

In consideration of payment of the premium and subject to the terms and conditions of this policy, the Company and the **Insured** agree as follows:

INSURANCE CONTRACT

1. The Company shall pay on behalf of the **Insured Loss** arising solely out of **Professional Services** resulting from any **Claim** first made against such **Insured** during the **Policy Period** or, if exercised, during the Extended Reporting Period, but only if such **Claim** is reported to the Company in writing and in the manner and within the time provided in section 5 of this policy.

Extended Reporting Period

2. If this policy is terminated or not renewed for any reason other than termination by the Company for non-payment of premium, the **Insured** shall have the right, upon payment of the additional premium set forth in Item 7(a) of the Schedule, to an extension of the coverage granted by this policy for the period set forth in Item 7(b) of the Schedule following the effective date of termination or non-renewal, but only to the extent that such **Claims** are for **Wrongful Acts** occurring prior to the effective date of termination or non-renewal. This right of extension shall lapse unless written notice of such election, together with payment of the additional premium due, is received by the Company within thirty (30) days following the effective date of termination or non-renewal.

Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**. If the Extended Reporting Period is purchased, the entire premium noted in Item 7(a) of the Schedule shall be deemed fully earned at the inception of such Extended Reporting Period.

The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew.

EXCLUSIONS

- 3.1 The Company shall not be liable for **Loss** on account of any **Claim**:
 - (a) based upon, arising from, or in consequence of any circumstance if notice of such circumstance has been given under any policy of which this policy is a renewal or replacement or which it may succeed in time;
 - (b) based upon, arising from, or in consequence of any demand, suit or other proceeding pending against, or order, decree or judgment entered for or against any **Insured** on or prior to the Pending or Prior Date set forth in Item 8 of the Schedule or the same or substantially the same fact or circumstance underlying or alleged therein;
 - (c) based upon, arising from, or in consequence of any express or implied, written or verbal, guarantee or warranty made in connection with **Professional Services**;
 - (d) for bodily injury, sickness, disease or death of any person, or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed;
 - (e) for any liability of others assumed by the **Insured** under any contract, including without limitation any contract formed electronically, except to the extent that such liability would have attached to the **Insured** even in the absence of such contract;
 - (f) based upon, arising from, or in consequence of defamation, invasion of privacy, assertion or infringement of copyright, patent, service mark, trade name, design right or trade mark, whether registrable or not, or misappropriation of ideas or trade secrets or know how or any assertion or infringement of any intellectual property right;
 - (g) based upon, arising from, or in consequence of the actual or alleged violation of any law anywhere in the world pertaining to discrimination of **Employees**;
 - (h) based upon, arising from, or in consequence of **Pollution**;
 - (i) based upon, arising from, or in consequence of an **Antitrust Claim**;
 - (j) based upon, arising from, or in consequence of a **Financial Impairment**;
 - (k) for an actual or alleged violation of the responsibilities, obligations or duties imposed by the USA Employee Retirement Income Security Act of 1974, the Indian Employees Provident Fund and Miscellaneous Provisions Act, 1952, the Indian Employees State Insurance Act, 1948, the Indian Payment of Bonus Act, 1965, the Indian Payment of Gratuity Act, 1972, the Indian Maternity Benefits Act, 1961, the Indian Factories Act, 1961, all as amended, or similar provisions of any law anywhere in the world as respects any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to

employees of the **Insured Organisation**;

- (l) brought or maintained by or on behalf of any **Insured**;
- (m) based upon, arising from or in consequence of the performance or failure to perform **Professional Services** for:
 - a. any **Insured**;
 - b. any entity which is under common ownership or control with any **Insured Organisation**;
 - c. any natural person or entity who or which, directly or indirectly, owns or controls any entity included within the definition of **Insured**; or
 - d. any entity of which any **Insured** is a director, officer or partner;
- (n) based upon, arising from or in consequence of an actual or alleged violation of the USA Securities Act of 1933, the USA Securities Exchange Act of 1934, any rules or regulations of the USA Securities and Exchange Commission promulgated thereunder, any other statute relating to securities, or any rules or regulations promulgated thereunder, in the United States of America, India or anywhere else in the world; all as amended;
- 3.2 The Company shall not be liable for **Loss** other than **Defence Costs** resulting from any **Claim** based upon, arising from or in consequence of
 - (a) any **Claim** (or portion of a **Claim**) for non-monetary relief or for enforcement of any order for, grant of or agreement to provide non-monetary relief.
 - (b) any deliberately fraudulent act or omission or any willful violation or breach of any law or regulation by such **Insured**, if any judgment, determination or other final adjudication establishes such a deliberately fraudulent act or omission or willful violation or breach;
 - (c) any **Insured** having gained in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled.
- 3.3 With respect to the exclusions in this policy, in order to determine if coverage is available:
 - (i) no fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**; and
 - (ii) only facts pertaining to and knowledge possessed by any past, present or future president, chief executive officer, chief financial officer, in-house general counsel, risk manager, managing director, chairperson, or equivalent position in any jurisdiction, of an **Insured Organisation** shall be imputed to such **Insured Organisation**.

Limit of Liability and Deductible

4. The Company's maximum liability for **Loss** on account of each **Claim** shall be the Limit of Liability for each **Loss** set forth in Item 3(a) of the Schedule. The Company's maximum liability for **Loss** on account of all **Claims** first made during the **Policy Period** shall be the Limit of Liability for each **Policy Period** set forth in Item 3(b) of the Schedule. **Defence Costs** are part of, and not in addition to, the Limits of Liability set forth in Item 3 of the Schedule, and the payment by the Company of **Defence Costs** shall reduce and may exhaust such applicable Limits of Liability.

The Company's liability under this policy shall apply only to that part of covered **Loss** on account of each **Claim** which is excess of the Deductible Amount set forth in Item 4 of the Schedule. Such Deductible Amount shall be depleted only by **Loss** otherwise covered under this policy and shall be borne by the **Insureds** uninsured and at their own risk.

All **Related Claims** shall be treated as a single **Claim** first made on the date the earliest of such **Related Claims** was first made, or on the date the earliest of such **Related Claims** is treated as having been made in accordance with section 5, Reporting and Notice, regardless of whether such date is before or during the **Policy Period**.

The limit of liability available during the Extended Reporting Period, if exercised, shall be part of and not in addition to the Company's maximum limit of liability for all **Loss** on account of a **Claim** first made during the immediately preceding **Policy Period**.

Reporting and Notice

5. The **Insured** shall, as a condition precedent to exercising any rights under this policy, give to the Company written notice of any **Claim** as soon as practicable but no later than the earliest of the following dates:
 - (a) Sixty (60) days after the date on which the **Insured's** chief executive officer, chief financial officer, in-house general counsel, partner, president,

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- (b) managing director, chairperson or equivalent position in any jurisdiction, first becomes aware that the **Claim** has been made;
- (b) if this policy expires (or is otherwise terminated) without being renewed and if no Extended Reporting Period is granted, sixty (60) days after the effective date of such expiration or termination; or
- (c) the expiration date of the Extended Reporting Period, if granted;

provided that if the Company sends written notice to the **Insured Organisation**, at any time before the date set forth in item (a) above with respect to any **Claim**, stating that this policy is being terminated for non-payment of premium, the **Insured** shall give the Company written notice of such **Claim** prior to the effective date of such termination.

If during the **Policy Period** the **Insured**:

- i) becomes aware of circumstances which could give rise to a **Claim** and gives written notice of such circumstances to the Company;
- ii) receives a written request to waive a statute of limitation applicable to **Wrongful Acts** occurring before or during the **Policy Period** and gives written notice of such request and of such alleged **Wrongful Acts** to the Company;

then any **Claim** subsequently arising from the circumstances referred to in i) or from the **Wrongful Acts** referred to in ii) above shall be deemed to have first been made during the **Policy Period** in which the written notice described in i) or ii) above was first given by the **Insured** to the Company as set forth in this section. With respect to any such subsequent **Claim**, no coverage under this policy shall apply to loss incurred prior to the date such subsequent **Claim** is actually made.

In order to make a **Claim** or to provide notice of circumstances the **Insured** shall, as condition precedent to exercising any right under this policy, provide written notice of a **Claim** or circumstances to the Company. This written notice shall include:

1. a description of the **Claim** or circumstances;
2. the nature of the alleged **Wrongful Acts**;
3. the nature of the alleged or potential damage;
4. the names of actual or potential claimants;
5. the names of all actual or potential defendants; and
6. the manner in which such **Insured** first became aware of the **Claim** or circumstances.

In addition to and in support of the written notice of **Claim** or circumstances, the **Insured** shall, provide to the Company any and all documents relevant to such **Claim** or circumstances, including but not limited to internal or external records of any kind, correspondence, legal documents or other documents as the Company may deem necessary for the handling of the **Claim**. The **Insured** shall further extend to the Company such co-operation as the Company may reasonably require in the handling of the **Claim**.

Such complete written notice and supporting documentation shall form the basis of the Company's assessment of the **Claim**.

Notice

- 6. Notice to the Company under this policy shall be given in writing addressed to:

- (a) for notice of a **Claim** or circumstances which could give rise to a **Claim**:

Claims Department Manager
 HDFC ERGO General Insurance Company Limited
 6th Floor Leela Business Park
 Andheri Kurla Road, Andheri East
 Mumbai - 400059
 India

- (b) for all other notices:

Underwriting Manager
 HDFC ERGO General Insurance Company Limited
 6th Floor Leela Business Park
 Andheri Kurla Road, Andheri East
 Mumbai - 400059
 India

Such notice shall be effective on the date of receipt by the Company at such address

Defence and Settlement

- 7. The Company shall have the right but not the duty to defend any **Claim** covered by this policy. Coverage shall apply even if any of the allegations are groundless, false or fraudulent. Each **Insured** agrees to provide the Company with all information, assistance and co-operation which the Company reasonably

requires, including, without limitation, for the purposes of any investigation the Company makes, in its absolute discretion.

Each **Insured** agrees that in the event of a **Claim** such **Insured** will do nothing that may prejudice the Company's position or its potential or actual rights of recovery.

Each **Insured** agrees not to settle any **Claim** or convey any offer of settlement to any claimant with regard to any **Claim**, incur any **Defence Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Company's prior written consent. The Company shall not be liable for any **Defence Costs**, any other element of **Loss** incurred, any obligation assumed, or any admission made by any **Insured** without the Company's prior written consent.

With respect to any **Claim** that appears reasonably likely to be covered in whole or in part under this policy, the Company shall have the right and shall be given the opportunity to effectively associate with, and to be consulted in advance by, each **Insured** regarding the investigation, defence and settlement of such **Claim**, including negotiating any settlement. The Company may make any investigation it deems necessary and may, with the consent of the **Insured**, make any settlement of any **Claim** it deems expedient. If such **Insured** withholds consent to such settlement, the Company's liability for all **Loss** on account of such **Claim** shall not exceed the amount for which the Company could have settled such **Claim** plus costs, charges and expenses accrued as of the date such settlement was proposed in writing by the Company to such **Insured**.

Any advancement of **Defence Costs** under this policy shall be repaid to the Company by the **Insured**, severally according to their respective interests, if and to the extent it is determined that such **Defence Costs** are not insured under this policy.

With respect to any consents required under this section, (a) provided the **Insured** complies with the obligations set forth in this section, the Company shall not unreasonably withhold its consent; and (b) the **Insured** shall not unreasonably withhold such consent.

Other Insurance

- 8. If **Loss** is insured under any other policy, prior or current, then this policy shall cover such **Loss**, subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such **Loss** is in excess of the applicable retention or deductible and the limit of liability of such other insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this policy.

Changes in Exposure Acquisition or Creation of Another Organisation

- 9.1 If an **Insured Organisation** (i) acquires securities or voting rights in another organisation or creates another organisation, which as a result of such acquisition or creation becomes a **Subsidiary**, or (ii) acquires any organisation by merger into or consolidation with an **Insured Organisation** such that the **Insured Organisation** is the surviving entity, then such other organisation and the **Insured Persons** in relation to it shall be **Insureds** under this policy, but only with respect to **Wrongful Acts** where all or part of such acts occurred after such acquisition or creation unless the Company agrees, after presentation of a complete **Proposal** and all appropriate information, to provide coverage by endorsement for **Wrongful Acts** occurring prior to such acquisition or creation.

The **Insured Organisation** shall give written notice of such acquisition or creation to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such creation or acquisition, together with such information as the Company may require, and shall pay any reasonable additional premium required by the Company. If the **Insured Organisation** fails to give such notice within the time specified in the preceding sentence, or fails to pay the additional premium required by the Company, coverage for such acquired organisation or new **Subsidiary** and the **Insured Persons** in relation thereto shall terminate with respect to **Claims** first made more than sixty (60) days after such acquisition or creation. Coverage for any such acquired organisation or new **Subsidiary** and the **Insured Persons** in relation thereto shall be subject to such additional or different limitations, conditions, provisions or other terms as the Company, in its sole discretion, may require.

Changes in Exposure Acquisition, Material Change of Financial Impairment of Insured Organisation

- 9.2 If (i) the **Insured Organisation** merges into or consolidates with another organisation and the **Insured Organisation** is not the surviving entity; (ii) another organisation or person or group of organisations or persons in concert acquire securities or voting rights which result in ownership or voting control by the other organisation(s) or person(s) of more than 50% of the outstanding securities representing the present right to vote for election of directors of the **Insured Organisation**; (iii) the nature of the primary

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business of an **Insured Organisation** changes materially from that as at inception of this **Policy Period**; or (iv) upon the **Financial Impairment** of the **Insured Organisation**, coverage under this policy shall continue until termination of this policy, but only with respect to **Claims for Wrongful Acts** occurring prior to such merger, consolidation, acquisition, change or **Financial Impairment**. The **Insured Organisation** shall give written notice of such merger, consolidation, acquisition, change or **Financial Impairment** as soon as practicable, but no later than sixty (60) days after the date of such merger, consolidation, acquisition, change or **Financial Impairment**, together with such information as the Company may require. Upon the occurrence of any event specified in (i), (ii), (iii) or (iv) above, the entire premium for this policy shall be deemed fully earned.

Changes In Exposure Cessation of Subsidiaries

- 9.3 In the event an organisation ceases to be a **Subsidiary** before or after the inception date of this policy, coverage with respect to such **Subsidiary** and the **Insured Persons** in relation thereto shall continue until termination of this policy or any renewal thereof but only with respect to **Claims for Wrongful Acts** occurring prior to the date such organisation ceased to be a **Subsidiary**.

Representations and Severability

10. In issuing this policy the Company has relied upon the statements, representations and information in the **Proposal**. All of the **Insureds** acknowledge and agree that all such statements, representations and information:
- (a) are true and accurate;
 - (b) were made or provided in order to induce the Company to issue this policy; and
 - (c) are material to the Company's acceptance of the risk to which this policy applies.

In the event that any of the statements, representations or information in the **Proposal** are not true and accurate, this policy shall be void with respect to any **Insured** who knew as of the effective date of the **Proposal** the facts that were not truthfully and accurately disclosed (whether or not the **Insured** knew of such untruthful disclosure in the **Proposal**) or to whom knowledge of such facts is imputed.

For the purposes of the preceding paragraph:

- (a) the knowledge of any past, present or future president, chief executive officer, chief financial officer, in-house general counsel, managing director, chairperson, or equivalent position in any jurisdiction, of the **Insured Organisation** shall be imputed to the **Insured Organisation** to determine if coverage is available; and
- (b) except as provided for in (a) above, no statement, representation or information provided in the **Proposal** or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** for the purpose of determining if coverage is available.

Territory and Governing Law

11. Coverage shall extend anywhere in India.

The construction, interpretation and meaning of the provisions of this policy shall be determined in accordance with and governed by the laws of the Republic of India.

Confirmity

12. The provisions of this policy shall be read subject to the provision of any law governing the construction of this policy. If any of the provisions of this policy are inconsistent with any law governing its construction then the provisions of this policy shall be deemed to be amended so as to comply with such law.

Subrogation

13. In the event of any payment under this policy, the Company shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery, and such **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit in the name of the **Insured**.

Action Against the Company

14. No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy. The **Insured** shall have no right under this policy to join the Company as a party to any action against the **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

Estates, Legal Representatives and Spousal Liability Extension

15. Coverage shall extend to **Claims** for the **Wrongful Acts** of any **Insured Person** made against:
- a) the estates, heirs, legal representatives or assigns of any **Insured Person** who is deceased or against the legal representatives or assigns of any **Insured Person** who is incompetent, insolvent or bankrupt; and
 - b) the lawful spouse of such **Insured Person** solely by reason of such person's status as a spouse or such spouse's ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**.

All limitations, conditions, provisions, and other terms of coverage (including the Deductible Amount) applicable to **Loss** incurred by the **Insured Person** shall also apply to loss incurred by the estates, heirs, legal representatives, assigns and spouses of such **Insured Person**. The coverage provided under this section shall not apply with respect to any loss arising from any act or omission by such **Insured Person's** estate, heirs, legal representatives, assigns or spouse.

Bankruptcy

16. Bankruptcy, winding-up, receivership or insolvency of an **Insured** or of the estate of such **Insured** shall not relieve the Company of its obligations or deprive the Company of its rights under this policy.

Authorisation Clause

17. By acceptance of this policy, the **Insured Organisation** agrees to act on behalf of each **Insured** with respect to the giving and receiving of notice of **Claim** or termination, the payment of premiums and the receiving of any return premiums that may become due under this policy, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this policy (except the giving of notice to apply for the Extended Reporting Period), and each **Insured** agrees that the **Insured Organisation** shall act on their behalf.

Alteration and Assignment

18. No change in, modification of, or assignment of interest under this policy shall be effective except when made by a written endorsement to this policy which is signed by an authorised employee of the Company.

Termination of Policy

19. This policy shall terminate at the earliest of the following times:
- (A) ten (10) days after the receipt by **Insured Organisation** of written notice of termination from the Company in the event of non-payment of premium, unless the premium is paid within such ten (10) day period;
 - (B) upon expiration of the **Policy Period** as set forth in Item 5 of the Schedule of this policy, or
 - (C) at such other time as may be agreed upon by the Company and the **Insured Organisation**.

The Company shall retain the premium computed at the customary short rates as provided in the table given below if the policy is terminated by the **Insured Organisation**. Under any other circumstances the refund shall be computed pro-rata.

Table of Customary Short Rates

Period of Risk (Not exceeding)	Premium to be retained by the Company (% of the Annual Rate)
1 Week	10%
1 Month	25%
2 Months	35%
3 Months	50%
4 Months	60%
6 Months	75%
8 Months	85%
Exceeding 8 Months	Full Annual Premium

The Company shall have no obligation to renew this policy upon its expiration or termination.

Termination of Prior Policy

20. The inception of this policy shall terminate, if not already terminated, any policies specified in Item 9 of the Schedule

Definitions

21. When used in bold type in this policy:

Antitrust Claim means any actual or alleged violation of the Competition Act 2002, India, and amendments thereto, or any other law, anywhere in the world, involving anti-trust, monopoly, price fixing, price discrimination, predatory pricing, restraint of trade, or which otherwise protects competition.

Claim means:

- (i) a written demand for monetary damages or non-monetary relief;
- (ii) a civil proceeding commenced by the service of a complaint, summons, statement of claim or similar pleading;
- (iii) a formal administrative or formal regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document; or
- (iv) an arbitration proceeding

against an **Insured** for a **Wrongful Act**, including any appeal therefrom.

Defence Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees after court taxation, if applicable, and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of a partner, a director, officer, trustee or employee of an **Insured Organisation**) incurred in defending any **Claim** and the court fee or amount adjudicated for appeal, attachment, or similar surety or security.

Employee means any natural person in the regular service of the **Insured Organisation** (whether full-time, part-time, permanent or temporary) pursuant to a written contract of service between such person and the **Insured Organisation** whom the **Insured Organisation** compensates by salary or wages and has the right to control and direct both as to the result to be accomplished and the details and means by which such result is accomplished in the performance of such service. **Employee** shall not include any independent contractor or any employee, agent or other representative thereof.

Financial Impairment means the status of any **Insured Organisation** resulting from (i) the appointment by any state or central tribunal, agency or court, or by a creditor, of any receiver and manager, including but not limited to a receiver appointed by the court under Order 40, Rule (1) of the Indian Code of Civil Procedure 1908, as amended, judicial manager, administrator, conservator, liquidator, including but not limited to any liquidator appointed under Sections 449 and 450 of the Indian Companies Act, 1956, as amended, trustee, rehabilitator or similar official or a holder of a similar position to take control of, supervise, administer, manage or liquidate the **Insured Organisation**; (ii) the **Insured Organisation** becoming a debtor in possession under the United States bankruptcy law or taking any corporate action or commencing legal proceedings for its winding-up, dissolution, administration or corporate restructuring or an event occurs which has an analogous effect under the laws of any other country; (iii) a referral being made to the Board of Industrial and Financial Reconstruction under the provisions of the Indian Sick Industrial Companies (Special Provisions) Act, 1985, as amended or (iv) the **Insured Organisation** being unable to pay its debts as they fall due, commencing negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness or making a general assignment for the benefit of or a composition with its creditors.

Insured means the **Insured Organisation** and/or any **Insured Person**.

Insured Organisation means the entity designated in Item 1 of the Schedule and any **Subsidiary**.

Insured Person means any natural person who has been, now is or shall become a partner, director, officer, or equivalent position in any jurisdiction, or **Employee** of an **Insured Organisation** but only while such person was, is or shall be acting solely in the performance of **Professional Services**, as stated in Item 10 of the Schedule, and on behalf of the **Insured Organisation**.

Loss means **Defence Costs** and the total amount covered under this policy which the **Insured** becomes legally obligated to pay on account of any covered **Claim** including, but not limited to: (a) awards of damages; (b) judgments; (c) sums payable due to any settlements agreed to by the Company in accordance with section 7; and (d) awards of claimant's costs.

Loss does not include (i) any amount not indemnified by an **Insured Organisation** for which any **Insured Person** is absolved from payment by reason of any covenant, agreement or court order; (ii) fines or penalties imposed by law; (iii) punitive, aggravated or exemplary damages; (iv) the multiple portion of any multiplied damage award; (v) any amount which constitutes restitution, reduction, disgorgement or set off or return of fees, other consideration or expenses paid to or charged by the **Insured** for **Professional Services**, (vi) the cost of correcting, completing or re-performing any **Professional Services**; (vii) liquidated damages or (ix) matters uninsurable under Indian law.

Policy Period means the period of time specified in Item 5 of the Schedule, subject to prior termination in accordance with section 19 of this policy. If the Extended Reporting Period is exercised, it shall be part of the **Policy Period** and not an additional **Policy Period**.

Pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, an environmental protection agency (including but not limited to the United States Environmental Protection Agency) or a country, state, territory, county, municipality, locality or counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants, smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odour, waste water, oil, oil products, infectious or medical waste, asbestos or asbestos products and any noise.

Pollution means (i) the actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, escape, seepage, migration, dispersal, treatment, removal or disposal of **Pollutants**; or (ii) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**, or any action taken in contemplation or anticipation of such regulation, order, direction or request or any voluntary decision to do so; including but not limited to any **Claim** for financial loss to the **Insured Organisation**, holders of its securities or its creditors based upon, arising from, or in consequence of the matters described in (i) or (ii) of this definition.

Professional Services means only those services designated in Item 10 of the Schedule which are performed or required to be performed by the **Insured** for others for a fee, including such services that are performed electronically utilising the internet or a network or two or more computers.

Proposal means all signed proposal forms, including attachments and materials incorporated therein, submitted by the **Insureds** to the Company for this policy or any policy issued by the Company of which this policy is a direct or indirect renewal or replacement. All such proposals, attachments and materials are deemed attached to, incorporated into and made a part of this policy.

Related Claims means all **Claims** for **Wrongful Acts** based upon, arising from, or in consequence of the same or related facts or circumstances or the same or related series of facts or circumstances.

Subsidiary means any organisation in which more than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors in such organisation is owned or controlled, directly or indirectly, in any combination, by any **Insured Organisation**.

Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted or allegedly committed or attempted, by an **Insured Organisation** or an **Insured Person**, individually or otherwise, on behalf of the **Insured Organisation**, solely in the performance of **Professional Services** as stated in Item 10 of the Schedule.

For the purposes of these definitions, the singular includes the plural and the plural includes the singular, unless otherwise indicated.

Valuation and Foreign Currency

22. All premiums, limits, retentions, **Loss** and other amounts under this policy are expressed and payable in Indian currency. If judgment is rendered, settlement is denominated or another element of **Loss** under this policy is stated in a currency other than Indian rupees, then payment under this policy shall be made in Indian Rupees at the mid rate of exchange of the Reserve Bank of India published on the date the final judgment is entered, the amount of the settlement is agreed upon or the other element of **Loss** is due, respectively.

Grievance Redressal and Arbitration

23. Any **Insured** who has a grievance against the Company arising under, out of, in connection with or in relation to this policy, or to its existence, validity or termination, or to the determination of any amounts payable under this policy, may, personally or through their legal heirs, make a complaint in writing to the Indian Insurance Ombudsman in accordance with the procedure contained in The Redressal of Public Grievance Rules, 1998, as amended. Provided that, in accordance with Rule 16(2) of the Ombudsman Rules, any compensation awarded by the Ombudsman will be limited to the lower of the amount necessary to cover the loss suffered by the **Insured** as a direct consequence of the insured peril or Rupees Twenty Lakhs only (Rs. 20 lakhs), inclusive of any ex-gratia and other expenses. At the prior written request of the **Insured**, the Company shall make available a copy of said Rules to such **Insured**.

Subject to the foregoing, any and all disputes or differences which may arise under, out of, in connection with or in relation to this policy, or to its existence, validity or termination, or to the determination of any amounts payable under this policy, shall be referred for resolution by binding

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arbitration at Mumbai, in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996, as amended. Provided, however, that no such dispute or difference shall be referred to arbitration, if the same is already the subject matter of a complaint pending before the Insurance Ombudsman. Should the dispute or difference which is the subject matter of complaint before the Insurance Ombudsman not be resolved in that forum, then such dispute or difference will be referred to binding arbitration, in accordance with the Indian Arbitration and Conciliation Act, 1996, as amended.

Arbitration shall be conducted as follows:

- (i) All proceedings in any arbitration shall be conducted in English and a daily transcript in English of such proceedings shall be prepared.
- (ii) Within thirty (30) days after either the Company or the **Insured** issues notice under this Section 22, the parties shall each appoint one arbitrator. The two arbitrators shall appoint a third arbitrator, who shall serve as the presiding arbitrator. All three arbitrators shall be required to have at least five (5) years' experience in general insurance, either as lawyers or as underwriters.
- (iii) The arbitrators shall have the power to give injunctive relief and such other relief to the extent appropriate.
- (iv) The arbitrators shall have the power to award interest up to the date of payment of any monies due under the award. The arbitrators shall have no authority to award punitive, aggravated or exemplary damages.
- (v) The parties shall each bear their own costs associated with the arbitration and shall share equally in the costs of the arbitration proceedings and presiding arbitrator.
- (vi) When any dispute is under arbitration, except for the matters under dispute the parties shall continue to exercise their remaining respective rights and fulfill their remaining respective obligations under this policy.

The arbitration award shall be final and binding on the parties. Judgment upon the award rendered may be entered in any court having jurisdiction, or application may be made to such court for a judicial recognition of the award or an order of enforcement thereof, as the case may be.

Fraud or Misrepresentation

24. (A) Any person who, knowingly and with intent to defraud the Company or other person, files a proposal for insurance containing any false information concerning any fact material thereto, commits a fraudulent insurance act which will render the policy voidable at the Company's sole discretion and result in a denial of insurance benefits.
- (B) If a **Claim** is in any respect fraudulent, or if any fraudulent or false plan, specification, estimate, deed, book, account entry, voucher, invoice or other document, proof or explanation is produced, or any fraudulent means or devices are used by the **Insured Person, Insured Organisation**, policyholder, beneficiary, claimant or by anyone acting on their behalf to obtain any benefit under this policy, or if any false statutory declaration is made or used in support thereof, or if loss is occasioned by or through the procurement or with the knowledge or connivance of the **Insured Person, Insured Organisation**, policyholder, beneficiary, claimant or such other person acting on their behalf, then all benefits under this policy are forfeited.
- (C) This policy shall be voidable at the option of the Company in the event of misrepresentation, mis-description or non-disclosure of any material particular by the **Insured**.

Policy Construction

25. The title and any headings or sub headings in this policy are solely for convenience and form no part of the terms and conditions of coverage. The Schedule hereto is part of and shall form an integral part of this policy.