



redefining /
general insurance

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Directors & Officers Liability and Corporate Reimbursement Insurance Policy - Policy Wordings

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 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 Claimand 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 CANCELLATION

- a) The Company may cancel this Policy by giving 30 days written notice of such cancellation to the last known address of the Insured and in such event the Company will return a pro-rata portion of the premium for the unexpired Policy period.**
- b) This Policy may also be cancelled by the Insured by giving 30 days written notice to the Company in which event the Company 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 allowed.**

Period On Risk	Rate Of Premium to be retained
Up to 1 month	25% of annual rate
Up to 3 months	50% of annual rate
Up to 6 months	75% of annual rate
Exceeding six months	100%

- c) **The payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.**

5.16 ARBITRATION

If any dispute or difference shall arise as to the quantum to be paid under this Policy (liability being otherwise admitted) such difference shall independently of all other questions be referred to the decision of a sole arbitrator to be appointed in writing by the parties thereto or if they cannot agree upon a single arbitrator within 30 days of any party invoking arbitration, the same shall be referred to a panel of three arbitrators, comprising of two arbitrators, one to be appointed by each of the parties thereto the dispute/difference and the third arbitrator to be appointed by such two arbitrators and arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

It is clearly agreed and understood that no dispute or difference or dispute shall be referable to arbitration as herein before provided, if the Company has disputed or not accepted liability under or in respect of this Policy.

It is hereby expressly stipulated and declared that it shall be a condition precedent to any right of action or suit upon this Policy that the award by such arbitrator/arbitrators of the amount of the loss or damage shall be first obtained

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.