



Directors' & Officers' Management Liability & Company Reimbursement Insurance Policy

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A. THE COVER

Preamble

SECTION 1 - INSURING CLAUSES

Subject to the payment of the **Premium** and the provisions of this **Policy** and the **Schedule**, and in reliance upon the statements made and information contained in the **Proposal Form**, all of which are part of, and shall form the basis of, this insurance, **RQBE** agrees to:

1.1 Directors' and Officers' Liability

pay on behalf of the **Insured Person** all **Loss** arising from any **Claim** for which the **Insured Person** does not receive an indemnity from the **Company**.

1.2 Company Reimbursement

pay on behalf of the **Company** all **Loss** arising from any **Claim** for which the **Company** is legally liable to indemnify the **Insured Person**.

1.3 Entity Cover

pay on behalf of the **Company** all **Loss** for which **RQBE** has granted cover under Optional Extensions 3.9, 3.10 or 3.11 and which is not payable under either Insuring Clauses 1.1 or 1.2.

SECTION 2 - AUTOMATIC EXTENSIONS

The following extensions to the **Policy** are included automatically, PROVIDED ALWAYS THAT each extension is subject to the terms of this **Policy** (unless otherwise stated) and the **Limit of Liability** shall not be increased by the following extensions.

2.1 Advance Payment of Defence Costs

RQBE shall advance **Defence Costs** prior to the final disposition of any **Claim**.

PROVIDED ALWAYS THAT **RQBE** reserves the right to cease payment and to recover any **Defence Costs** from the **Insured Person**, or the **Company**, severally according to their respective interests, in the event and to the extent that it is subsequently established by admission, judgment, settlement or other final adjudication that the **Insured Person** was not entitled to the **Defence Costs** so advanced under this **Policy**.

2.2 Blanket Subsidiary Cover

RQBE agrees to extend cover to any **Insured Person** of a **Subsidiary Company** but only in respect of a **Wrongful Act** committed during the period such company remains a **Subsidiary Company**.

2.3 Emergency Costs

RQBE shall reimburse **Emergency Costs** up to a limit of ten percent (10%) in the aggregate of the **Limit of Indemnity**, but only upon receipt by **RQBE** of a written request from the **Company** received within thirty (30) days of those **Emergency Costs** being incurred.

2.4 Employment Practices Liability

Wrongful Act shall include any **Employment Related Matter**.

2.5 Health and Safety Defence Costs

Notwithstanding the Exclusions of this **Policy**, **RQBE** shall pay **Defence Costs** incurred in connection with the prosecution of an **Insured Person** under any Commonwealth, State or Territory occupational or workplace health and safety legislation, or its equivalent.

2.6 Intellectual Property

Wrongful Act shall include actual or alleged infringement of copyright, trademarks, registered designs or patents, or any plagiarism, or breach of confidentiality by an **Insured Person**.

2.7 Libel and Slander

Wrongful Act shall include actual or alleged libel or slander by reason of words written or spoken by an **Insured Person**.

2.8 Official Investigations and Enquiries

Defence Costs shall include all reasonable and necessary costs, charges, fees and expenses, including legal representation costs (other than salaries, commissions, expenses or other benefits) incurred by an **Insured Person** in connection with their legally compelled attendance at any official investigation, examination or enquiry in relation to the affairs of the **Company**.

For the purposes of this Extension, an official investigation, examination or enquiry includes an investigation, examination or enquiry by way of an Official Commission or conducted by a regulatory authority such as a Monetary Authority or Securities Commission or equivalent.

2.9 Previous Securities Offerings

Wrongful Act shall include any misleading statement, misstatement, misrepresentation, breach of trust, breach of duty or breach of warranty or authority in relation to any document, including any prospectus or information memorandum, issued by the **Company** in connection with a **Securities Offering** which has been disclosed in the **Proposal Form** and whose listing or placement date was prior to inception of this **Policy**.

2.10 Retired Director or Officer Cover

Should this **Policy** not be renewed upon expiry and not be replaced by another policy affording directors' and officers' liability or company reimbursement cover to the **Insured Person** or the **Company**, this **Policy** shall grant an **Extended Reporting Period** of eighty-four (84) months to cover a **Retired Director or Officer** for any **Claim** that arises from **Wrongful Acts** that were committed before the effective date of the non-renewal of this **Policy**.

Cover under this Extension will cease immediately in the event that any other policy affording directors' and officers' liability or company reimbursement cover to the **Insured Person** or the **Company** comes into existence.

2.11 Severability and Non-Imputation

Where an **Insured Person**:

- a) fails to comply with their duty of disclosure; or
- b) makes a misrepresentation to **RQBE** before this contract of insurance was entered into; or
- c) fails to comply with any terms or conditions of this **Policy**;

the cover this **Policy** provides for any other innocent **Insured Person** shall not be prejudiced and:

- a) no fact pertaining to or possessed by an **Insured Person** shall be imputed to any other **Insured Person** to determine cover under this **Policy**; and
- b) only facts pertaining to and knowledge possessed by any past, present or future chief executive officer, chief financial officer, president, managing director, in-house general counsel, company secretary, chairman or any holder of an equivalent position in the **Company** shall be imputed to the **Company** to determine cover under this **Policy**; and
- c) **RQBE** agrees to waive any rights it may have to rescind or avoid this **Policy**, or any severable part of this **Policy**, for any misrepresentation including those in the proposal form or for any non-disclosure (whether or not such misrepresentation is innocent, negligent, fraudulent or otherwise).

2.12 Significant Change

Upon a **Significant Change** to or in respect of the **Company** during the **Period of Insurance**, an **Insured** shall be entitled to propose to extend the reporting period for up to eighty-four (84) months, but only if:

- a) **RQBE** receives a written request from the **Company** within sixty (60) days of the expiry of the **Period of Insurance**; and



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- b) the **Company** accepts the terms of any offer **RQBE** may make.

Cover under this Extension shall only apply to **Claims** that arise out of **Wrongful Acts** that were committed before the date of **Significant Change**, unless otherwise agreed by **RQBE**.

SECTION 3 - OPTIONAL EXTENSIONS

PROVIDED ALWAYS THAT:

- (a) the **Limit of Indemnity** shall not be increased by any of the following Optional Extensions to the cover this **Policy** provides, except for Optional Extension 3.1 Additional Limit for Directors and Officers and Optional Extension 3.9 Entity Protection for Critical Occurrences; and
- (b) no cover shall be available under any of the following Optional Extensions unless it is specified in the **Schedule**; and
- (c) the granting of any of the following Optional Extensions shall be at the sole and absolute discretion of **RQBE** who reserves the right to impose such additional terms and conditions, including any additional **Premium**, as it may deem necessary:

3.1 Additional Limit for Directors and Officers

Where this Optional Extension has been granted, **RQBE** agrees that for **Claims** made against a **Director or Officer** otherwise covered by this **Policy** but for the **Limit of Indemnity** under this **Policy** being exceeded or eroded, **RQBE** will provide an additional limit to pay for any **Loss** as incurred by such **Director or Officer**. Such additional limit will be payable provided that:

- a) the **Limit of Indemnity**; and
- b) all other applicable insurance whether written as excess over the **Limit of Indemnity** of this **Policy** or otherwise; and
- c) all other indemnification for such **Claim** available to such **Director or Officer**, whether from the **Company** or otherwise;

have been exhausted.

The maximum aggregated amount payable under this Optional Extension shall not exceed item 3.1 of the **Schedule**, which is in addition to the **Limit of Indemnity**.

3.2 Compensation for Court Costs

Where this Optional Extension has been granted, **RQBE** agrees that, in the event that a **Director or Officer** is required to attend court as a witness in connection with a **Claim**, **RQBE** will pay that **Director or Officer** Rs.12,000 per day for each day they attend as witness.

The maximum aggregated amount payable under this Optional Extension shall not exceed item 3.2 of the **Schedule**.

3.3 Continuous Cover

Where this Optional Extension has been granted, **RQBE** agrees that, notwithstanding Exclusion B1 Prior or Pending Litigation, should a **Claim**, fact or circumstance that should have been notified to **RQBE** under an earlier policy, be notified during the **Period of Insurance**, **RQBE** will accept the notification, PROVIDED ALWAYS THAT:

- a) **RQBE** or any of the member companies under the QBE Insurance Group Limited has continuously been the insurer of the **Director or Officer** under a Directors' and Officers' Insurance Policy between the date when such notification should have been given and the date when such notification was, in fact, given; and
- b) cover available under this Optional Extension is restricted to the cover available under the previous **RQBE** policy to which the **Claim**, had it been notified, would have responded.

3.4 Extended Reporting Period

Where this Optional Extension has been granted, **RQBE** agrees that if **RQBE** or the **Company** refuses to renew this **Policy** for any reason other than non-payment of premium, the **Company** will

have the right to extend the reporting period by a twelve (12) month period, PROVIDED ALWAYS THAT:

- a) no **Significant Change** has taken place; and
- b) the right to such extension is exercised within forty-five (45) days after the expiry date of this **Policy**; and
- c) this **Policy** shall not provide cover in respect of any **Wrongful Act** alleged to have been committed in whole or in part on or after the original expiry of this **Policy**; and
- d) the **Limit of Indemnity** available under this Extension is part of and not in addition to the **Limit of Indemnity**; and
- e) an additional premium of fifty percent (50%) of the expiring annual **Premium** has been paid within forty-five (45) days after the expiry date of this **Policy**; and
- f) the **Extended Reporting Period** provided under this Extension does not lengthen the reporting period provided under Automatic Extension 2.10 Retired Director or Officer Cover nor Automatic Extension 2.12 Significant Change.

Cover under this Optional Extension will cease immediately in the event that another policy affording directors' and officers' liability or company reimbursement cover to the **Insured Persons** or the **Company** comes into existence.

3.5 External Positions

Where this Optional Extension has been granted, **QBE** agrees to cover an **Insured Person** who holds an **External Position** PROVIDED ALWAYS THAT cover under this Optional Extension shall:

- a) only apply in respect of a **Wrongful Act** committed in his capacity as a director or officer of an **External Entity**; and
- b) not be available to a director, officer, or employee of an **External Entity** who is not also and at the same time an **Insured Person**; and
- c) be specifically excess of any other available insurance of the **External Entity** and any indemnity available from the **External Entity** which an **Insured Person** may be entitled by reason of his holding such **External Position**; and
- d) only apply in respect of a **Wrongful Act** committed during the period an **External Position** is held.

If the **External Entity** holds insurance provided by **QBE** or any of the member companies under the QBE Insurance Group Limited, then the **Limit of Indemnity** for all **Loss** covered by this **Policy** shall be reduced by the limit of indemnity of such other insurance.

3.6 Extradition Proceedings

Where this Optional Extension has been granted, **Defence Costs** shall include reasonable costs, charges and fees resulting from an **Insured Person's** defence of **Extradition Proceedings**.

3.7 Pollution

Notwithstanding Exclusion B10 Total Pollution, where this Optional Extension has been granted, **QBE** agrees to provide cover under this **Policy**:

- a) for **Defence Costs** (but not **Loss**) incurred by an **Insured Person** in the defence of any **Claim** where **Pollution** is alleged or proven. The maximum aggregated amount payable under this Optional Extension shall not exceed item 3.7 of the **Schedule**;
- b) for any **Claim** brought by the **Company's** shareholders (without any procurement or instigation by any **Insured Person**) on the basis solely that **Pollution** has caused a loss in the value of the share capital of the **Company**;

PROVIDED ALWAYS THAT such **Claims** are brought or maintained entirely outside the United States of America or the Dominion of Canada or their territories or possessions.

3.8 Prospectus Liability for Current or Future Offerings

Where this Optional Extension has been granted, **Wrongful Acts** will include any misstatement, misleading statement, neglect, breach of duty or breach of trust in relation to any document, including any prospectus or information memorandum, issued by the **Company** in connection with a **Securities Offering**:

a) Initial Offering, Listing or Trading

If, during the **Period of Insurance**, the **Company** makes an initial public **Securities Offering**, **QBE** shall cover **Claims** arising out of a **Wrongful Act** which is a direct consequence of:

- (i) the initial public **Securities Offering**; and
- (ii) first made during a period ending thirty (30) days after the **Securities Offering**, or upon expiry of the **Period of Insurance**, whichever is the earlier.

If cover is sought beyond thirty (30) days after the **Securities Offering**, **RQBE** would require a copy of any prospectus, information memorandum or other regulatory filing as soon as it becomes publicly available, together with any other information it may require relating to the **Securities Offering**. Cover beyond thirty (30) days is not granted unless written consent is given by **RQBE**.

RQBE reserves the right to amend the **Policy** terms and conditions, including charging an additional premium.

b) Secondary Securities Offering

If, during the **Period of Insurance**, the **Company**:

- (i) makes a secondary **Securities Offering** in a jurisdiction where **Securities** are already traded (other than in the United States of America, Dominion of Canada or any of their territories or possessions); and
- (ii) such **Securities Offering** represents no more than fifty percent (50%) of the total issued and outstanding share capital of the **Company** at the date of the offering, but in any event is not more than Rs.[x] in value;

RQBE shall cover **Claims** arising out of a **Wrongful Act** which is attributable to such secondary **Securities Offering**.

3.9 Entity Protection for Critical Occurrences

Where this Optional Extension has been granted **Loss** shall include the cost of a mutually acceptable public relations consultant in response to a fifteen percent (15%) or more reduction in the **Company's** share price within a twenty-four (24) hour period arising from:

- a) a change in the **Company's** debt structure; or
- b) the restatement of previously published financial statements, future profit or earnings expectations; or
- c) the loss of patent or intellectual property; or
- d) the loss of a major customer or major contract; or
- e) a product recall; or
- f) death or departure of key executive officers; or
- g) Information Technology breakdown; or
- h) elimination or suspension of dividend; or
- i) the write-off of a material amount of its assets; or
- j) **Mass Tort**;

PROVIDED ALWAYS THAT such costs are to be expended within sixty (60) days of the occurrence of the change referred to in (a) to (j) of this Optional Extension.

The maximum aggregated amount payable under this Optional Extension shall not exceed item 3.9 of the **Schedule**, which is in addition to the **Limit of Indemnity**.

3.10 Entity Protection for Employment Related Matters

Where this Optional Extension has been granted, **RQBE** agrees that **Loss** shall include the total amount a **Company** becomes legally liable to pay in respect of a **Claim** that arises from an **Employment Related Matter**. PROVIDED ALWAYS THAT cover under this Extension shall not apply to any **Claim** directly or indirectly based upon, attributable to, or in consequence of:

- a) the modification of the **Company's** premises to comply with any legal obligation to accommodate or facilitate the access, use or enjoyment of such premises by disabled or physically impaired persons;
- b) the breach of any express or implied obligations under applicable employment legislation or specific contract of employment in respect of owed or outstanding wages, bonus payments, retirement benefits, share schemes or other in-kind non-cash benefits as a result of redundancy, lay-off or termination of employment.

The maximum aggregated amount payable under this Optional Extension shall not exceed item 3.10 of the **Schedule**.

3.11 Entity Protection for Securities Claims

Where this Optional Extension has been granted, **RQBE** agrees that **Loss** shall include the total amount a **Company** becomes legally liable to pay in respect of a **Claim** that arises in respect of the purchase or sale, or offer to purchase or sell **Securities** issued by the **Company** PROVIDED ALWAYS THAT cover under this Optional Extension shall not apply to any **Claim** directly or indirectly based upon, attributable to, or in consequence of any default on debt obligations, including breaches of covenant.

The maximum aggregated amount payable under this Optional Extension shall not exceed item 3.11 of the **Schedule**.

B. EXCLUSIONS

RQBE shall have no liability under this **Policy** in respect of any **Claim**:

1. Prior or Pending Litigation

- a) made, threatened or intimated against an **Insured Person** or the **Company** prior to the commencement of the **Period of Insurance**;
- b) directly or indirectly based upon, attributable to, or in consequence of any fact or circumstance:
 - (i) of which written notice has been given under any previous policy; or
 - (ii) of which an **Insured Person** first became aware or should reasonably have known prior to the commencement of the **Period of Insurance**;
- c) directly or indirectly arising out of a **Wrongful Act** that was committed in whole or in part prior to the **Retroactive Date**.

2. Absolute Asbestos

directly or indirectly arising out of, in consequence of, or contributed to by asbestos, asbestos fibres or derivatives of asbestos.

3. Actions by Substantial Shareholders

made by or on behalf of any shareholder whose direct or indirect entitlement to voting shares in the **Company**, at the time of the **Wrongful Act**, equals or exceeds fifteen percent (15%).

For the purpose of this Exclusion, shareholder shall mean any natural person, body corporate or other entity that has any direct or indirect, legal or beneficial interest in shares of the **Company**, whether held individually or jointly. Beneficial interest shall include any interest as a potential beneficiary under any discretionary or family trust arrangement.

4. Bodily Injury / Property Damage

for actual or alleged:

- a) bodily or psychological injury, sickness, disease or death of any person, PROVIDED ALWAYS THAT this Exclusion shall not apply to an **Employment Related Matter** or Automatic Extension 2.7 Libel and Slander; or

b) damage to or destruction of any tangible property, including loss of use thereof.

5. Employee Benefit Trustees

directly or indirectly based upon, attributable to, or in consequence of any position held by an **Insured Person** as trustee or administrator of any superannuation, pension, health and welfare, or other employee benefit plan or trust established or maintained for the purpose of providing pensions, annuities or any other form of benefits to employees of the **Company**. PROVIDED ALWAYS THAT this Exclusion shall not apply to an **Employment Related Matter**.

6. External Positions

where Optional Extension 3.5 External Positions has been granted, brought or maintained by or on behalf of an **External Entity** or their directors or officers under the law or jurisdiction of the United States of America or the Dominion of Canada or their territories or possessions.

7. Insured vs. Insured

brought under the law or jurisdiction of the United States of America or the Dominion of Canada or their territories or possessions and made by or on behalf of the **Company** or by or on behalf of any **Insured Person**.

8. Professional Services

for any actual or alleged breach of any professional services by any **Insured Person** PROVIDED ALWAYS THAT this Exclusion shall not apply to any **Claim** for an actual or alleged failure to supervise any employee of the **Company**.

9. Terrorism

directly or indirectly based upon, attributable to, or in consequence of any loss, damage, death, injury, illness, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any:

- a) act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the **Loss**;
- b) action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**.

10. Total Pollution

directly or indirectly based upon, attributable to, or in consequence of:

- a) **Pollution**; or
- b) any enforcement, action or proceeding in connection with the containment, clean up, removal, or treatment of such **Pollution**.

11. Unscrupulous Behaviour

- a) alleging or brought about or contributed to by any dishonest, fraudulent, criminal, malicious or deliberate act or omission or any wilful violation or breach of any statute or regulation by an **Insured Person** or the **Company**. PROVIDED ALWAYS THAT this Exclusion shall only apply if an admission of wrongdoing by the **Insured Person**, judgment or other final adjudication establishes that the conduct did in fact occur;
- b) directly or indirectly based upon, attributable to, or in consequence of any profit, remuneration or advantage to which an **Insured Person** or the **Company** is not legally entitled.

For the purpose of this Exclusion, no fact pertaining to or possessed by an **Insured Person** shall be imputed to any other **Insured Person**.

12. War

directly or indirectly based upon, attributable to, or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection,



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military or usurped power or confiscation or nationalisation or requisition of or damage to property by or under the order of any government or public local authority.

C. CLAIMS CONDITIONS AND NOTICE PROVISIONS

1. When to Notify

It is a condition precedent to liability that written notice of any **Claim** must be given as soon as practicable and in any event:

- a) within sixty (60) days of the expiry of the **Period of Insurance**; or
- b) (if applicable) during the **Extended Reporting Period**.

If an **Insured Person** or the **Company** becomes aware of any circumstances which might reasonably be expected to give rise to a **Claim** and notifies **RQBE** of those circumstances in writing during the **Period of Insurance** or (if applicable) during the **Extended Reporting Period**, any **Claim** subsequently made which arises from those circumstances shall be deemed to have been notified during the **Period of Insurance**.

2. Who to Notify

Notice of any **Claim** or circumstances which might reasonably be expected to give rise to a **Claim** shall be delivered to:

Claims Manager
RQBE General Insurance Company Ltd
Windsor House, 5th Floor, CST Road, Kalina, Santacruz East - 400 098

3. What to Notify

Notice of any **Claim** or circumstances which might reasonably be expected to give rise to a **Claim** shall include the reasons for the anticipation of a **Claim**, with full particulars as to the circumstances, dates and persons involved.

4. Admissions and Settlement

It shall be a condition precedent to **RQBE**'s obligations under this **Policy** that neither an **Insured Person** nor the **Company** shall admit liability, or settle or attempt to settle or make any admission or make any commitment with respect to any **Claim** without **RQBE**'s prior written consent. In any event, no action shall be taken by any **Insured Person** or the **Company** which might prejudice **RQBE**.

5. Allocation

If an **Insured Person** and/or the **Company** incurs **Loss** covered by this **Policy** together with other loss which is not covered by this **Policy** or a **Claim** is made against an **Insured Person** and/or the **Company** and others then **Defence Costs** shall be allocated in accordance with the following 'Fair and Reasonable Allocation' method as specified below.

Fair and Reasonable Allocation

RQBE shall pay such amount as is just and equitable having regard to the relative legal and financial exposures of the **Loss** covered by this **Policy** compared to other loss which is not covered by this **Policy**. Each **Insured Person** (or where Insuring Clauses 1.2 Company Reimbursement or 1.3 Entity Cover apply, the **Company**) and **RQBE** shall use their best efforts to agree this amount.

In default of agreement, the amount shall be determined by a mutually acceptable Senior Counsel or equivalent who shall be entitled to determine the allocation according to his view of what is just and equitable. Where a mutually accepted Senior Counsel is not agreed upon within sixty (60) days, then the Senior Counsel shall be appointed by **QBE**. It is agreed that the Senior Counsel appointed shall act as an expert, not an arbitrator.

Any determined allocation of **Defence Costs** to a **Claim** shall be applied retrospectively to all **Defence Costs** incurred in relation to such **Claim**.

6. Appointment of Lawyers



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The **Insured Persons** or the **Company** may appoint lawyers to represent them in defending any **Claim**, subject to **RQBE's** prior written consent, such consent not to be unreasonably withheld. Where the same or a similar **Claim** is made against more than one **Insured Person**, or against the **Company** and any **Insured Person**, the same lawyers shall be appointed to defend all of them unless **RQBE** is satisfied that there is a conflict of interest between the **Company** and/or any **Insured Person**.

7. Conduct of Defence

RQBE shall be entitled at any time to conduct, in the name of the **Insured Person** or the **Company**, the defence or settlement of any **Claim** and to represent such **Insured Person** or the **Company** in respect of that **Claim**. Any amount incurred by **RQBE** on behalf of an **Insured Person** shall be part of the **Loss** and shall erode the **Limit of Indemnity**.

8. Incurring Defence Costs

RQBE shall only be liable to pay **Defence Costs** to which it has given its prior written consent.

9. Information and Assistance

It shall be a condition precedent to **RQBE's** obligations that each **Insured Person** and/or the **Company** shall disclose to **RQBE** all relevant information and, in addition, shall provide assistance to **RQBE** to enable **RQBE** or its agents to investigate and/or defend and/or settle any **Claim** under this **Policy** (including without limitation by way of compliance with any protocol or other procedural requirements which may be relevant to the jurisdiction in which the **Claim** is brought) and/or to enable **RQBE** to determine any liability it may have under this **Policy**.

10. Legal Opinion

RQBE shall not require the **Insured Persons** or the **Company** to contest any **Claim** unless a mutually acceptable Senior Counsel or equivalent shall advise that such **Claim** should be contested having full consideration as to:

- a) the financial implications, damages and costs likely to be recovered by the claimant; and
- b) the likely **Defence Costs**; and
- c) the prospects of the **Insured Person** and/or the **Company** successfully defending the **Claim**.

The costs of such legal opinion shall be regarded as part of **Defence Costs**. Where a mutually accepted Senior Counsel is not agreed upon within thirty (30) days, then the Senior Counsel shall be appointed by **RQBE**. It is agreed that the Senior Counsel appointed shall act as an expert, not an arbitrator.

11. Priority to Insured Persons

Loss covered under Insuring Clause 1.1 Directors' and Officers' Liability shall be paid before any **Loss** which may be covered under Insuring Clause 1.2 Company Reimbursement and/or Insuring Clause 1.3 Entity Cover.

12. Subrogation

The **Insured Person** and/or **Company** shall do whatever is necessary to preserve or enable **RQBE** to enforce any legal rights or remedies or obtain relief or indemnity from other parties to which **RQBE** is or may become entitled or subrogated, even if such acts and things need to be done before **RQBE** has made any payment.

D. GENERAL CONDITIONS

1. Authorisation

Notice given by or to one **Insured Person** shall constitute notice by or to all **Insured Persons**. Notice given by or to the **Company** shall constitute notice by or to all **Insured Persons**.

2. Cancellation



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RQBE agrees to waive any rights it may have to cancel this **Policy**, except on the grounds of non-payment of **Premium**.

This **Policy** is cancellable by the **Company** upon, and subsequent to, receipt by **RQBE** of written instructions for such cancellation:

- a) if no **Claim** has been made and no circumstance has been notified prior to such cancellation during the **Period of Insurance**, **RQBE** shall return a pro-rated proportion of the **Premium** for the unexpired **Period of Insurance**, unless cancellation within the first three (3) months of the **Period of Insurance**, in which case, **RQBE** short period rate shall apply; or
- b) if one or more **Claims** has been made, or circumstance has been notified prior to such cancellation during the **Period of Insurance**, **Premium** shall not be returnable and shall be deemed fully earned at cancellation unless the **Company** withdraws such circumstances or **Claims** and reimburse **RQBE** for any payment made. Any return of **Premium** shall also be subject to a written full release of liability from the **Company**.

3. Condition Precedent

The validity of this **Policy** is subject to the condition precedent that:

- a) for the risk insured, the **Insured Person** or **Company** has never had any insurance terminated in the last twelve (12) months due solely or in part to a breach of any premium payment condition; or
- b) if the **Insured Person** or **Company** has declared that it has breached any premium payment condition in respect of a previous policy taken up with another insurer in the last twelve (12) months:
 - (i) the **Insured Person** or **Company** has fully paid all outstanding premium for time on risk calculated by the previous insurer on the customary short period rate in respect of the previous policy; and
 - (ii) a copy of the written confirmation from the previous insurer to this effect is first provided by the **Insured Person** or **Company** to **RQBE** before cover incept.

4. Contract Rights of Third Parties

Notwithstanding anything stated in the **Policy** or endorsed thereon:

A person who is not a party to this **Policy** contract shall have no right under it whether under any statutory provision or otherwise and including any right to enforce any of its terms.

5. Fraudulent Claims

If an **Insured Person** or the **Company** shall make any request for payment in respect of any **Loss** knowing the same to be false or fraudulent, with regards to the amount or otherwise, all entitlements to payment in respect of such **Loss** shall be forfeited.

6. Jurisdictional Cover

The cover this **Policy** provides shall extend to any **Claim** made anywhere in the world. PROVIDED ALWAYS THAT **RQBE** shall have no liability under this **Policy** in respect of any **Claim** directly or indirectly based upon, attributable to, or in consequence of:

- a) any actual or alleged violation of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974 (USA) and amendments thereto or similar provisions of any federal, country, state or local statutory law or common law anywhere in the world; or
- b) any actual or alleged violation of the Securities Act of 1933 (USA), the Securities Exchange Act of 1934 (USA), any rules or regulations of the Securities and Exchange Commission (USA) promulgated thereunder, and any federal, country, state, local or provincial statute in the United States of America or the Dominion of Canada or their territories or possessions relating to **Securities**, or any rules or regulations promulgated thereunder, all as amended; or
- c) the **Company**, having American Depository Receipts of Level 2 and above, or having shares traded in the security exchange or market of the United States of America or Dominion of Canada.



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- d) the **Company** having any manufacturing facilities in the United States of America or the Dominion of Canada or their territories or possessions.

7. Limit of Liability

RQBE's total liability under this **Policy** for **Loss** in respect of any one **Claim** and in the aggregate in respect of all **Claims** against all **Insured Persons** and/or the **Company** shall not exceed the **Limit of Indemnity** as specified in the **Schedule**, except for the additional limits provided in Optional Extension 3.1 Additional Limit for Directors and Officers and Optional Extension 3.9 Entity Protection for Critical Occurrences (if granted).

8. Multiple Claims

All causally connected or interrelated **Wrongful Acts** shall jointly constitute a single **Wrongful Act** under this **Policy** and shall be deemed to have occurred when the first such **Wrongful Act** was committed.

Where a single **Wrongful Act** gives rise to more than one **Claim**, all such **Claims** shall jointly constitute one **Claim** under this **Policy**, and the highest **Retention** shall be applicable in respect of such **Claim**.

9. Other Insurance

If at the time a **Claim** arises under this **Policy** the **Company** or any **Insured Person** is or would, but for the existence of this **Policy**, be entitled to indemnity under any other insurance policy, **RQBE** shall not be liable except in respect of any excess beyond the amount which would have been payable under such other policy had this **Policy** not been effected.

10. Policy Construction

The construction, interpretation and meaning of the provisions of this **Policy** shall be determined in accordance with the laws of the state, territory or country in which this **Policy** is issued and any dispute relating thereto shall be submitted to the exclusive jurisdiction of the courts of such state, territory or country.

The marginal notes and titles of paragraphs in this **Policy** are included for descriptive purposes only and do not form part of this **Policy** for the purpose of its construction or interpretation.

Under this **Policy**, the masculine includes the feminine and the singular includes the plural and vice versa.

11. Premium Warranty Clause

12. Retention

RQBE shall only pay in excess of the amount stated as the **Retention** in the **Schedule**, which amount applies to each and every **Claim**. PROVIDED ALWAYS THAT if:

- a) a **Director or Officer** is unable to enforce a right to indemnity against the **Company** to which he or she is entitled, whether at common law, under statute or otherwise, **RQBE** shall fund the **Retention** and recover it from the **Company**; or
- b) the **Company** is placed in liquidation (other than voluntary liquidation) and therefore has insufficient funds available to indemnify the **Director or Officer**, then **RQBE** shall indemnify the **Director or Officer** against **Loss** arising from any **Claim** and no **Retention** shall apply.



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13. Significant Change

In the event of a **Significant Change**, this **Policy** shall apply only to **Wrongful Acts** committed prior to the date of such **Significant Change** unless otherwise agreed by **RQBE**.

14. Waiver or Amendment

The terms of this **Policy** shall not be waived or changed except by endorsement issued by **RQBE** and intended to form part of this **Policy**.

15. Worldwide Territorial Cover

The cover this **Policy** provides shall extend to a **Wrongful Act** committed anywhere in the world.

E. DEFINITIONS

The following words shall have the same meaning throughout this **Policy**, whether expressed in the singular or in the plural.

1. Claim

“**Claim**” shall mean:

- a) notice of any civil or administrative or regulatory proceeding received by any **Insured Person** or the **Company** alleging the commission by an **Insured Person** of a specified **Wrongful Act**; or
- b) any written or verbal communication received by an **Insured Person** or the **Company** alleging the commission by an **Insured Person** of a specified **Wrongful Act**; or
- c) any criminal proceeding commenced by summons or charge received by an **Insured Person** or the **Company** alleging the commission by an **Insured Person** of a specified **Wrongful Act**.

PROVIDED ALWAYS THAT such **Claim** is:

- a) first made against the **Insured** during the **Period of Insurance**, or **Extended Reporting Period** (if applicable); and
- b) notified in writing to **RQBE** as soon as practicable during the **Period of Insurance**; and
- c) alleging a **Wrongful Act** that occurred subsequent to the **Retroactive Date**.

2. Company

“**Company**” shall mean the Company stated in the **Schedule** and shall include any **Subsidiary Company**.

3. Defence Costs

“**Defence Costs**” shall mean all reasonable and necessary costs, charges, fees and expenses, including legal representation costs (other than salaries, commissions, expenses or other benefits of **Insured Persons**) which (except for **Emergency Costs**) are incurred with **RQBE**'s prior written consent by an **Insured Person**:

- a) in the defence of any **Claim**;
- b) in the negotiation of any settlement of any **Claim**;
- c) in the attendance of a regulatory or other official investigation, examination or enquiry;
- d) in the appeal of any **Claim** and the costs of bail or similar bonds.

Defence Costs also includes the costs of obtaining the opinion of a Senior Counsel or equivalent appointed in accordance with the terms of this **Policy**.

4. Director or Officer

“**Director or Officer**” shall mean any natural person who is a director or officer of the **Company**.



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5. Domestic Partner

“**Domestic Partner**” shall mean any natural person qualifying as a domestic partner of, or being in a similar relationship to, an **Insured Person** under the provisions of any applicable law or under the provisions of any formal program established by the **Company**.

6. Emergency Costs

“**Emergency Costs**” shall mean costs and expenses exceeding any applicable **Retention**:

- a) incurred without **RQBE**'s prior written agreement because an emergency reasonably prevents the **Insured** from obtaining such agreement; and
- b) for the defence of a **Claim** only; and
- c) which **RQBE** later agrees have been reasonably incurred.

7. Employment Related Matter

“**Employment Related Matter**” shall mean any actual or alleged wrongful or unfair dismissal; defamation in relation to wrongful or unfair dismissal; sexual harassment; discrimination; erosion of status protected under applicable law; denial of natural justice; adverse change in the terms and conditions of a person's employment in retaliation for that person's exercise of his or her rights under law, or support of the rights of another; misleading representations or misleading advertising involving employment with the **Company**.

8. Extended Reporting Period

“**Extended Reporting Period**” shall mean a period of time commencing immediately following the expiry of this **Policy** during which the **Insured** may notify **RQBE** about a **Claim** first made during such period or the **Period of Insurance**, based upon a circumstance which took place prior to the expiry of this **Policy**.

9. External Entity

“**External Entity**” shall mean any entity which is not either the **Company** or a **Subsidiary Company**

PROVIDED ALWAYS THAT such entity is not incorporated, domiciled or has its **Securities** listed on a security exchange or market within the United States of America or the Dominion of Canada or their territories or possessions and is not a **Financial Institution**.

10. External Position

“**External Position**” shall mean the position of director or officer of an **External Entity** to which an **Insured Person** is appointed by the **Company**.

11. Extradition Proceedings

“**Extradition Proceedings**” shall mean a request for extradition of an **Insured Person**, a warrant of arrest in respect of the extradition of an **Insured Person** or other proceedings under the provisions of the Extradition Act 1962 in India and subsequent amendments to it or similar legislation in any other jurisdiction.

12. Financial Institution

“**Financial Institution**” shall mean a bank, insurance company, underwriting agency, syndicate, investment advisor/manager, private equity or venture capital company or similar entity.

13. Insured Person

“**Insured Person**” shall mean:

- a) any past, present or future **Director or Officer** or secretary of the **Company** or any natural person who by virtue of any applicable legislation or law is deemed to be a **Director or Officer**, including shadow or alternative directors;



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- b) in the event of the death, incompetence or bankruptcy of a **Director or Officer**, his estate, heirs, legal representatives or assigns, but only for **Loss** incurred by such **Director or Officer** in his capacity as a **Director or Officer**;
- c) the lawful spouse or **Domestic Partner** of any **Director or Officer** provided that the **Claim** is to enforce a judgment against that **Director or Officer** for **Loss** incurred in their capacity as such.
- d) any past, present or future employee.

For the purpose of this definition, "employee" shall mean:

- a) an employee of the **Company** acting in a managerial or supervisory capacity; or
- b) an employee of the **Company** with regards to an **Employment Related Matter** and/or an Optional Extension 3.5 **External Positions Claim**; or
- c) an employee of the **Company**, in respect of any **Claim** or investigation in which such employee is named as a co-defendant or is required to attend such investigation with any **Director or Officer**.

14. Limit of Indemnity

"**Limit of Indemnity**" shall mean **RQBE's** aggregate liability for all **Loss** covered by this **Policy**, irrespective of the number of **Insured Persons** and/or **Company** entitled to indemnity and shall not exceed the amount stated in the **Schedule**.

15. Loss

"**Loss**" shall mean the total amount an **Insured Person** and/or **Company** becomes legally liable to pay in respect of a **Claim** first made against them during the **Period of Insurance**. **Loss** shall include:

- a) damages, judgments and expenses; and
- b) multiple, exemplary or punitive damages where insurable by law (provide these are in addition to compensatory damages and not a form of tax, fine or similar penalty) awarded by a court or tribunal outside of the United States of America or the Dominion of Canada or their territories or possessions; and
- c) settlements compromising actual or anticipated legal proceedings made with **RQBE's** prior written consent (such consent not to be unreasonably withheld) or in accordance with the allocation provisions; and
- d) **Defence Costs** incurred with **RQBE's** prior written consent (such consent not to be unreasonably withheld) or in accordance with the allocation provisions of this **Policy**.

Loss shall not include aggravated damages, or tax or fines or penalties imposed by law, including but not limited to, civil penalties, or any matter uninsurable by law.

16. Mass Tort

"**Mass Tort**" shall mean the commencement of one or more purported class action lawsuits against the **Company** alleging that the **Company** caused class members to suffer or incur bodily injury, personal injury, sickness, disease, death or property damage.

17. Period of Insurance

"**Period of Insurance**" shall mean the period stated in the **Schedule**.

18. Policy

"**Policy**" shall mean:

- a) the **Schedule**, Insuring Clauses, Extensions, Exclusions, Conditions, Definitions and other terms contained herein; and

- b) any endorsement attaching to and forming part of this **Policy** either at inception or during the **Period of Insurance**; and
- c) the **Proposal Form**.

19. Pollution

“**Pollution**” shall mean the discharge, dispersal, release or escape of any pollutants including any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkalis, chemicals, radioactive and/or nuclear material or waste materials (including but not limited to any materials to be recycled, reconditioned or reclaimed).

20. Premium

“**Premium**” shall mean the premium specified in the **Schedule** or in any endorsement to the **Schedule**.

21. Proposal Form

“**Proposal Form**” shall mean the information provided by or on behalf of **Insured Person(s)** and/or the **Company** prior to the inception of this **Policy** and shall include the written proposal and any attachments to it.

22. RQBE

“**RQBE**” shall mean Raheja QBE General Insurance Company Ltd.

23. Retention

“**Retention**” shall mean the retention amount stated in the **Schedule**.

24. Retired Director or Officer

“**Retired Director or Officer**” shall mean any natural **Director or Officer** who during the **Period of Insurance** stopped being a **Director or Officer** for any reason other than disqualification from holding the office of director or from managing a company.

25. Retroactive Date

“**Retroactive Date**” shall mean the date stated in the **Schedule**.

26. Schedule

“**Schedule**” shall mean the schedule attached to this **Policy** and any amendment to it authorised by **RQBE**.

27. Securities

“**Securities**” shall include but are not limited to any bond, stock, note, debenture, share, rights, or warrants representing an equity or debt security of the **Company**.

28. Securities Offering

“**Securities Offering**” shall mean the offer for subscription or purchase of any of the **Company's** own **Securities**.

29. Significant Change

“**Significant Change**” shall mean:

- a) any sale of the **Company** or its merger with or acquisition by another entity or group of entities such that the **Company** is not the surviving entity and/or any person or entity, or persons or entities acting in concert:
 - (i) become entitled to control the composition of the board of directors; or

- (ii) control more than half the voting power; or
- (iii) hold more than half of the Company's issued share capital;

PROVIDED ALWAYS THAT this Definition shall not apply to any sale of shares in the **Company** which solely alters the status of the **Company** from that of a private company to that of a public company or vice versa.

- b) the insolvency, liquidation, bankruptcy or receivership of the **Company**; or
- c) any sale of more than seventy-five percent (75%) of the Company's total assets to another person or entity or persons or entities acting together.

30. **Subsidiary Company**

"**Subsidiary Company**" shall mean:

- a) any company in respect of which the **Company** (either directly or indirectly through one or more of its subsidiary companies):
 - (i) controls the composition of the board of directors; or
 - (ii) controls more than half the voting power at a general meeting of shareholders; or
 - (iii) holds more than half of the issued share capital (regardless of class of share);
- b) any company as defined above (other than any company part of whose issued share capital is offered to the public or otherwise traded on a recognized exchange in the United States of America) which is acquired or created on or subsequent to the inception date of this **Policy** and of which the total assets at the date of acquisition or creation, does not exceed twenty-five percent (25%) of the total assets of the **Company** as reflected in the latest and consolidated audited financial statements of the **Company**;
- c) any other company that **RQBE** has given prior written consent to for its inclusion as a subsidiary company under this **Policy**.

31. **Terrorism**

"**Terrorism**" shall mean any act, including but not limited to the use of force or violence and/or 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) which from its nature or context is done 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.

32. **Wrongful Act**

"**Wrongful Act**" shall mean any actual or alleged wrongful act or omission including any misleading statement, misstatement, misrepresentation, breach of trust, breach of duty or breach of warranty or authority committed by an **Insured Person** solely in his capacity as an **Insured Person**.