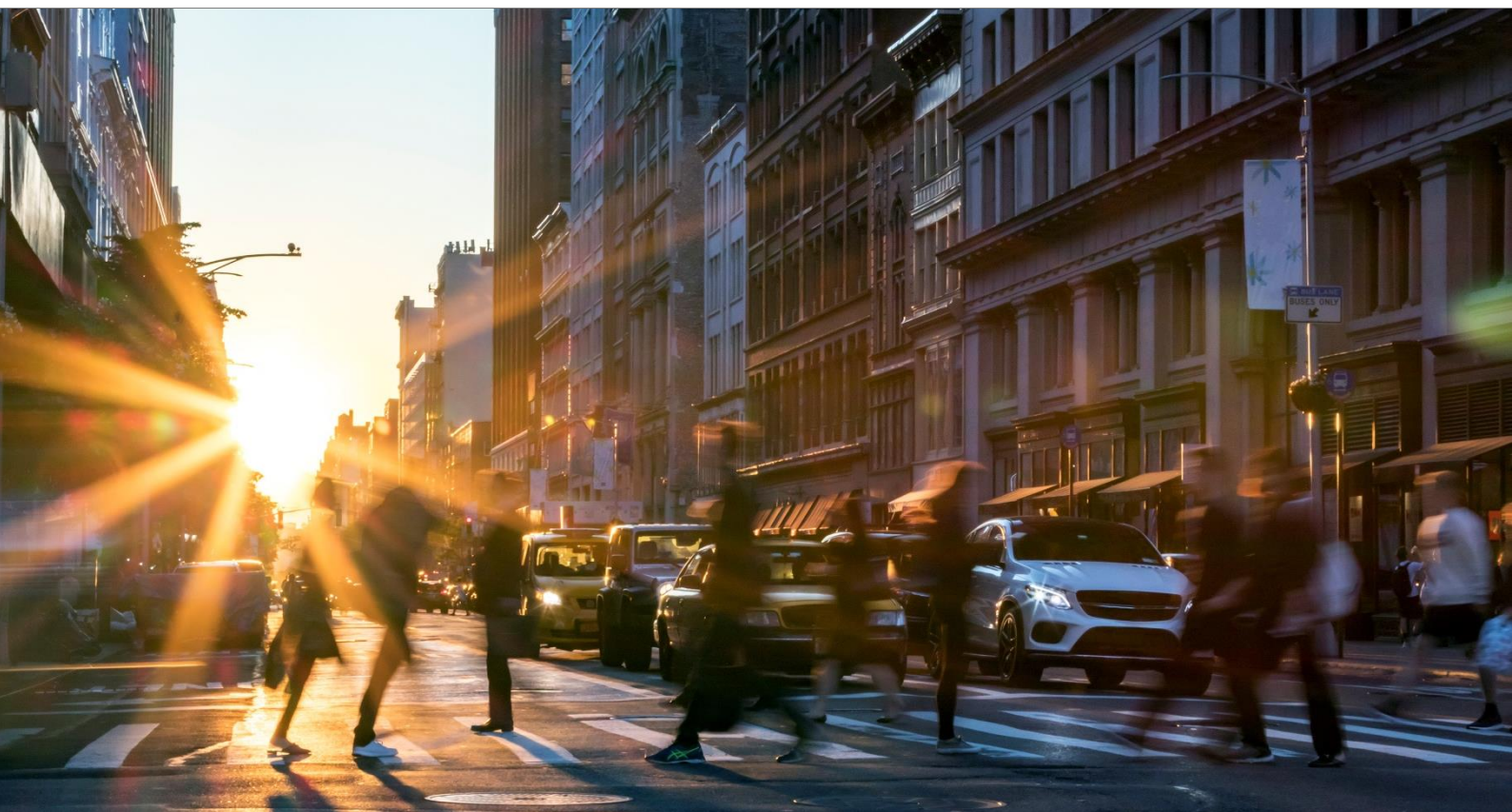


POLICY DOCUMENT

Commercial Crime Insurance





PLEASE NOTE:

This is a losses discovered & reported policy.

The cover provided by this policy is limited to losses discovered and reported during the policy period provided the losses have been sustained after any retroactive date stated in the schedule.

The limit of liability available to pay for losses will be reduced, and may be exhausted, by the payment of losses or defence costs.

The insured is requested to read this policy and schedule carefully. If it is incorrect please return it immediately for alteration to: Tokio Marine Europe S.A. Sucursal en España, Torre Diagonal Mar, Josep Pla 2, Planta 10, 08019 Barcelona, Spain.



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SAMPLE

Schedule

POLICY NUMBER

RENEWAL OF

ITEM 1. POLICYHOLDER

- (a) Name:
(b) Principal Address:

ITEM 2. POLICY PERIOD

- (a) Inception Date:
(b) Expiration Date:
both dates inclusive at 00:00 local standard time at the Principal Address stated in [ITEM 1](#)

ITEM 3. RETROACTIVE DATE

ITEM 4. CURRENCY

(ISO currency code)

ITEM 5. LIMIT OF LIABILITY,
SUB-LIMITS AND
DEDUCTIBLES

- (a) Aggregate Limit of Liability for all insurance cover combined: **EUR**
(b) Sub-limits and Deductibles:

INSURING AGREEMENTS	SUB-LIMIT	DEDUCTIBLE
1.1(a) Internal Fraud	EUR each and every Loss in the aggregate	EUR each and every Loss
1.1(b) External Fraud	EUR each and every Loss in the aggregate	EUR each and every Loss
1.2 Defence Costs	EUR each and every Loss in the aggregate	EUR each and every Loss
EXTENSIONS:	SUB-LIMIT	DEDUCTIBLE
[.]	EUR each and every Loss in the aggregate	EUR each and every Loss
[.]	EUR each and every Loss in the aggregate	EUR each and every Loss

For the avoidance of doubt the Sub-Limits of Liability of any Insurance Agreements and Extensions of this Policy shall form part of and not be in addition to the Aggregate Limit of Liability mentioned above.



ITEM 6. TERRITORY

[Worldwide, or to be advised]

ITEM 7. PREMIUM

EUR plus tax (as applicable)

ITEM 8. SETTLEMENT DATE

ITEM 9. INSURER

TOKIO MARINE EUROPE S.A.

ITEM 10. REQUIRED NOTICES TO
BE ADDRESSED TO

TOKIO MARINE EUROPE S.A. SUCURSAL EN ESPAÑA
Torre Diagonal Mar
Josep Pla, 2, 10th floor
08019 Barcelona, Spain
Attention: Claims Manager

ITEM 11. APPLICABLE LAW AND
EXCLUSIVE
JURISDICTION

- (a) Applicable Law: The laws of
- (b) Exclusive Jurisdiction: The competent Courts of

ITEM 12. ENDORSEMENTS
ATTACHED AT
ISSUANCE



Information for the Policyholder Regarding the Insurer:

In accordance with Spanish Law, the **Insurer** is required to provide the **Policyholder** with the following information in written form before the conclusion of this Policy:

The risk is insured by TOKIO MARINE EUROPE S.A. having its registered office at 26, Avenue de la Liberté, L-1930, Luxembourg authorised by "The Ministry of Finance of Luxembourg and regulated by the Commissariat aux Assurances (CAA)" acting through its branch in Spain with registered office at Torre Diagonal Mar, Josep Pla 2, 10th floor, 08019 Barcelona (Spain).

The **Policyholder** hereby confirms that it has received the foregoing information in written form before the conclusion of this Policy.

IN WITNESS WHEREOF, the **Insurer** has caused this Policy to be signed in the Schedule by a duly authorised representative of the **Insurer**.

SAMPLE



1. Insuring Agreements

In consideration of the payment of the premium, and in reliance upon the statements made in the **Proposal Form**, including attachments, which shall form the basis of this Policy, and subject to the terms and conditions of this Policy and any endorsements attached to this Policy, the **Insurer** will indemnify the **Insured** for:

1.1. **Loss(es)** first **Discovered** during the **Policy Period** and notified in accordance with section 4.9 of this Policy, provided such **Loss** was sustained by the **Insured** after the **Retroactive Date**, by reason of:

- (a) **Internal Fraud**; or
- (b) **External Fraud**,

and

1.2. **Defence Costs**.

2. Definitions

When used in bold type in this Policy, each term hereon defined means:

- | | | |
|-----|--------------------------------|--|
| 2.1 | Alteration | means the fraudulent and material amendment, modification or change of an instrument with the intent to deceive, by a person other than the person authorised to prepare, modify or sign said instrument. |
| 2.2 | Bank Account | means an account maintained by the Insured at a banking or savings institution or a stockbroker, mutual fund, liquid assets fund or similar investment institution duly regulated, from which the Insured or their duly authorised representatives are able to instruct the transfer, payment or delivery of funds. |
| 2.3 | Certificated Securities | means any bond, debenture, evidence of indebtedness, note, share, stock, or other equity or participation or other interest in property of, or an enterprise of, the issuer or an obligation of the issuer, which is: <ul style="list-style-type: none">(a) represented by an instrument issued in bearer or registered form; and(b) of a type commonly dealt in on securities exchanges or markets or commonly recognised in any area in which it is issued or dealt in as a medium for investment; and(c) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests or obligations. |
| 2.4 | Change of Control | means an event during the Policy Period , whereby any person or entity other than an Insured or group of such persons and/or entities acting in concert: <ul style="list-style-type: none">(a) takes control of the composition of the board of directors or of more than 50% of the voting rights of an Insured; or(b) holds more than 50% of the issued share capital of an Insured or substantially all of an Insured's assets whereby such person and/or entity takes control of the business operations of the Insured. |
| 2.5 | Computer Fraud | means the criminal and intentional deprivation of an Insured's Property as a direct result of: <ul style="list-style-type: none">(a) the fraudulent input of Electronic Data directly into the Computer Systems; or |



(b) the fraudulent modification or fraudulent destruction of **Electronic Data**, by a **Third Party** to whom the **Insured** has not given authorised access and which acts were instructed or committed with the intention of obtaining an improper financial gain for such **Third Party** or for another **Third Party** acting or having acted in collusion with such **Third Party**.

There shall be no cover for **Loss** resulting directly or indirectly from a **Forged, Altered, Counterfeited** or lost or stolen **Negotiable Instrument, Certificated Security** or any other written instrument or document used as source documentation in the preparation of **Electronic Data** or manually keyed in a data terminal.

2.6 **Computer Systems**

means the **Insured's** computers and all input, output, processing, storage, off-line media libraries and communication facilities which are connected to those computers and which are under the control and supervision of the operating system(s) or application(s) software operated by the **Insured**. It does not include those computers suitable solely for single use applications.

2.7 **Counterfeit or Counterfeiting**

means the imitation by a **Third Party** of **Money, Certificated Securities**, or an authentic **Negotiable Instrument** intended to deceive and of such quality as to be taken as the original and upon which the **Insured** has acted or relied. Fictitious instruments which merely contain fraudulent misrepresentations of fact and are genuinely signed or endorsed are not **Counterfeit**.

2.8 **Credit Arrangement**

means any agreement relating to the provision of credit, extension of credit or hire purchase agreement, loan or transaction in the nature of a loan, lease or rental agreement, invoice, account, agreement or other evidence of debt, payments made or withdrawals from any customer's or client's account involving items which are not finally paid for any reason.

2.9 **Defence Costs**

mean reasonable legal fees, costs and expenses incurred and paid by the **Insured**, with the prior written consent of the **Insurer**, in the defence of any demand, claim, suit or legal proceeding brought against the **Insured** during the **Policy Period** as a direct result of a **Loss** covered under this Policy, provided that:

- (a) such indemnity is limited to the amount specified for **Defence Costs** in **ITEM 5** of the Schedule; and
- (b) the **Insurer** shall not be liable to make any payment for fees, costs or other expenses incurred by the **Insured** in establishing the existence, validity or amount of any **Loss** covered under this Policy; and
- (c) such legal fees, costs and expenses are not recoverable from any other party; and
- (d) **Defence Costs** do not comprise salaries, wages, benefits or overhead expenses of directors, officers or **Employees** of the **Insured**; and
- (e) there is no duty upon the **Insurer** to advance any legal fees, costs or expenses to the **Insured** prior to the conclusion of the demand, claim, suit or legal proceeding.

2.10 **Discovered Discovery** or

is deemed to occur at the time when the **Insured** or any director, officer, partner, senior manager, department head or the equivalent, not in collusion with any person committing or implicated in the relevant **Internal Fraud** or **External Fraud**, first becomes aware of facts or circumstances acts or omissions which would cause a reasonable person to believe that a **Loss** of the kind covered by



this Policy has been or will be sustained, regardless of when the acts, transactions or events causing or contributing to such **Loss** occurred, and regardless of whether the **Insured's** knowledge is sufficient at such time to prove that such **Loss** meets the terms and conditions of this Policy or to establish the amount or details of the **Loss**.

2.11 **Electronic Data**

means facts or information converted to a form usable in **Computer Systems** and which are run or stored in the **Computer Systems** for use by its computer programmes.

2.12 **Employee**

means:

- (a) any natural person while in the regular service of the **Insured**, provided that the **Insured** has the right to govern, direct, supervise and control such person while performing such services for the **Insured** and that such person is in receipt of direct compensation by way of salary, wages, or bonuses; or
- (b) any director, officer, partner or trustee of the **Insured** while performing acts within the scope of the usual duties of an **Employee** as defined under (a) above; or
- (c) any former **Employee** within the meaning of (a) above, for a period not exceeding sixty (60) days following termination of such person's services and/or employment except when such termination involves an actual, alleged or suspected dishonest or fraudulent act; or
- (d) any person assigned to perform any duties as an **Employee**, within the meaning of (a) above, for the **Insured** by any employment agency on a contingent, temporary, seasonal or part-time basis; or
- (e) any guest student, intern, secondee or volunteer pursuing studies, gaining work experience or performing the duties of an **Employee** within the meaning of (a) above; or
- (f) any trustee or fiduciary of any **Plan**.

Employee shall not mean any person who is or acts on behalf of any external auditor, external accountant, external data processor, external solicitor or attorney; furthermore it shall not mean any broker, factor, investment manager, investment advisor, commission merchant, consignee, contractor or other corporate or individual agent or representative.

2.13 **External Fraud**

means a criminal or fraudulent act committed by a **Third Party** consisting of:

- (a) **In Transit Theft;**
- (b) **On Premises Theft;**
- (c) **Forgery of Instruments;**
- (d) **Counterfeiting;**
- (e) **Funds Transfer Fraud;** or
- (f) **Computer Fraud.**

2.14 **Forgery of Instruments**

means **Forgery** or **Alteration** by a **Third Party** of a **Negotiable Instrument** upon which the **Insured** has acted or relied.

2.15 **Forgery or Forged**

means the hand-written signing or endorsing of a name of a genuine person or a copy of said person's signature without authority and with the intent to deceive.



Forgery does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose. Mechanically or electronically produced or reproduced signatures are treated the same as hand-written signatures.

2.16 Fraudulent Instructions

means:

- (a) **Forged** written or printed instructions (other than bills of exchange, cheques, banker's drafts, banker's acceptances, certificates of deposit, withdrawal receipts, promissory notes, currency, **Certificated Securities**, corporate guarantees or letters of credit); or
- (b) fraudulent electronic, telegraphic, telex, facsimile or telephonic instructions made through a secured funds transfer system established between the **Insured** and a financial institution, which purport to have come from the **Insured** or a person duly authorised by the **Insured**, but which were issued by a **Third Party** without the **Insured's** knowledge or consent.

2.17 Funds Transfer Fraud

means the criminal and intentional deprivation of the **Insured's** funds resulting directly from **Fraudulent Instructions** given to a financial institution to transfer, pay or deliver funds of the **Insured** from a **Bank Account**.

2.18 Insured

means the **Policyholder** or its **Subsidiaries** or any **Plans**.

2.19 Insurer

means Tokio Marine Europe S.A. as named and specified in **ITEM 9** of the Schedule, having its registered office at 26, Avenue de la Liberté, L-1930, Luxembourg acting through its Spanish Branch with registered office at Torre Diagonal Mar, Josep Pla 2, 10th floor, 08019 Barcelona (Spain).

2.20 Internal Fraud

means dishonest or fraudulent acts committed by an **Employee** whether acting alone or in collusion with any other natural person(s), with the intent to cause the **Insured** to sustain such a **Loss** or to obtain an improper financial gain for the **Employee** or for any other natural person(s) acting in collusion with such **Employee**.

With regards to any **Credit Arrangement** or **Trading**, **Internal Fraud** shall only mean dishonest or fraudulent acts committed by an **Employee** whether acting alone or in collusion with any natural person(s), with the intent to cause the **Insured** to sustain a **Loss** and which results in improper financial gain for the **Employee**. In this case, the **Insurer's** liability shall be limited to that amount of any **Loss** consisting of such improper financial gain.

2.21 In Transit Theft

means the criminal and intentional deprivation of the **Insured's Property** by a **Third Party** whilst in **Transit**.

2.22 Loss

means any direct financial loss sustained by the **Insured** as a result of any single or series of dishonest or fraudulent acts amounting to **Internal Fraud** or **External Fraud** as defined herein.

Loss does not mean:

- (a) any form of remuneration, including but not limited to salaries, salary increase, fees, commissions, bonuses, stock options, pensions and any



		<p>other Employee benefit or profit sharing whether earned or not in the course of employment, or</p> <p>(b) anticipated benefits of Trading to the Insured's counterparty, or</p> <p>(c) the Insured's liability (of whatsoever nature), whether direct or indirect, to any third party.</p> <p>All Loss(es) Discovered and notified by the Insured which are attributable to the same dishonest or fraudulent acts of one person whether or not an Employee, or in which such person is concerned or implicated, shall be deemed to be one Loss for the purpose of this Policy.</p>
2.23	Money	means currency, coins and bank notes in current use and having a face value as well as cheques, traveller's cheques, registered cheques, postal cheques, money arrears, postal or money orders.
2.24	Negotiable Instrument	means any bill of exchange, cheque, banker's draft, banker's acceptance, certificate of deposit, withdrawal receipt, Certificated Security or promissory note. It does not include bearer promissory notes which may be used as an alternative to currency.
2.25	On Premises Theft	means the criminal and intentional deprivation of the Insured's Property by a Third Party whilst on Premises or at any other any other premises maintained by a company or organisation (other than an armoured vehicle company) which specialises in the provision to third parties of secure storage or deposit of valuable property facilities within a secure environment pursuant to a written agreement with the Insured .
2.26	Plan	<p>means any pension, employee benefit, welfare benefit, share saver or share option plan or charitable fund or foundation maintained by the Policyholder or its Subsidiaries for the benefit of past, present and/or future directors and/or Employees or their respective beneficiaries, existing on or before the inception date of this policy.</p> <p>Cover for any Plan shall only apply in respect of Loss arising out of any act covered under this policy committed whilst such entity is a Plan maintained by the Insured. However upon written request by the Policyholder, the Insurer may consider, after assessment and evaluation of the increased exposure, granting cover for acts committed prior to the acquisition of the Plan. Such cover is only valid when specifically agreed in writing by the Insurer.</p>
2.27	Policyholder	means the entity named in ITEM 1 of the Schedule.
2.28	Policy Period	means the period of time from the Inception Date specified in ITEM 2(a) of the Schedule until the Expiration Date specified in ITEM 2(b) of the Schedule, unless this Policy is cancelled before the Expiration Date or the effective period of the Policy is extended by way of written and signed Endorsement.
2.29	Premises	means any building or land owned, possessed, used or occupied by the Insured as a place to conduct its ordinary business.
2.30	Property	means:



- (a) **Money;**
- (b) **Certificated Securities;**
- (c) **Negotiable Instruments;** and
- (d) contracts representing **money** or having an intrinsic value owned by the **Insured**.

Property does not mean land, real property or stock held for the purpose of the **Insured's** trade or business, nor data processing records or media.

2.31 Proposal Form

means all the written proposals for this Policy together with any attachments and any written information supplied to the **Insurer** in connection therewith.

2.32 Retroactive Date

means the date(s) specified in ITEM 3 of the Schedule.

2.33 Subsidiary

means any entity existing on the Inception Date of this Policy as set out in **ITEM 2(a)** of the Schedule and listed in the **Proposal Form** and any entity created or acquired during the **Policy Period** as per the **General Condition 4.7(c)** which the **Policyholder** either directly or indirectly through one or more **Subsidiaries**:

- (a) owns more than 50% of the issued and outstanding shares; or
- (b) controls more than 50% of the voting rights; or
- (c) controls the right to vote for the election or removal of the majority of such entity's board of directors.

An entity ceases to be a **Subsidiary** when any of the foregoing conditions no longer applies.

Cover for any **Subsidiary** shall only apply to **Loss** which results directly or indirectly from any acts or events which took place, and are **Discovered**, while such entity is a **Subsidiary** of the **Policyholder**.

2.34 Third Party

means any natural person, other than (i) an **Employee** or (ii) a natural person who is in collusion with an **Employee**, as long as such person does not work for or does not represent any person or entity providing or receiving goods or services under any contract, written or implied, with any **Insured**.

2.35 Trading

means the purchase, sale or exchange transactions, repurchase agreements or other dealings by or on behalf of the **Insured** including but not limited to securities, metals, commodities, funds, currencies, foreign exchange and interests therein, and the like (including but not limited to the purchase of inventories), together with all forms of derivatives.

2.36 Transit

means any moving of **Property** outside the **Premises** by an **Employee** duly authorised by the **Insured** to have the care and custody of the **Insured's Property** outside **Premises** or by an armoured motor vehicle company other than a private courier company or governmental postal service. **Transit** is deemed to commence upon the receipt of the **Property** by such **Employee** or armoured motor vehicle company and shall be deemed to end immediately upon the delivery to the designated recipient or its agent.

3. Exclusions

The **Insurer** shall not be liable to make any payment arising from or relating to any of the following:



3.1 EMPLOYEE ACTS

Loss resulting directly or indirectly from any act or series of acts of any **Employee**, unless such **Loss** results from **Internal Fraud**.

3.2 KNOWN PRIOR FRAUD

Loss sustained by the **Insured** and caused by an **Employee** and/or any individual after the **Insured** becomes aware that:

- (a) such **Employee** has previously committed criminal, dishonest or fraudulent acts in relation to **property** during the term of employment with the **Insured** or prior to becoming an **Employee**; or
- (b) such individual has previously committed criminal, dishonest or fraudulent acts during the execution of a contract with the **Insured**.

3.3 NEGLIGENT ACTS OR OMISSIONS

Loss resulting directly or indirectly from claims made against the **Insured** or its **Employees** in which the claimant alleges a negligent act or omission or such claim would, if established, result in the establishing of a civil liability to the claimant.

3.4 DIRECTORS OR PARTNERS

Loss resulting directly or indirectly from any act, omissions or series of acts or omissions of any director, officer, partner, trustee or fiduciary of the **Insured**, whether acting alone or in collusion, unless such director, officer or partner is deemed to have committed such act or omission as an **Employee**.

3.5 MAJOR SHAREHOLDER

Loss resulting directly or indirectly from the act of a person who, at the time of committing such act, owns or controls more than 10% of the issued share capital or voting rights of any **Insured**, regardless of the specific **Insured** actually incurring the **Loss**.

3.6 CONSEQUENTIAL LOSS

Indirect or consequential loss of any nature, including but not limited to any **loss** of income, interest and dividends not realised by the **Insured** or any other individual or organisation because of a **Loss** covered under this Policy.

3.7 RADIATION AND POLLUTION

Loss, expense, liability or consequential loss of whatsoever nature directly or indirectly caused by or contributed to, by or arising from:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (c) any seepage, pollution or contamination, including but not limited to any solid, liquid, gaseous or thermal irritant or contaminant, including asbestos, smoke, rays, vapour, soot, fumes, acids, alkalis, chemicals, waste, combustible materials to be recycled, reconditioned or reclaimed.

3.8 WAR AND TERRORISM

Loss of whatsoever nature directly or indirectly caused by or contributed to by or arising from war, invasion, act of foreign or internal enemy, hostilities or warlike operations (whether war be declared or not), civil war, rebellions, revolution, insurrection, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power, martial law, riot, the act of any lawfully constituted authority or terrorism.

3.9 PRIOR AND SUBSEQUENT ACTS

Loss:

- (a) sustained prior to the **Retroactive Date**.



Notwithstanding the above, in case one **Loss** is sustained by the **Insured** both before and after the **Retroactive Date**, the part of the **Loss** sustained after the **Retroactive Date** shall still be covered;

- (b) **Discovered** prior to the Inception Date as stated in **ITEM 2(a)** of the Schedule; or
- (c) **Discovered** or reported after the Expiration Date as stated in **ITEM 2(b)** of the Schedule, or after the effective date of termination of this Policy.

3.10 NON-PAYMENT OR DEFAULT

Loss resulting directly or indirectly from:

- (a) complete or partial non-payment of or default upon any **Credit Arrangement**, whether procured in good faith or through trick or artifice, fraud or false pretences, unless such **Loss** results from **Internal Fraud**.
- (b) **Forgery** or **Alteration** of assets received by the **Insured** in purported payment for **property** sold and delivered on credit, whether procured in good faith or through trick or artifice, fraud or false pretences unless such **Loss** results from **External Fraud** consisting of **Forgery of Instruments, Counterfeiting** or **Funds Transfer Fraud**, in which event the amount of such **Loss** shall be determined to be the value of **property** sold and delivered on credit less all monies and/or the value of any **property** received from any source whatsoever, including payments and receipts in principal, interest, commissions and the like.

3.11 PROFIT AND LOSS OR INVENTORY RECORDS

Loss which is solely proved by means of:

- (a) a profit and **loss** computation or comparison; or
- (b) a comparison of inventory records with an actual physical count;

unless such **Loss** results from **Internal Fraud**, in which case the inventory records and actual physical count of inventory can be submitted as supporting evidence of **Loss**.

3.12 FIRE AND NATURAL CATASTROPHES

Loss or damage caused to any **property** directly or indirectly from fire or typhoon, hurricane, cyclone, volcanic eruption, earthquake, subterranean fire or other convulsion of nature and contemporaneous or ensuing **loss** or damage by fire or looting.

3.13 DAMAGE OR DESTRUCTION

Loss due to damage or destruction however caused to any **Premises**, buildings, safes or vaults including any contents, fixtures or fittings other than **Loss** of **Insured's Property** resulting from **External Fraud** consisting of **On Premises Theft**.

3.14 CONFIDENTIAL INFORMATION

Loss of, or arising from directly or indirectly the unauthorised accessing of, any confidential information, including but not limited to; trade secrets, computer programmes, customer information, patents, trademarks, copyrights, processing methods or any similar non-public information.

3.15 FINES AND PENALTIES

Fines, penalties or damages of any type for which the **Insured** is actually or allegedly legally liable.

3.16 EXTORTION OR KIDNAP AND RANSOM

Loss resulting directly or indirectly from extortion, kidnap, ransom or any threat thereof.

3.17 FORGERY OR ALTERATION

Loss resulting directly or indirectly from **Forgery** or **Alteration** unless such **Loss** results from **Internal Fraud** or from **External Fraud** consisting of **Forgery of Instruments, Counterfeiting** or **Funds Transfer Fraud**.

3.18 INPUT, MODIFICATION OR DESTRUCTION OF ELECTRONIC DATA

Loss resulting directly or indirectly from the input, modification or destruction of **electronic data** unless such **Loss** results from **Internal Fraud** or directly from **External Fraud** consisting of **Computer Fraud**.



3.19 BILLS OF LADING AND SIMILAR DOCUMENTS

Loss resulting directly or indirectly from any items which are or purport to be travellers' cheques, bills of lading, shipping documents, warehouse receipts, trust receipts, accounts receivable, or any other bills, documents or receipts similar in nature or effect or serving a similar purpose.

3.20 CREDIT AND OTHER CARDS

Loss resulting directly or indirectly from the use or purported use of any credit, debit, charge, access, convenience, identification or other cards, whether such cards are issued by the **Insured** or by any other person or organisation other than the **Insured** unless such **Loss** results from **Internal Fraud**.

3.21 TRADING AND OTHER DEALINGS

Loss resulting directly or indirectly from **Trading**, whether conducted or effected by any dishonest or fraudulent act or otherwise, with or without the knowledge of the **Insured**, in the name of the **Insured** or otherwise, unless such **Loss** results from **Internal Fraud**.

3.22 LOSS INDUCED BY ELECTRONIC COMMUNICATIONS

Loss resulting directly or indirectly from the **Insured** having acted or relied upon **electronic data** or communications sent by third persons to the **Insured** with the intention to obtain credit or investment funds fraudulently or dishonestly therefrom.

3.23 MONEY LAUNDERING

Loss directly or indirectly resulting from acts consisting of or partaking to actual or alleged movement of illicit cash or cash equivalent proceeds, including but not limited to money laundering within the meaning given under any domestic or international legal system.

3.24 VOLUNTARY SURRENDERING

Loss resulting from the voluntary giving or surrender of **Property** by the **Insured**, whether or not induced by trick, deception or artifice, in any exchange or purchase, unless such **Loss** results from **Internal Fraud**.

3.25 NEGLIGENCE CONTROL

Loss sustained by the **Insured** as a result of the absence of an internal audit and examination at their Head Office and all offices at least once every twelve months and/or the failure to implement the recommendations of any such audit and examination report within the time limit set out in such report, or, failing any such time limit, no later than six (6) months after the issuance of such report.

4. General Conditions

4.1 LIMIT OF LIABILITY

The total liability of the **Insurer** for all **Loss(es)** sustained and **Defence Costs** incurred by the **Insured(s)** is limited to the Aggregate Limit of Liability stated in **ITEM 5(a)** of the Schedule for all **Losses Discovered** during the **Policy Period** and notified in accordance with **section 4.9** of this Policy. The Sub-Limits of any applicable Insuring Agreement or Extension stated in **ITEM 5(b)** of the Schedule are part of and not in addition to the Aggregate Limit of Liability.

The Aggregate Limit of Liability and the applicable Sub-Limits shall be reduced by the amount of any payment made by the **Insurer** for **Loss(es)** or **Defence Costs**. Upon exhaustion of the Aggregate Limit of Liability and the applicable Sub-Limits by such payments, the **Insurer** shall have no further liability:

- (a) to indemnify the **Insured** under any Insuring Agreement, Extension or Endorsement to this Policy for any **Loss(es)** or **Defence Costs**; nor
- (b) to continue the defence of the **Insured** in the event that the **Insurer** elected to conduct the defence of any suit or legal proceedings and the **Insured** shall assume all responsibility for its defence at its own cost.

If a **Loss** is covered under more than one Insuring Agreement the maximum amount payable with respect to such **Loss** shall not exceed the largest amount available under any one applicable Insuring Agreement.

The Aggregate Limit of Liability and any Sub-Limit may be reinstated in whole or in part by recoveries



effected subsequent to any payment made under this Policy to the extent of the recovery amounts to be allocated to the **Insurer** pursuant to [General Condition 4.13\(b\)](#) herein and provided such recovery amounts are actually received by the **Insurer** during the **Policy Period** as stated in [ITEM 2](#) of the Schedule or within twelve (12) months thereafter.

4.2 NON ACCUMULATION OF LIABILITY

Regardless of the number of years this Policy has been in force or may continue to be in force, and regardless of the premiums paid, the Aggregate Limit of Liability and the applicable Sub-Limits shall not be cumulative from year to year or from **Policy Period** to **Policy Period**.

4.3 DEDUCTIBLE

The **Insurer** will pay for **Loss(es)** or **Defence Costs** in excess of the Deductible amount(s) set forth in [ITEM 5\(b\)](#) of the Schedule that exceed the amount of recoveries made prior to such payment. In the event that more than one Insuring Agreement shall be applicable, then the largest Deductible relating to any applicable Insuring Agreement shall apply.

4.4 OTHER INSURANCE

The cover provided under this Policy shall apply only in excess of any other valid and collectable insurance policy or indemnity available to:

- (a) the **Insured**; or
- (b) another entity which employed the person causing the **Loss** or on whose **premises** the **Loss** occurred; or
- (c) a security or an armoured motor vehicle company engaged by the **Insured**.

4.5 EXCLUSIVE POLICY BENEFIT

Nothing in this Policy is intended to confer a directly enforceable benefit on any **third party** other than an **Insured**, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 of England and Wales or otherwise.

4.6 SINGLE POLICY, NOTICE & AUTHORITY

This Policy is a single contract of insurance and if there is more than one **Insured** this Policy will remain a single contract of insurance for the benefit of the **Insureds** as being jointly covered and not separately for their several interests. In this event, the following conditions apply:

- (a) The **Policyholder** represents and warrants that all **Insureds** agree that the **Policyholder** shall not only act on its own behalf but also on behalf of all **Insureds** under this Policy, in respect of but not limited to:
 - (i) the review and acceptance of all documentation and amendments thereto forming part of this Policy and declaration of risks; and
 - (ii) the provision and receipt of all notices of this Policy including notification of **Loss**, notice of cancellation or renewal;
 - (iii) the authorisation of use of personal data; and
 - (iv) the payment of premiums due under this Policy and acceptance of any return premium.
- (b) if coverage under this Policy ceases in relation to one **Employee** or to one of the **Insureds** other than the **Policyholder**, then the remaining **Employees** or **Insureds** shall continue to be covered under this Policy; and
- (c) knowledge possessed or **Discovery** made by the **Policyholder** or by any **Insured** shall constitute knowledge possessed or **Discovery** made by the **Policyholder** and every **Insured**; and
- (d) payment of any **Loss(es)** or **Defence Costs** to the **Policyholder** or the **Insured** involving one or more **Insured(s)** will fully release the **Insurer** with respect to such **Loss(es)** or **Defence Costs**.

4.7 CHANGES IN RISK

- (a) Liquidation



In the event of the liquidation of an **Insured**, either voluntary or compulsory, or the appointment of a Receiver or Manager, or the entering into of any Scheme of Arrangement or composition with creditors, or the control of an **Insured** being taken over by any Government or by officials appointed by any Government or Governmental Authority or Agency, then this Policy shall immediately cease to afford any coverage of any kind for **Loss** subsequently **Discovered** or notified to the **Insurer** in relation to such **Insured**.

(b) **Change of Control**

In the event of **Change of Control** of an **Insured**, this Policy shall immediately cease to afford any coverage of any kind for **Loss** subsequently **Discovered** or notified to the **Insurer** in relation to such **Insured**.

Nonetheless, in the event of a **Change of Control**, the **Insurer** may at its sole discretion consider providing continuation of coverage, provided that the relevant **Insured** or the **Policyholder**:

- (i) gives written notice to the **Insurer** within thirty (30) days prior to the **Change of Control**; and
- (ii) promptly provides the **Insurer** with all such further information as the **Insurer** may require; and
- (iii) obtains the written consent of the **Insurer** to extend the coverage provided by this Policy in respect of such **Insured**; and
- (iv) pays to the **Insurer** any additional premium as required.

(c) **Mergers, Acquisitions and New Subsidiaries**

In the event that an **Insured** shall during the **Policy Period**:

- (i) merge or consolidate with another entity; or
- (ii) acquire or purchase the assets of another entity; or
- (iii) create a new **Subsidiary**,

this Policy shall provide automatic coverage for **Loss** subsequently **Discovered** or notified to the **Insurer** in relation to this entity provided the **Loss** arises out of a covered act committed while such entity is a **Subsidiary** or **Plan** of the **Policyholder** (or after any retroactive date specifically agreed by the **Insurer** for the entity) and the **Loss** is **Discovered** after the effective date of the event listed in (a) (b) or (c), on condition that such entity:

- (i) has a total gross annual turnover and total number of **employees** which are less than 10% of the combined total gross annual turnover and total number of **Employees** of the **Insured**; and
- (ii) has not **Discovered** any **Loss** of a type covered by this Policy within the last three (3) years exceeding 50% of the deductible of this Policy, whether the **Loss** was insured or not and before the application of any retention, deductible or excess; and
- (iii) conducts business activities which do not materially deviate from those conducted by the **Insured**; and
- (iv) provides a satisfactory signed and dated **Proposal Form** for such entity within thirty (30) days following such events.

If the new entity fails to meet any one of the conditions set out above, this Policy shall not provide any coverage with respect to any **Loss** in relation to this new entity **Discovered** or notified to the **Insurer** after the effective date of the considered merger, consolidation with another entity, acquisition, purchase, or creation of a **Subsidiary**.

Nonetheless, the **Insurer** may in that case, at its sole discretion, consider providing coverage, provided that the relevant **Insured** or the **Policyholder** shall:

- (i) give written notice to the **Insurer** within thirty (30) days of such event; and
- (ii) promptly provide the **Insurer** with sufficient details to permit the **Insurer** to assess and evaluate the potential increase in exposure; and



- (iii) obtain the written consent of the **Insurer** to extend the coverage provided by this Policy in respect of such entity; and
- (iv) pay to the **Insurer** any reasonable additional premium as required.

(d) **Additional Premises**

If the **Insured** shall, during the **Policy Period**, establish any new additional offices or other locations where the **Insured** conducts its ordinary business with the same security standard as the **Premises** stated in the **Proposal Form**, other than as stated in [General Condition 4.7\(c\)](#) (Mergers, Acquisitions and New Subsidiaries) then such additional locations shall be automatically covered as **Premises** hereunder from the date of their establishment, without the requirement of notice to the **Insurer** or the payment of any additional premium for the remainder of the **Policy Period**.

4.8 TERMINATION AND CANCELLATION PROVISIONS

This Policy shall terminate without the tender of unearned premium:

As a whole:

- (a) On the Expiration Date stated in [ITEM 2\(b\)](#) of the Schedule; or
- (b) Immediately upon the dissolution of the **Policyholder**; or
- (c) Immediately upon the **Change of Control** of the **Policyholder**, unless the **Insurer** agrees to provide continuation of coverage in accordance with [General Condition 4.7\(b\)](#) (**Change of Control**); or
- (d) Immediately upon exhaustion of the Aggregate Limit of Liability as stated in [General Condition 4.1](#) (Limit of Liability) and [ITEM 5](#) of the Schedule; or

With respect to any **Employee**:

- (e) Immediately after first **Discovery** of a **Loss** actually or potentially arising from such **Employee's** conduct. The **Insurer** shall have no liability to indemnify the **Insured** for **Loss** resulting from such **Employee's** conduct after the date of such **Discovery**.

This Policy shall be cancelled:

- (f) By the **Insurer** for non-payment of premium as stated in [General Condition 4.18](#) (Premium Payment); or
- (g) Thirty (30) days after the **Policyholder** receives and acknowledges a written notice from the **Insurer** of its decision to terminate this Policy; or
- (h) Immediately upon receipt by the **Insurer** of a written notice from the **Policyholder** of its decision to terminate this Policy.

The **Insurer** shall refund any unearned premium computed at customary short-rate of the Premium set forth in [ITEM 7](#) of the Schedule if cancelled by the **Policyholder** as provided in [paragraph \(h\)](#) of this General Condition but pro-rata of said Premium if cancelled by the **Insurer** as provided in [paragraph \(f\)](#) of this General Condition.

4.9 NOTIFICATION AND PROOF OF LOSS

Upon **Discovery** of a **Loss** or potential **Loss** the **Insured** shall:

- (a) as soon as practicable within the **Policy Period** give written notice to the **Insurer** through the entity and address stated in [ITEM 10](#) of the Schedule. However, in the event that it has not been practicable for the **Insured** to give such notice during the **Policy Period**, then written notice given no later than 30 days of the Expiry Date of the **Policy Period** shall be deemed to have been given during the **Policy Period**;
and
- (b) within six (6) months after **Discovery**, or within such further period as agreed to in writing by the **Insurer**, furnish written proof of **Loss** to the **Insurer** with full particulars of the **Loss** by specifying or establishing the following elements:
 - (i) **Loss** due to Internal Fraud:



- (1) the identity of the person responsible for the **Loss**; and
 - (2) the specific dishonest or fraudulent acts involved in each transaction or item constituting such **Loss**; and
 - (3) where applicable, the improper personal financial gain obtained by any **Employee** for each **Credit Arrangement** or **Trading**; and
 - (4) the demonstration of a causal link between such dishonest or fraudulent acts and the resultant **Loss**;
- (ii) **Loss** due to **External Fraud** consisting of **Forged Instruments** or **Counterfeiting**:
the demonstration that, had the **Negotiable Instruments**, **Certificated Securities** or **Money** in question been genuine and not been **Forged** or **Counterfeit** or had not borne **Alteration**, the **Insured** would not have sustained the **Loss** claimed;
- (iii) **Loss** due to other acts of **External Fraud**:
the demonstration that such **Loss** directly and exclusively resulted from the insured peril (either item ((a), (b), (e) or (f) of [Definition 2.13](#) herein) and not from economic conditions or other contributing causes.

There shall be no cover for any **Loss** under this Policy unless that **Loss** is notified in accordance with this clause.

4.10 COOPERATION

The **Insured** shall cooperate fully with the **Insurer** and its appointed representatives in all matters pertaining to any **Loss** notified hereunder.

The **Insured** shall, upon request and at times and places designated by the **Insurer**, provide for examination of all pertinent records including audit records of its accountants and provide for interview of any of its **Employees** or other persons, to the best of its ability and power.

The **Insured** agrees to execute all papers and render all assistance to secure all rights, title, interest and causes of action as it may have against any person or entity in connection with any **Loss** notified hereunder, and to do nothing to prejudice such rights or causes of action.

4.11 BASIS OF VALUATION

The following provision will apply for the purpose of valuation in the settlement of a **Loss** under this policy:

(a) **Foreign Currency**

In the event that a **Loss** is suffered in a currency other than the currency stated in [ITEM 4](#) of the Schedule, the rate of exchange applicable thereto for the purposes of determining the valuation of **Loss** shall be the closing mid-spot rate on the date of **Discovery** (or if **Discovered** during a weekend or national holiday, on the next business day thereafter) as offered by the **Insurer's** Central Bank.

(b) **Book of Accounts and Records**

The value of books of accounts or other records used by the **Insured** in the conduct of their business shall be the cost of blank books, blank pages or other materials plus the cost of labour and computer time for the actual transcription or copying of data which shall have been furnished by the **Insured** in order to reproduce such books and other records.

(c) **Certificated Securities**

In respect of **Certificated Securities**, the **Insurer's** maximum liability shall be the lesser of:

- (i) The closing market value of the relevant **Certificated Securities** on the last business day prior to **Discovery**. The basis of valuation shall include any accrued interest (including coupons), dividends and privileges attached to said **Certificated Securities** up to **Discovery**;
- (ii) The value agreed between the **Insured** and the **Insurer** if there is no market price or value for the relevant **Certificated Securities** on the relevant day;



- (iii) If the relevant **Certificated Securities** are replaceable and the **Insurer** has given its prior written consent to this end, the actual cost of replacement of said **Certificated Securities**;
- (iv) If the **Insurer** has given its prior written consent to this end, the actual cost of filing of a lost instruments bond for the purpose of obtaining the issuance of duplicate securities, subject always to the **Limit of Indemnity** and the applicable Deductible.

(d) **Precious Metals**

In the event that a **Loss** as covered under this Policy results from damage to or the **loss** or destruction of precious metals, the value of precious metals shall be determined by their average market value on the date of **Discovery** (or if **Discovered** during a weekend or national holiday, on the next business day thereafter).

(e) **Other Property**

In no event shall the **Insurer** be liable in respect of **property** other than of the types described in clauses 4.11(a) to 4.11(d) above, for more than the actual cash value thereof at the time of **Discovery** (or if **Discovered** during a weekend or national holiday, on the next business day thereafter) or the actual cost of repairing such **property** or of replacing same with **property** or material of like quality and value.

Notwithstanding the above, the actual cash value of such other **property** held by the **Insured** as a pledge, or as collateral for an advance or a loan, shall be deemed not to exceed the value of the **property** as determined and recorded by the **Insured** when making the advance or loan, nor, in the absence of such record, the unpaid portion of the advance or loan plus accrued interest thereon at legal rates.

The **Insurer** may, at its discretion, pay such actual cash value, or make such repairs or replacements.

4.12 SUBROGATION

The **Insurer** upon payment of any **Loss** hereunder shall be subrogated to all of the **Insured's** rights, titles, interests and causes of action and recovery against any person or entity in respect of such **Loss**.

The **Insured** shall cooperate with the **Insurer's** reasonable request for assistance in all matters, including the execution of any documents, affecting such subrogated rights, whether such matters shall be or become necessary or required before or after indemnification by the **Insurer**.

4.13 RECOVERIES

Any recoveries, whether effected by the **Insurer** or the **Insured**, following the payment of a **Loss** under this Policy and after deducting the actual cost of obtaining such recovery but excluding the **Insured's** own labour or establishment costs, will be allocated in the following order of reimbursement:

- (a) Initially, to reimburse the **Insured** for any **Loss** which exceeds the amount of **Loss** paid under this Policy (disregarding the amount of any Deductible applicable),
- (b) Subsequently, to reimburse the **Insurer** for any payment made for such **Loss**, costs, fees and expenses incurred under this Policy, and
- (c) Finally, to reimburse the **Insured** for such **Loss** sustained by the **Insured** by reason of the Deductible applicable pursuant to **ITEM 5** of the Schedule.

4.14 REPRESENTATIONS

In granting cover for each **Insured**, the **Insurer** has relied upon the particulars and statements contained in the **Proposal Form** which are deemed to be accurate, complete and material to the acceptance of the risk assumed under this Policy.

The person or persons signing the **Proposal Form** shall be deemed to be the duly authorised agent(s) of the **Policyholder** and each individual **Insured**.

4.15 FRAUDULENT CLAIMS

This Policy shall be void *ab initio* and all claims hereunder shall be forfeited if the **Insured** or the



Policyholder gives notice of any **Loss** knowing the same to be false or fraudulent or if any fraudulent means or deceit is used by the **Insured** or the **Policyholder** to obtain any benefit under this Policy.

4.16 ASSIGNMENT AND AMENDMENTS

No assignment or amendment of any rights, obligations or interest under this Policy will bind the **Insurer** unless a written Endorsement is executed to such effect between the **Insurer** and the **Policyholder**.

4.17 TITLES, HEADINGS AND BOLD

The titles and headings to the various paragraphs and sections in this Policy, including endorsements attached, are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions under this Policy, other than those words in bold which have special meaning and are defined.

4.18 PREMIUM PAYMENT

The **Insurer** shall have the right to cancel this Policy for non-payment of premium by sending not less than thirty (30) days prior notice of cancellation to the **Policyholder** via the broker.

If the premium due is paid in full to the **Insurer** before the notice period expires, notice of cancellation shall automatically be revoked. Otherwise, the Policy shall automatically be cancelled and void *ab initio*.

4.19 INTERPRETATION

The interpretation and meaning of the terms, exclusions, limitations and conditions of this Policy shall be determined in accordance with the English text as it appears in this Policy.

4.20 APPLICABLE LAW AND JURISDICTION

This Policy is to be governed by, and the construction of its terms, validity and operation shall be made in accordance with, the applicable law stated in [ITEM 11\(a\)](#) of the Schedule.

Any dispute or difference arising under or in respect of this Policy is to be subject to and determined within the exclusive jurisdiction stated in [ITEM 11\(b\)](#) of the Schedule.

4.21 TRADE SANCTIONS

This Policy does not apply to the extent any applicable trade or economic sanctions, or other laws or regulations prohibit the **Insurer** from providing insurance, including, but not limited, to the payment of **Loss**.



Data Protection and Privacy Policy

The **Insurer** respects the **Insureds'** right to privacy. In our Privacy Policy (available at <https://www.tmhcc.com/en/legal/privacy-policy>) we explain who we are, how we collect, share and use personal information about the **Insureds**, and how the **Insureds** can exercise their privacy rights. If the **Insureds** have any questions or concerns about our use of their personal information, they can contact dpo-tmelux@tmhcc.com.

We may collect personal information such as name, email address, postal address, telephone number, gender and date of birth. We need the personal information to enter into and perform the current contract of insurance. We retain personal information we collect from the **Insureds** where we have an ongoing legitimate business need to do so.

We may disclose the **Insureds'** personal information to:

- our group companies;
- third party services providers and partners who provide data processing services to us or who otherwise process personal information for purposes that are described in our Privacy Policy or notified to the **Insureds** when we collect their personal information;
- any competent law enforcement body, regulatory, government agency, court or other third party where we believe disclosure is necessary (i) as a matter of applicable law or regulation, (ii) to exercise, establish or defend our legal rights, or (iii) to protect the interests of our **Insureds** or those of any other person;
- a potential buyer (and its agents and advisers) in connection with any proposed purchase, merger or acquisition of any part of our business, provided that we inform the buyer it must use the **Insureds'** personal information only for the purposes disclosed in our Privacy Policy; or
- any other person with the Insureds' consent to the disclosure.

The personal information may be transferred to, and processed in, countries other than the country in which the **Insureds** are resident. These countries may have data protection laws that are different to the laws of the country of the **Insureds**. We transfer data within the Tokio Marine group of companies by virtue of our Intra Group Data Transfer Agreement, which includes the EU Standard Contractual Clauses.

We use appropriate technical and organisational measures to protect the personal information that we collect and process. The measures we use are designed to provide a level of security appropriate to the risk of processing the personal information.

The **Insureds** are entitled to know what data is held on them and to make what is referred to as a Data Subject Access Request ('DSAR'). They are also entitled to request that their data be corrected in order that we hold accurate records. In certain circumstances, they have other data protection rights such as that of requesting deletion, objecting to processing, restricting processing and in some cases requesting portability. Further information on the **Insureds'** rights is included in our Privacy Policy.

The **Insureds** can opt-out of marketing communications we send them at any time. They can exercise this right by clicking on the "unsubscribe" or "opt-out" link in the marketing e-mails we send them. Similarly, if we have collected and processed their personal information with their consent, then they can withdraw their consent at any time. Withdrawing their consent will not affect the lawfulness of any processing we conducted prior to their withdrawal, nor will it affect processing of their personal information conducted in reliance on lawful processing grounds other than consent. The **Insureds** have the right to complain to a data protection authority about our collection and use of their personal information.



Complaints Procedure

We are dedicated to providing you with a high-quality service and we want to ensure that we maintain it at all times to the **Insurer's** clients. Should the **Named Company** or the **Insureds** not be satisfied, please write and tell us and we will do our best to resolve the problem.

For any questions or concerns about the Policy or any Claim's handling please contact:

The Compliance Officer
TOKIO MARINE EUROPE S.A. SUCURSAL EN ESPAÑA
Torre Diagonal Mar
Josep Pla 2, Planta 10
08019 Barcelona, Spain

To request information about the **Insurer** or file a concern or complaint please do so in writing, before our independent Customer Service Department:

Customer Service Department
TOKIO MARINE EUROPE S.A. SUCURSAL EN ESPAÑA
Torre Diagonal Mar
Josep Pla 2, Planta 10
08019 Barcelona, Spain
sac@tmhcc.com

If your concerns or complaints are not addressed to your satisfaction, you may be entitled to refer the dispute to the Complaints Service of the Spanish General Directorate for Insurance and Pension Funds in the terms established in the applicable regulations, who will review your case and who may be contacted at:

General Directorate for Insurance and Pension Funds
Complaints Service
Calle Miguel Ángel, 21
28010 Madrid, Spain
Or through the webpage: www.dgsfp.mineco.es

In addition, in case of cross-border litigation, complaints may be submitted to the competent foreign system, by applying to the activation of the FIN-NET procedure.

IN WITNESS WHEREOF, the **Insurer** has caused this Policy to be executed by its authorised officers, but this Policy will not be valid unless countersigned on the Schedule of this Policy by a duly authorised representative of the **Policyholder**.