy**.

### 4.4 Joint Property Liability

If a **Claim** against an **Insured** includes a **Claim** against the lawful spouse of the **Insured** solely by reason of such spouse's:

- (i) legal status as a spouse of the **Insured**; or
- (ii) ownership of interest in property which the claimant seeks as recovery for alleged **Wrongful Act(s)** of the **Insured**,

all loss which such spouse is legally obligated to pay by reason of such **Claim** will be treated for the purposes of this **Policy** as **Loss** which the **Insured** becomes legally liable to pay on account of the **Claim** made against the **Insured**. All terms and conditions of this **Policy**, including without limitation **Retention** amount, applicable to **Loss** incurred by such **Insured** in the **Claim** will also apply to such spousal loss.

The cover provided by this extension does not apply to the extent the **Claim** alleges any act or omission by the **Insured's** spouse.

### 4.5 New Subsidiaries – Acquired or Created



This **Policy** extends cover to any **Subsidiary** which the **Policyholder** acquires or creates after the commencement date of this **Policy** provided that the **Subsidiary**:

- (i) has total gross assets in the United States of America or Canada, which are less than 15% of gross assets of the **Policyholder**; and
- (ii) does not have a listing of any of its **Securities** on any exchange in the United States of America or Canada.

In case a newly acquired or created **Subsidiary** does not meet either condition (i) or (ii) above the **Policyholder** may apply for an extension of this **Policy** for such **Subsidiary** and the **Policyholder** shall give the **Insurer** the information needed to facilitate the **Insurer** to evaluate and appraise the **Insurer's** possible increase in exposure. The **Insurer** shall be at liberty to amend the **Policy** terms and conditions, during the **Policy Period**, as well as to charge any reasonable additional premium.

If not otherwise agreed, cover as is extended to the **Directors, Officers** or **Employees** of any **Subsidiary** by virtue of this extension shall only be relevant for **Wrongful Act(s)** committed at the same time as such **Company** is or was a **Subsidiary** of the **Policyholder**.

#### 4.6 **Outside Directorships**

The cover under this Policy includes **Loss** arising from any **Claim** made against any **Insured** who was, is or may become, at the explicit request of the **Policy holder**, a **Director** or **Officer** of any **Outside Entity** for any **Wrongful Act** in the **Insured's** capacity as a **Director** or **Officer** of the **Outside Entity**.

This cover shall be particularly in excess of any insurance in force in respect of the **Outside Entity** as well as any indemnification provided by the **Outside Entity**. If the other insurance is provided by the **Insurer** or would be provided except for the application of the **Retention** amount or the exhaustion of the limit of liability, then the total aggregate limit of liability for all **Loss** covered by virtue of this extension shall be reduced by the limit of liability specified in the **Schedule** of the other insurance provided to the **Outside Entity**.

The cover provided by this clause shall not apply in relation with any **Claim** made against any **Insured** by the **Outside Entity**, any of its **Directors** or **Officers** or any shareholder of the **Outside Entity** holding more than 15% of the issued and outstanding voting share capital of the **Outside Entity**.

#### 4.7 **Representation at Investigations and Examinations**

The **Policy** shall provide cover for any reasonable and essential fees, costs and expenses (but shall not include the salary of any **Insured**) incurred with the prior written approval of the **Insurer** consequential upon any legally compulsory attendance by any **Director, Officer** or **Employee** of the **Policy holder** at any official investigation, examination, inquiry or other connected proceeding in relation to the affairs of the **Policy holder**.

If the **Director, Officer** or **Employee** of the **Policy holder** believes that as a consequence of such official investigation, examination, inquiry or other similar proceeding, **Circumstances** exist which may reasonably be anticipated to give rise to a **Claim**, it is a condition precedent to **Insurers** liability under this **Policy** that notice is given to the **Insurer** of the circumstances and the reasons for anticipating a **Claim** with full facts as to dates and persons implicated in accordance with General Provision 5.5

#### 4.8 **Severability of Exclusions**

With respect to Exclusions 3.1, 3.10 & 3.11 of this **Policy** no fact pertaining to, nor knowledge possessed by, nor any **Wrongful Act** committed by any **Insured** will be imputed to any other **Insured** for the purpose of determining the availability of coverage for or with respect to **Claims** made against any **Insured**.

## 5. GENERAL PROVISIONS

### 5.1 Proposal, Representation and Severability

- (i) In granting cover to any one **Insured**, the **Insurer** has relied upon the material statements and facts in the **Proposal** along with its attachments and other information extended. These statements, attachments and information are the basis of cover and shall be considered incorporated and constituting part of this **Policy**.
- (ii) The **Proposal** shall be read as separate **Application** for cover by each of the **Insureds** with respect to declarations and statements contained therein. Other than with respect to General Provision 5.1 (iii) below, no fact relating to, or statement of, knowledge possessed by any **Insured** shall be imputed to any other **Insured** for the purpose of determining the availability of cover.
- (iii) The **Insured(s)** agree that in the event that any statements or representations made in the **Proposal** are inaccurate or incomplete, the **Insurer** shall be entitled to avoid the **Policy** with respect to any of the following **Insured(s)**:
  - a. Any natural person **Insured** who knew the facts that were not fully and accurately disclosed in the **Proposal**
  - b. Any **Insured** that is a corporation, to the extent it indemnifies any natural person **Insured** referenced in General Provision 5.1 (ii) above.

### 5.2 Changes in Risk during Policy Period

- (i) Cover extended under this **Policy** is revised to apply only to **Wrongful Act(s)** committed prior to the effective date of any **Transaction**, if the **Transaction** takes place during the **Policy Period**.
- (ii) If the **Company** decides to make an initial offering of its **Securities**, by any means, public or private, during the **Policy Period**, then the **Company** shall provide the **Insurer** with any prospectus or offering statement and any other information and documentation that the **Insurer** might require for the evaluation and assessment of the increased exposure of the **Insured** as soon as the information is publicly available, and the **Insurer** shall be permitted to amend the terms and conditions of this **Policy** and/or charge any supplementary premium reflecting the increase in exposure.

Prior to the public announcement of such **Securities** offering, the **Insured** may provide the **Insurer** with information and ask the **Insurer** to evaluate and assess the increased exposure and advise of all amendments to the terms and conditions of this **Policy** and additional premium based upon the information so provided, at the **Policyholder's** request. In this event and at the request of the **Policyholder**, the **Insurer** will, subject to the **Insured** bearing the costs (legal and other), enter into a confidentiality agreement with the **Policyholder** relating to any information provided regarding the proposed **Securities** offering.

### 5.3 Limit of Liability

The limit of liability specified in Item 3 of the **Schedule** is the aggregate limit of the **Insurer's** liability for all **Loss**, arising out of all **Claims** made against each and every **Insured** under all insurance covers under this **Policy** combined, during the **Policy Period** and the **Discovery Period**.

The **Limit of Liability** for the **Discovery Period** shall be part of and not in addition to the total aggregate **Limit of Liability** for the **Policy Period**. Further a **loss** arising from any **Claim** which is made subsequent to the **Policy Period** or **Discovery Period** which pursuant to General Provision 5.5 is considered made during the **Policy Period** or **Discovery Period** shall also be subject to the same total aggregate **Limit of Liability**.

**Defence** costs are not payable by the **Insurer** in addition to the total aggregate **Limit of Liability**. **Defence Costs** are part of **Loss** and as such are subject to the total aggregate **Limit of Liability** for **Loss**.

## 5.4 Retention

The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the **Retention** amount specified in Item 4 of the **Schedule** with regard to all **Loss** under all insurance covers under this **Policy** for which the **Company** has indemnified or is permitted or required to indemnify the **Insured**. The **Retention** amount is to be borne by the **Company** and shall remain uninsured. Provided, however, that no **Retention** shall apply and the **Insurer** shall thereupon reimburse any **Defence Costs** paid by the **Company**, in the event of:

- (i) a determination of **No Liability** of all **Insureds**, or
- (ii) a dismissal or a stipulation to dismiss the **Claim** without prejudice and without the payment of any consideration by any **Insured**.

Provided, however, that in the case of (ii) above, such reimbursement shall occur 90 days after the date of dismissal or stipulation as long as the **Claim** is not re-brought (or any other **Claim** which is subject to the same single **Retention** by virtue of this General provision 5.4 is not brought) within that time, and further subject to an undertaking by the **Company** in a form acceptable to the **Insurer** that such reimbursement shall be paid back by the **Company** to the **Insurer** in the event the **Claim** (or any other **Claim** which is subject to the same single **Retention** by virtue of this General Provision 5.4) is brought after such 90 day period.

## 5.5 Notice of Claim

- (i) The **Policyholder** shall as a condition precedent to its rights under this **Policy**, give to the **Insurer** written notice as soon as practicable after receipt of notice of any **Claim** or after the **Policyholder** becomes aware of any **Circumstances** and in any event notice shall be given to the **Insurer**:
  - a. During the **Policy Period** or any applicable **Discovery Period**; or
  - b. (in respect of any **Claim**) within 45 days after the end of the **Policy Period** or **Discovery Period**
- (ii) Notification of a **Claim** and/or **Circumstances** must be sent to the **Insurer** at the **Claims** Department, the Bharti AXA General Insurance Co. Ltd., RMZ Infinity, Tower B, 2nd Floor, No. 3, Old Madras Road, Bangalore 560016 INDIA. If posted the date of posting shall constitute the date that notice was given, and proof of posting shall be sufficient proof of notice.
- (iii) Each notification shall so far as practicable provide full details of the **Claim** or **Circumstances** including, but not limited to:
  - a. the identity of the claimant or potential claimant;
  - b. the nature of the **Claim**;
  - c. the likely quantum of the **Claim**; and
  - d. the **Policyholder's** preliminary views (if any) on the merits of such **Claim**and the **Policyholder** shall provide the **Insurer** with such further information and documentation as it may reasonable require.
- (iv) If, during the **Policy Period** or during the **Discovery Period** written notice of a **claim** against an **insured** has been given to the **Insurer** pursuant to the terms and conditions of this **Policy**, then any **claim** arising out of, based upon or attributable to the facts alleged in the claim previously notified to the **Insurer** or alleging a single **wrongful act** which is the same as or related to any **wrongful act** alleged in the previously notified **claim**, shall be considered made against the **insured** and reported to the **Insurer** at the time the first notice was given.
- (v) If during the **Policy Period** or during the **Discovery period**, the **company** or the **Insured** shall become aware of any circumstances which may reasonably be expected to give rise to a **claim** being made against

an **Insured** and shall give written notice to the **Insurer** of the circumstances and the reasons for anticipating a **claim**, with full particulars as to dates and persons involved, then any **claim** which is subsequently made against an **Insured** and reported to the **Insurer** arising out of, based upon or attributable to the circumstances or alleging any **wrongful act** which is the same as or related to any **wrongful act** alleged or contained in those circumstances, shall be considered made against the **Insured** and reported to the **Insurer** at the time the notice of the circumstances was first given.

## 5.6 Advancement of Defense Costs

The **Insurer** shall advance to the **Insured** or the **Company** defence costs under all insurance covers under this **Policy** before the final disposition of the **claim**.

The advance payments by the **Insurer** shall be repaid to the **Insurer** by the **company** or the **Insured**, severally according to their respective interests, in the event and to the extent that the company or the **Insured** shall not be entitled to payment of the **loss** under the terms and conditions of this **Policy**.

In the event and to the extent that the **Company** is permitted or required to indemnify the **Insured** but for whatever reason fails to do so, the **Insurer** will advance all **defence costs** to the **Insured** on behalf of the **Company**. In this case, however, the **retention** amount specified in Item 4 of the **Schedule** shall be repaid by the **Company** to the **Insurer**, unless the **Company** is insolvent.

## 5.7 Defence & Cooperation

- (i) The **Insurer** shall have the right but is not obliged to conduct in the name of the **Insured** the defence and settlement of any **Claim** covered by this **Policy**, and to appoint lawyers or other representatives for this purpose even if any of the allegations are groundless, false or fraudulent. The **Insurer's** right to defend shall cease upon exhaustion of the **Limit of Liability**.
- (ii) With respect to any **Claim** or **Circumstance** notified:
  - a. the **Insured** shall execute all papers required and shall do everything necessary to defend such **Claim** and provide the **Insurer** with all information, documentation, assistance and co-operation as the **Insurer** reasonably requests; and
  - b. the **Insurer** shall advance **Defence Costs** excess of any applicable **Retention**, provided that if and to the extent it is finally established that any such **Defence Costs** are not covered under this **Policy**, the **Policy holder** hereby agrees to repay the **Insurer** such non-covered **Defence Costs**.
- (iii) The **Insured** shall not settle or offer to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim**, without the **Insurer's** prior written consent. The **Insurer** shall not be liable for, and any applicable **Retention** shall not be depleted or exhausted by, any settlement, **Loss** or **Defence Costs**, assumed obligation or admission to which it has not consented.
- (iv) The **Insurer** shall not unreasonably withhold any consent referred to in this section.
- (v) The **Insured** agrees that in the event of a **Claim** the **Insured** shall do nothing that shall prejudice the **Insurer's** position or its potential or actual rights of recovery. The **Insured** shall at all times use reasonable endeavours to do, and concur in doing, all such things as are reasonably practicable to avoid or diminish any Loss and to assist with the defence and/or settlement of any **Claim**. The **Insurer** may make any investigation it deems necessary.

## 5.8 Allocation

- (i) The **Insurer** has no compulsion under this **Policy** for **Defence Costs** incurred by the **Company**, or any judgments rendered against or settlements by the **Company**, or any obligation to pay **Loss** arising out of any

legal liability that the **Company** has to the third party claimant. Accordingly, with respect to:

- (a) **Defence Costs** jointly incurred by;
- (b) any joint settlement made by; and/or
- (c) any adjudicated judgment of joint and several liability rendered against

the **Company** and any **Insured**, the **Company** and the **Insured** and the **Insurer** agree to use their best efforts to determine a fair and proper allocation of the amounts as between the **Company** and the **Insured** and the **Insurer**, taking into account the relative legal and financial exposures of and the relative benefits obtained by the **Insured** and the **Company**.

- (ii) In the event that any **Claim** involves both covered matters and matters not covered under this **Policy**, a fair and proper allocation of any **Defence Costs**, judgments and/or settlements shall be made between the **Company**, the **Insured** and the **Insurer** taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this **Policy**.
- (iii) In the event that a determination as to the amount of **Defence costs** to be advanced to the **Insured** under this **Policy** cannot be agreed to, then the **Insurer** shall advance **Defence Costs** which the **Insurer** states to be fair and proper until a different amount shall be agreed upon or determined pursuant to the provisions of this **Policy** and applicable law.

## 5.9 Subrogation

In the event of any payment under this **Policy**, the **Insurer** shall be subrogated to all of the **Insured's** rights of recovery to the extent of such payments against any person or organization and the **Insured** shall carry out and deliver instruments and documents and do suchlike else is essential to secure such rights and guarantee that nothing is done to prejudice such rights and present the **Insurer** with whatever reasonable co-operation and support they might require.

However, it is specifically agreed that the **Insurer** will not exercise its rights of subrogation against an **Employee** of the **Insured** unless the aforementioned payment has been caused by or contributed to in any way by the fraud or dishonesty of any such **Employee**.

In the event of any recovery being made, it is expressly understood that the recovered finances shall be applied in the following order:

- (a) **Insurers** shall be reimbursed to the amount of any compensation they have made under this **Policy**;
- (b) **Insurers** shall be reimbursed the actual costs and expenses they have incurred in pursuing the recovery;
- (c) The **Insured** shall be entitled to reimbursement in respect of its **Losses** only after the payment of (a) and (b) and only to the extent of any recovered funds that might remain.

## 5.10 Other Insurance

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

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

Where a **Claim** is or may be covered by more than one coverage section, the **Insurer** shall have sole discretion as to which shall be primary.

#### 5.11 Notice and Authority

It is agreed that the **Policyholder** shall act on behalf of its **Subsidiaries** and all **Insured(s)** with respect to the giving and receiving of notice of **Claim** under this **Policy**, the giving and receiving of notice of cancellation, the payment of premiums and the receiving of any return premiums that may become due under this **Policy**, the receipt and acceptance of any endorsements issued to form a part of this **Policy** and the exercising or declining to exercise any right to a **Discovery Period**.

#### 5.12 Alteration & Assignment

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

#### 5.13 Territory

Unless otherwise endorsed the coverage shall extend worldwide excluding USA and Canada.

#### 5.14 Jurisdiction

This **Policy** applies to **Wrongful Acts** taking place anywhere in the world subject to the terms, conditions and exclusions of the **Policy** and provided that the **Claim** is brought in India and determined according to Indian law. For the prevention of doubt, this **Policy** will not act in response to the actual or attempted enforcement against the **Insured** within India of a ruling or award or any other order obtained outside of India whether or not such ruling or award or any other order is consequently deemed enforceable by a Court within India. It is accepted and agreed by the **Insured** that the premium for this **Policy** has been calculated accordingly and no consideration has been paid in respect of liabilities arising under any other law or the jurisdiction of any other Courts.

#### 5.15 Arbitration

- (a) Any and all disputes or differences which may crop up under, out of, in connection with or in relation to this **Policy**, or to its existence, validity or termination, or to the determination of the amount or any amounts payable under this **Policy**, shall be referred to a sole arbitrator to be appointed by the parties to the dispute within 30 days of any party giving notice of arbitration to the other(s).
- (b) In the event that the parties are unable to agree upon the identity of a sole arbitrator, the disputes or differences shall be referred to the decision of 3 arbitrators of whom one shall be appointed in writing by each of the parties within a period of 30 days after the failure to appoint a sole arbitrator and the third (who shall serve as Chairman) shall be appointed by the nominated arbitrators. In case either party shall refuse or fail to appoint an arbitrator within the aforesaid 30 days after receipt of notice in writing requiring an appointment, the other party shall be at liberty to appoint a sole arbitrator who shall thereafter be empowered to conduct the arbitration and determine the disputes or differences referred to him as if he had been appointed a sole arbitrator with the consent of both parties.
- (c) The parties shall share the expenses of the arbitrator or arbitral tribunal equally and such expenses, along with the reasonable costs of the parties in the arbitration, shall be awarded by the arbitrator or arbitral tribunal in favour of the successful party in the arbitration or, where no party can be said to have been wholly successful, to the party who has substantially succeeded.
- (d) The place of arbitration shall be India, the language of the arbitration shall be English, the law applicable to and in the arbitration shall be Indian law and the arbitration process will be in accordance with the provisions of the Arbitration & Conciliation Act 1996, as amended from time to time.
- (e) It is a condition precedent to any right of action or suit upon this **Policy** that the award by such arbitrator or

arbitrators shall be first obtained.

- (f) In the event that these arbitration provisions shall be held to be invalid then all such disputes shall be referred to the exclusive jurisdiction of the Indian courts.

#### 5.16 Cancellation

- (a) The **Insurers** may cancel this **Policy** by giving 30 days written notice of such cancellation to the last known address of the **Policyholder** and in such event the **Insurers** will return a pro-rata part of the premium for the unexpired **Policy Period**.
- (b) This **Policy** may also be cancelled by the **Policyholder** by giving 30 days written notice to the **Insurers** in which occurrence the **Insurers** will retain premium at the customary short period scale, provided that there has been no **Claim** under the **Policy** during the **Policy Period** in which case no refund of premium shall be permitted.
- (c) The imbursement or tender of any unearned premium by the **Insurer** shall not be a provision precedent to the effectiveness of cancellation but such imbursement shall be made as soon as practicable.

#### 5.17 Headings

The headings of these subsections are for convenience only and do not provide any implication to this contract. In this **Policy** words that are in bold and also have been shaded have restricted connotation and are defined.

#### 5.18 Plurals

In this **Policy** the singular includes the plural and vice versa.

Insurance is the subject matter of the solicitation.



general insurance

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