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**Directors & Officers Liability  
Insurance**

*You are in safe hands*

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***Welcome to your Directors & Officers Liability Insurance POLICY***

*Dear Esteemed customer,*

*On behalf of MAYFAIR INSURANCE COMPANY RWANDA Ltd I would like to thank you for choosing us as your insurer.*

*Our commitment is to the policyholder quality service and suitable insurance products, such as the one you have purchased.*

*This policy is a document. It is the evidence of the contract that we have made with each other. Please read it carefully and if you have any questions, contact your intermediary (if any) or us.*

*Remember that we will reward you for being claims free as per the No-Claims Discount Clause.*

*Yours faithfully,*

***General Manager / Underwriting Manager.  
Mayfair Insurance Company Rwanda Ltd***

**ExecutiveGuard – Private Companies**

**Directors & Officers Liability  
Insurance**

<b>Executive Guard – Private Companies</b>
<b>Directors &amp; Officers Liability Insurance</b>

**Schedule**

**Policy Number: 01/01/052/00017/2019**

<b>Item 1</b>	<b>Policyholder</b>	TBA	
<b>Item 2</b>	<b>Policy Period</b>	<b>From:</b> TBA	<b>To:</b> TBA
<b>Item 3</b>	<b>Limit of Liability</b>	- Any one occurrence	FRW
		- Annual aggregate	FRW
<b>Item 4</b>	<b>Non-Executive Director Special Excess Limit</b>	TBA	
<b>Item 5</b>	<b>Retention</b>	10% of claim amount, min of USD 2000 ( <b>Retention</b> is not applicable to <b>Loss</b> of any <b>Insured Person</b> other than for indemnifiable <b>Loss</b> )	
<b>Item 6</b>	<b>Premium</b>	TBA	
<b>Item 7</b>	<b>Continuity Date-</b>	TBA	
<b>Item 8</b>	<b>Discovery Period</b>	12 Month	
<b>Item 9</b>	<b>Territory</b>	Worldwide other than North America	
<b>Item 10</b>	<b>Sub-Limits of Liability</b>	Emergency Costs – 10% of claim amount	
		Extradition Proceedings – 10% of claim amount	
		Public Relations Expenses – 10% of claim amount	
<b>Item 11</b>	<b>Claims Reporting</b>	TBA	
<b>Item 12</b>	<b>Endorsement</b>	Corporate Liability	

Issued at this **TBA**

Signed for and on behalf of the

**Insured:**

**Insurer :**

.....  
 Authorised Signatory

.....  
 Authorised Signatory

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In consideration of the payment of the premium or agreement to pay the premium the *insurer* and the *policyholder* agree as follows:

## 1. Insurance Covers

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### 1.1. Management Liability

(i) Individuals

The *insurer* shall pay the *loss* of each *insured* except to the extent that the *insured* has been indemnified by the *company* for such *loss*.

(ii) Outside Entity Directors

The *insurer* shall pay the *loss* of each *outside entity director* except to the extent that the *outside entity director* has been indemnified by the *company* for such *loss*.

(iii) Company Reimbursement

The *insurer* shall reimburse or pay on behalf of a *company* any *loss* for which it has indemnified an *insured*.

### 1.2. Special Excess Protection for Non-Executive Directors

The *insurer* shall pay the *non-indemnifiable loss* of each and every *non-executive director*, up to the *per non-executive director special excess limit*, when:

(i) the *limit of liability*;

(ii) all other applicable management liability insurance, whether specifically written as excess over the *limit of liability* of this policy or otherwise; and

(iii) all other indemnification for *loss* available to any *non-executive director*,

have all been exhausted.

## 2. Extensions

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### 2.1. Discovery Period

If this policy is not renewed or replaced with a management liability policy, the *policyholder* will be entitled to a *discovery period*:

(i) automatically of 60 days; or

(ii) for a longer period as specified in Item 8 of the Schedule, subject to the *policyholder* making a request for such *discovery period* and paying any additional premium required, no later than 30 days after expiry of the *policy period*.

A *discovery period* is non-cancellable but shall not apply in the event of a *transaction*. However, in the event of a *transaction*, upon written request of the *policyholder*, the *insurer* may quote a *discovery period*. In considering such request, the *insurer* shall be entitled to fully underwrite the exposure and to extend such offer on whatever terms, conditions and limitations that the *insurer* reasonably deems appropriate.

### 2.2. Lifetime Run-Off for Retired Insureds

The *insurer* shall provide an unlimited *discovery period* for any *insured* who retires or resigns, other than by reason of a *transaction*, prior to or during the *policy period*; provided that:

- (i) this policy is not renewed or replaced with management liability cover; or
- (ii) where this policy is renewed or replaced with management liability cover, such renewal or replacement policy does not provide an extended discovery provision of at least 6 years for such *insured*.

### 2.3. Emergency Costs

If the *insurer's* written consent cannot be obtained within a reasonable time before *defence costs* are incurred with respect to any *claim*, then *the insurer* shall give retrospective approval for such costs up to, in the aggregate, the amount referred to in Item 10 of the Schedule.

### 2.4. Investigations

The *insurer* shall pay the *investigation costs* of each *insured* arising from an *investigation*.

### 2.5. Corporate Manslaughter

The *insurer* shall pay the *loss* of any *insured* with respect to any proceeding brought against them for *corporate manslaughter*.

### 2.6. Extradition Proceedings

The *insurer* shall pay:

- (i) the reasonable fees, costs and expenses incurred by any *insured* with respect to any *extradition proceeding*;
- (ii) up to the amount referred to in Item 10 of the Schedule for the reasonable fees, costs and expenses incurred by any *insured* for each of (a) and (b) below:
  - a) accredited counsellor or tax advisor retained by an *insured* approved by the *insurer*, directly in connection with *extradition proceedings* brought against such *insured*; or
  - b) *public relations consultants* to provide *public relations services* in connection with *extradition proceedings*.

### 2.7. Public Relations Expenses

Except where covered under Extension 2.6, the *insurer* shall pay up to the amount referred to in Item 10 of the Schedule for the reasonable fees, costs and expenses incurred by any *insured* for *public relations services* in connection with a covered *claim* or *investigation*.

### 2.8. Assets and Liberty Costs

The *insurer* shall pay:

- (i) any *bail bond and civil bond premium*; and
- (ii) the reasonable fees, costs and expenses incurred by any *insured* with respect to any *asset and liberty proceeding*.

### 2.9. New Subsidiaries

If the *policyholder* during the *policy period* obtains *control* of any entity either directly or indirectly through one or more other entities, then the term *subsidiary* shall be extended to include that entity automatically, unless at the time of the *policyholder* obtaining such *control*, such entity:

- (i) has total gross assets which are more than 25% of the consolidated gross assets of the *company* at the inception date of this policy; or

(ii) has and continues to have any of its *securities* listed on any exchange or market.

However, with respect to any entity referred to in (i) or (ii) above, this policy shall automatically extend to provide cover for 30 days after the date the policyholder obtained control of such entity;

provided that the *policyholder* shall provide to the *insurer* in writing details of such entity as soon as practicable prior to the end of the 30 day period referred to above, or the *policy period*, whichever is earlier. At the *policyholder's* request, cover may be extended for a longer period of time provided that the *policyholder* gives the *insurer* sufficient details to permit the *insurer* to assess and evaluate its exposure with respect to such entity and accepts any consequent amendment to the policy terms and conditions, including payment of any additional premium required by the *insurer*. Any such amended terms and conditions shall only apply after expiry of the 30 day period referred to above.

### 3. Definitions

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In this policy the following words in italics shall have the definitions that follow:

#### 3.1. *Asset and Liberty Proceeding*

any proceeding brought against an *insured* by any *official body* seeking:

- (i) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of an *insured*;
- (ii) a charge over real property or personal assets of such *insured*;
- (iii) a temporary or permanent prohibition on such *insured* from holding the office of or performing the function of a director or officer;
- (iv) a restriction of such *insured's* liberty to a specified domestic residence or an official detention; or
- (v) deportation of an *insured* following revocation of otherwise proper, current and valid immigration status for any reason other than such *insured's* conviction of a crime.

#### 3.2. *Bail Bond and Civil Bond Premium*

the premium (but not collateral) for any bond or other financial instrument arising out of a covered judgment or required by a court hearing a *claim*.

#### 3.3. Claim

- (i)
  - a) a written demand;
  - b) a civil, regulatory, mediation, administrative or arbitration proceeding, including any counter-claim or any proceeding with respect to an *employment practices violation*;  
or
  - c) a criminal proceeding,  
made or brought against an *insured* alleging a *wrongful act*;
- (ii) an *extradition proceeding*;
- (iii) an *asset and liberty proceeding*; or
- (iv) an *investigation*.

**3.4. Company**

the *policyholder* or any *subsidiary*.

**3.5. Continuity Date**

the applicable date specified as such in Item 7 of the Schedule.

**3.6. Control**

the securing of the affairs of an entity by means of:

- (i) controlling the composition of the board of directors of such entity;
- (ii) controlling more than half of the shareholder or equity voting power of such entity;
- (iii) holding more than half of the issued share or equity capital of such entity; or
- (iv) creation of such entity.

**3.7. Corporate Manslaughter**

a gross breach of duty of care causing the death of another person.

**3.8. Defence Costs**

- (i) emergency costs under Extension 2.3-Emergency Costs;
- (ii) reasonable fees, costs and expenses, incurred with the *insurer's* prior written consent, by or on behalf of an *insured* after a *claim* is made, directly in connection with its investigation, defence, settlement or appeal;
- (iii) the reasonable fees, costs and expenses of an accredited expert, retained through defence counsel, approved by the *insurer* on behalf of an *insured* to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in connection with the defence of a covered *claim*.

*Defence costs* shall not include remuneration of any *insured*, cost of their time or costs or overheads of any *company*.

**3.9. Director or Officer**

any natural person director or officer of a *company*.

**3.10. Discovery Period**

a period immediately following expiry of the *policy period* during which written notice may be given to the *insurer* of a *claim* first made during such period or the *policy period*, for:

- (i) a *wrongful act* occurring prior to the expiry of the *policy period*; or
- (ii) in the case of an *investigation, extradition proceedings, or asset and liberty proceedings*, matters which occurred or arose prior to the expiry of the *policy period*.

**3.11. Employment Practice Violation**

any actual or alleged act, error or omission with respect to any employment or prospective employment of any past, present, future or prospective employee or *insured* of any *company* or *outside entity*.

**3.12. Extradition Proceeding**

any extradition proceeding against an *insured* including any related appeal, any judicial review applications challenging the designation of a territory for the purposes of extradition law, any challenge or appeal of any extradition decision by the responsible governmental authority.

**3.13. Final Adjudication**

means in respect of any conviction, judgment, or refusal of relief by a judicial or arbitral tribunal:

- (i) if not appealed against, when the period in which an appeal must be brought has expired; or
- (ii) if appealed against, when such appeal has been determined, abandoned or otherwise ceased.

**3.14. Insolvency**

means the inability of a *company* to pay its debts as they fall due, as determined in accordance with the of the laws of Rwanda.

**3.15. Insured**

any natural person who was, is or during the *policy period* becomes:

- (i) a *director* or *officer*, but not an external auditor or insolvency office-holder of a *company*;
- (ii) a *non-executive director*;
- (iii) a secretary qualified according to relevant law of the land,
- (iv) an employee of a *company*;
- (v) an *outside entity director*;

but only when and to the extent that such *insured* is acting for and on behalf of the *company* in any of the capacities referred to in (i) to (v) above.

- (vi) *Insured* is extended to include:
  - a) the spouse or domestic partner; and
  - b) the administrator, heirs, legal representatives, or executor of a deceased, incompetent, insolvent or bankrupt estate,of an *insured* referred to in (i) to (v) above, for *wrongful acts* of such *insured*.

**3.16. Insurer**

Mayfair Insurance Company Rwanda Limited

**3.17. Investigation**

any formal hearing, examination, investigation or inquiry by an *official body* into the affairs of a *company*, or an *insured* of such entity, once an *insured*:

- a) is required to attend; or
- b) is identified in writing by an investigating *official body* as a target of the hearing, examination or inquiry.

An *investigation* shall be deemed to be first made when the *insured* is first so required, identified or served.

### 3.18. Investigation Costs

the reasonable fees, costs and expenses incurred by or on behalf of an *insured* with the *insurer's* prior written consent for the principal purpose of preparing for and attending an *investigation*. However, *investigation costs* shall not include remuneration of an *insured*, cost of their time or costs or overheads of any *company*.

### 3.19. Limit of Liability

The amount referred to in Item 3 of the Schedule.

### 3.20. Loss

any amount which the *insured* is legally liable to pay resulting from a *claim* made against an *insured* including *defence costs*, *investigation costs*, awards of damages (including aggravated, punitive and exemplary damages), awards of costs or settlements (including claimant's legal costs and expenses), pre and post- judgment interest on a covered judgment or award, and the multiplied portion of multiple damages. Enforceability of this paragraph for punitive, exemplary and multiple damages shall be governed by the applicable law that most favours coverage for such damages. *Loss* shall include any amount covered under any Extension of this policy.

*Loss* shall also include civil fines and civil penalties which an *insured* is legally liable to pay but only where there has been no determination of intentional, grossly negligent or deliberate breach of the law by the *insured*.

*Loss* shall not include:

- (i) criminal fines and criminal penalties;
- (ii) taxes or remuneration of any *insured*, except where and to the extent that personal liability of a *director or officer* under Insurance Covers 1.1 (i) and (ii) for non-payment of corporate taxes is established by law in the jurisdiction in which the *claim* is made and such liability constitutes *non-indemnifiable loss*;
- (iii) employment-related benefits; nor
- (iv) amounts which are uninsurable under the applicable law of the *claim*.

### 3.21. Non-Executive Director

any natural person who at the inception of the *policy period* serves, or during the *policy period* begins serving as a director of the *policyholder* and who (i) is not an employee of the *company*; and (ii) is not an immediate family member (spouse, parent, child, brother or sister) of a director or officer of such *company*.

### 3.22. Non-Indemnifiable Loss

*loss* of an *insured* that a *company* is unable to indemnify due to legislative prohibition or *insolvency*.

### 3.23. Official Body

any regulator, government body, government agency, official trade body, or any other body that is empowered by statute to investigate the affairs of a *company* or an *insured*.

### 3.24. Outside Entity

any entity (including any not-for-profit entity) except:

- (i) a *subsidiary*;

- (ii) any entity whose principal operations include a bank, clearing house, credit institution, undertaking for collective investment in securities, investment firm, investment advisor/manager, investment fund or mutual fund, private equity or venture capital company, stock brokerage firm, insurance company or similar entity; or
- (iii) any entity that has any of its *securities* listed on a securities exchange or market, unless listed by endorsement to this policy.

**3.25. Outside Entity Director**

any natural person who did or does, or during the *policy period* begins to serve, at the specific request or direction of a *company*, as a *director* or *officer*, trustee (except a pension trustee), governor or equivalent of an *outside entity*.

**3.26. Per Non-Executive Director Special Excess Limit**

the sum specified in Item 4 of the Schedule being a separate limit for each *non-executive director*.

**3.27. Policyholder**

the organisation specified in Item 1 of the Schedule.

**3.28. Policy Period**

the period from the inception date to the expiry date specified in Item 2 of the Schedule.

**3.29. Public Relations Consultants**

public relations consultants retained by the *insured* with the *insurer's* prior written consent.

**3.30. Public Relations Services**

services provided by the *public relations consultants* to an *insured* directly to mitigate the adverse effect or potential adverse effect on an *insured's* reputation.

**3.31. Retention**

the applicable sum specified in Item 5 of the Schedule.

**3.32. Security**

any security representing debt of or equity interests in a *company*.

**3.33. Senior Counsel**

a senior lawyer to be mutually agreed upon by the parties, or in the absence of agreement, to be appointed by the head of the bar association or law society (or equivalent organisation) in the jurisdiction in which the *claim* is made.

**3.34. Subsidiary**

any entity which the *policyholder controls* either directly or indirectly through one or more other entities on or before the inception date of this policy.

**3.35. Transaction**

any one of the following events:

- (i) the *policyholder* consolidates with or merges into or sells all or substantially all of its assets to any other person or entity or group of persons and/or entities acting in concert; or
- (ii) any person or entity, or persons or entities acting in concert (other than a *subsidiary* or *subsidiaries*) shall acquire *control* of the *policyholder*.

### 3.36. US Claim

a *claim* brought or maintained within the jurisdiction of, or based upon any laws of the United States of America, its states, localities, territories or possessions, or arising out of the activities of the *company* in the United States of America.

### 3.37. Wrongful Act

- (i) any actual or alleged act, error or omission by an *insured* in any of the capacities listed in the definition of *insured*; or any matter claimed against an *insured* solely because of such listed capacity; or
- (ii) an *employment practice violation*.

## 4. Exclusions

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The *insurer* shall not be liable for *loss*:

### 4.1. Conduct

arising out of, based upon or attributable to:

- (i) the gaining of profit or advantage to which the *insured* was not legally entitled; or
- (ii) the committing of any deliberately dishonest or deliberately fraudulent act,

in the event that any of the above is established by *final adjudication* against such *insured* or any formal written admission by such *insured*.

For the purposes of determining the applicability of this Exclusion 4.1, the conduct of any *insured* shall not be imputed to any other *insured*.

### 4.2. Bodily Injury/Property Damage

for bodily injury, sickness, disease, death or emotional distress, or mental anguish of any natural person; or damage to, or destruction, impairment or loss of use of any property. This exclusion shall not apply to:

- (i) any *claim* for emotional distress or mental anguish with respect to *employment practices violation*; or
- (ii) *defence costs* of any *insured* up to the amount specified in Item 10 of the Schedule.

### 4.3. Prior Claims and Circumstances

arising out of, based upon or attributable to:

- (i) facts alleged or the same or related *wrongful act(s)* alleged or contained in any *claim* which has been reported or in any circumstances of which notice has been given under any policy of which this policy is a renewal or replacement or which it may succeed in time; or
- (ii) any pending or prior civil, criminal, administrative or regulatory proceeding, investigation, arbitration or adjudication as of the *continuity date*, or alleging or deriving from the same or essentially the same facts as alleged in the pending or prior proceeding, investigation, arbitration or adjudication.

Exclusion 4.3 (i) shall not apply to any circumstances which have been notified to the *insurer* under any earlier policy but were not accepted by the *insurer* as a valid notification, and where cover has been maintained continuously with the *insurer* from the inception date of such earlier policy until the expiry date of this policy.

#### 4.4. US Claims

arising out of, based upon, or attributable to any *US claim*.

## 5. General Provisions

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### 5.1. Severable Nature of the Policy

This policy is a severable policy covering each *insured* for their own individual interest.

No statements made by or on behalf of any *insured* (including by an agent of the *insured*), nor any information or knowledge possessed by any *insured*, nor any conduct of any *insured*, shall be imputed to any other *insured*, for the purpose of determining their entitlement to cover under this policy.

### 5.2. Non-avoidance

This policy is not avoidable or rescindable in whole or in part and the *insurer* shall have no other remedy with respect to any non-disclosure or misrepresentation in connection with this policy, except for any fraudulent misrepresentation or fraudulent non-disclosure of any *insured*, where established by *final adjudication*, or any formal written admission by or on behalf of any *insured*.

### 5.3. Limit of liability

The total amount payable by the *insurer* under this policy shall not exceed the *limit of liability*, except with respect to Insurance Cover 1.2 – Special Excess Protection for Non-Executive Directors, where the *insurer's* liability pursuant to this Extension is in addition to the *limit of liability*. The *insurer* shall have no liability in excess of all such limits, irrespective of the number of *insureds* or amount of any *loss*, including with respect to any *claim* specified in Section 5.6– Related Claims or Single Claims. Each sublimit of liability specified in the Schedule is the maximum the *insurer* shall pay for the cover to which it applies and is part of the *limit of liability*.

### 5.4. Retention & Coinsurance

The *retention* is not applicable to *non-indemnifiable loss*. The *retention* is to be borne by the *companies* and shall be uninsurable. A single *retention* shall apply to all *loss* arising from any single *claim*.

If any *company* is legally permitted or required to indemnify an *insured*, but fails to do so within 30 days, then the *insurer* shall advance all *loss* within the *retention* and such *retention* shall be repaid by the *company* to the *insurer* as soon as reasonably practicable.

In the event a *claim* triggers more than one of the *retention* amounts stated in Item 5 of the Schedule, then, as to that *claim*, the highest of such *retention* amounts shall be deemed the *retention* amount applicable to *loss* (to which a *retention* is applicable pursuant to the terms of this policy) arising from such *claim*.

## 5.5. Reporting of Claims and Circumstances

The covers provided under this policy are granted solely with respect to any *claim* that is reported to the *insurer* as soon as practicable after a *company's* Risk Manager or General Counsel (or equivalent position) first becomes aware of such *claim* but in all events no later than either:

- (i) during the *policy period* or *discovery period*; or
- (ii) within 60 days after the end of the *policy period* or the *discovery period*, as long as notice is given to the *insurer* within 60 days after such *claim* was first made against an *insured*.

Any *insured* may, during the *policy period*, notify the *insurer* of any circumstance reasonably expected to give rise to a *claim*. The notice must include the reasons for anticipating that *claim*, and full relevant particulars with respect to dates, the *wrongful act* (if applicable) and the potential *insureds* and claimant concerned.

All notifications relating to *claims* or circumstances must be in writing to:

Claims Department

Mayfair Insurance Company Rwanda Limited  
P O Box 1380, Kigali, Rwanda

Email: info@mayfair.co.rw

## 5.6. Related Claims or Single Claims

If notice of a *claim* or circumstance is given as required by this policy, then any subsequent *claim* alleging, arising out of, based upon or attributable to the facts or *wrongful act* alleged in that *claim*, or described in that circumstance, shall be deemed to have first been made at the same time as that *claim* was first made, and reported to the *insurer* at the time the required notices were first provided.

Any *claim* or series of *claims* arising out of, based upon or attributable to continuous, repeated or related acts, errors or omissions, whether or not committed by more than one *insured* and whether directed to or affecting one or more person or entity; shall be considered a single *claim* for the purposes of this policy.

## 5.7. Defence and Settlement of Claims

All *insureds* shall at their own cost, render all reasonable assistance to and cooperate with the *insurer* in the investigation, defence, settlement or appeal of a *claim* or reported circumstance, and provide the *insurer* with all relevant information pertaining to any *claim* or circumstance, as it may reasonably require. In the event of any *claim* or potential *loss*, each *insured* shall take reasonable steps to reduce or diminish any *loss*.

Payment of any *loss* under this policy shall not waive any of the *insurer's* rights under this policy or at law.

The *insured* shall have the obligation to defend and contest any *claim* made against them. The *insurer* shall be entitled to participate fully in the defence and in the negotiation of any settlement that involves or appears reasonably likely to involve the *insurer*.

The *insurer* shall accept as reasonable and necessary the retention of separate legal representation to the extent required by a material conflict of interest between any *insureds*.

If a *claim* is made against an *insured* by the *company*, the *insurer* shall have no duty or obligation to communicate with any other *insured* or the *company* in relation to that *claim*.

The applicable *insured* or *policyholder* shall reimburse the *insurer* for any payments which are ultimately determined not to be covered by this policy.

## 5.8. Payment of Defence Costs

The *insurer* shall advance all *defence costs*, *investigation costs* and all other covered costs and expenses, within 21 days after sufficiently detailed invoices for those costs are received and accepted for payment by the *insurer*.

## 5.9. Consent

The *insured* shall not admit or assume any liability, enter into any settlement agreement, consent to any judgment, or incur any *defence costs*, *investigation costs* or any other covered costs and expenses (except with respect to Extension 2.3 - Emergency Costs) without the prior written consent of the *insurer*. Only those settlements, judgments, and costs and expenses which have been consented to by the *insurer*, and only those *claims* defended in accordance with this policy, shall be payable as *loss* under this policy.

Where the *insurer's* consent is required pursuant to any provision of this policy, such consent shall not be unreasonably withheld or delayed.

## 5.10. Allocation

The *insurer* shall be liable only for *defence costs* or other *loss* derived exclusively from a covered *claim* against an *insured*.

If either:

- (i) a *claim* is made jointly against:
  - a) any *insured*; and
  - b) any *company* or any other person or entity; or
- (ii) a *claim* involves both covered and uncovered matters or persons under this policy,

then the *insured* and the *insurer* shall use commercially reasonable efforts to determine a fair and proper allocation of *loss* covered under this policy, on the basis of established judicial allocation principles which take into account the legal and financial exposures, and the relative benefits obtained by the relevant parties.

If the *insurer* and the *insured* cannot agree on allocation in accordance with this general provision within 14 days, then the *insured* may refer the determination to a *senior counsel*, whose decision shall be final and binding on all parties. The *senior counsel* is to determine the fair and equitable allocation as an expert, not as an arbitrator. The *insured* and the *insurer* shall be entitled to make written submissions to *senior counsel*. The *senior counsel* is to take account of the parties' submissions, but the *senior counsel* is not to be fettered by such submissions and is to determine the fair and equitable allocation in accordance with his or her own judgment and opinion. Until allocation is agreed or determined by *senior counsel*, the *insurer* shall continue to advance *defence costs* based on the allocation determined by the *insurer*. Any agreement or decision on allocation shall be applied retrospectively.

## 5.11. Disputes between insurer and insureds

Except as otherwise specifically provided in this policy, any dispute regarding any aspect of this policy or any matter relating to cover thereunder will be referred to Arbitration only at the place of issue of the policy and or any matter which cannot be resolved by agreement within 30 days, shall be referred to the decision of Rwandan Courts. The decision of Rwandan Courts shall be final conclusive and binding on the parties. The place and seat of arbitration shall be Kigali and the language of the arbitration proceedings shall be as per the law of the land.

## 5.12. Changes in Risk

**Transactions:** The *insurer* shall not be liable for *loss* arising out of, based upon or attributable to a *wrongful act* committed after the effective date of a *transaction*.

**Subsidiaries:** Cover for any *subsidiary* or for any *insured* of any *subsidiary*, shall apply only for acts, errors or omissions occurring while such *subsidiary* is a *subsidiary* and whilst such *insured* serves in an *insured* capacity. Cover for any *outside entity director* of an *outside entity* shall apply only for acts, errors or omissions occurring whilst the *outside entity* is an *outside entity* and whilst such *outside entity director* serves as an *outside entity director*. However, upon request by the *policyholder*, the *insurer* may provide cover for acts, errors or omissions occurring prior to the acquisition of any *subsidiary*, on whatever terms, conditions and limitations it deems appropriate including payment of any additional premium required by the *insurer*.

**Securities:**

The *insurer* shall not be liable under this policy for any *loss* arising out of, based upon or attributable to the actual or intended private placement or public offering of any share capital of any *company*.

However, cover may be extended under this policy provided that the *policyholder* gives the *insurer* sufficient details to permit the *insurer* to assess and evaluate its exposure with respect to such; and accepts any consequent amendment to the policy terms and conditions, including payment of any additional premium required by the *insurer*. Any extension of cover pursuant to this provision must be agreed in writing by the *insurer* by endorsement to this policy.

## 5.13. Subrogation and Co-operation

In the event of any payment under this policy, the *insurer* shall be subrogated to the extent of such payment to all of the *insureds'* rights of recovery, contribution and indemnity. The *insureds* shall reasonably assist the *insurer* and shall do nothing to prejudice such rights. The *insurer* shall not exercise its rights of subrogation against an *insured* in connection with a *claim* or *loss* unless it can establish that Exclusion 4.1 - Conduct, applies to that *claim* and to that *insured*.

## 5.14. Other Insurance & Indemnification

This policy shall always apply excess over any other valid and collectible insurance or indemnification available to the *insured*, including any management liability, pension trustee liability, employment practices liability, environmental impairment liability, product liability and general liability insurance.

With respect to *outside entities*, insurance provided by this policy applies excess over

- (i) any indemnification provided by the *outside entity*, and
- (ii) any other collectible management liability insurance issued to the *outside entity* for the benefit of its directors, officers or employees.

## 5.15. Notice and authority

The *policyholder* shall act on behalf of its *subsidiaries* and each and every *insured* with respect to the giving of notice of *claim*, 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 of any right to a *discovery period*. In the event of a *transaction* or insolvency of the *policyholder* an *insured* may act on their own behalf in giving notice of a *claim* or circumstance, and on behalf of all *insureds* if electing a *discovery period* and paying the applicable premium.

### 5.16. Assignment

Neither this policy nor any right hereunder may be assigned without written consent of the *insurer*.

### 5.17. Policy interpretation and Governing law

Any interpretation of this policy or issue relating to its construction, validity or operation shall be determined by the laws of Rwanda.

This policy, its Schedule, any endorsements, appendices and any subjectivity notice issued by the *insurer* at the inception of this policy are one contract in which, unless the context otherwise requires:

- (i) headings are descriptive only, not an aid to interpretation;
- (ii) singular includes the plural, and vice versa;
- (iii) the male includes the female and neuter;
- (iv) all references to specific legislation are Rwandan legislation unless otherwise stated and include amendments to and re-enactments of such legislation and similar legislation in any jurisdiction; and
- (v) references to positions, offices or titles shall include their equivalents in any jurisdiction.

No amendment of this policy shall be valid and binding on the *insurer* unless agreed in writing. Subjectivities may be removed by written confirmation from the *insurer* that states that the subjectivity no longer applies.

### 5.18. Cancellation of the policy

This policy may not be cancelled except for non-payment of the premium. If the premium is not paid at the inception of the *policy period*, the *insurer* may avoid this policy ab initio 10 days after the issue of written notice of avoidance to the *policyholder's* address specified in Item 1 of the Schedule or to the agent or broker of the *policyholder* at their registered address. The *insurer* shall not be liable for any *loss* under this policy unless and until the premium is paid.

### 5.19. Rights of Third Parties

Nothing in this policy is intended to confer a directly enforceable benefit on any third party other than a *company* or *insured*.

### 5.20. Sanctions Endorsement

The Insurer will not be liable to provide any coverage or make any payment hereunder if to do so would be in violation of any sanctions law or regulation which would expose the Insurer its parent company or its ultimate controlling entity to any penalty under any sanctions law or regulation

### 5.21. Complaints

Every effort is made to ensure you receive a high standard of service. If you are not satisfied with the service you have received, you should contact:

General Manager

Mayfair Insurance Company Rwanda Limited  
P O Box 1380, Kigali, Rwanda

Email: [info@mayfair.co.rw](mailto:info@mayfair.co.rw)

To help us to deal with your comments quickly, please quote your policy or *claim* number and name of the *policyholder*.

## ENDORSEMENTS

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### Corporate Liability

In consideration of the payment of the premium or agreement to pay the premium, the *insurer* and the *policyholder* agree as follows:

1. Clause **1. Insurance Covers** is amended to include the following insurance cover at the end of that clause:

- 1.1. **Corporate Liability Cover**

- (i) Corporate Liability

The *insurer* shall pay the *loss* of any *company* resulting from any *claim* in connection with *corporate liability*.

- (ii) Company Pollution Condition Defence Costs

The *insurer* shall pay the *defence costs* of any *company* resulting from any *claim* in connection with a *pollution condition*.

- (iii) Breach of Contract

The *insurer* shall pay the *defence costs* of any *company* resulting from any *claim* in connection with an alleged breach by any *company* of any express (written or oral) contract or agreement.

- (iv) Crisis Event

The *insurer* shall pay the *company's* reasonable fees, costs and expenses of *public relations consultants* to mitigate the adverse effect or potential adverse effect on a *company's* reputation with respect to a *crisis event*.

The Covers 1.3 (ii) to 1.3 (iv) (inclusive) above shall be subject to the sub-limits referred to in item 10 of the Schedule.

2. For the purpose of this endorsement, in clause **2. Extensions**, paragraphs 2.2. Lifetime Run-Off for Retired Insureds, 2.4. Investigations, 2.6. Extradition Proceedings, 2.7 Public Relations Expenses and 2.8. Assets and Liberty Costs are hereby deleted in their entirety.

3. For the purpose of this endorsement, clause **3. Definitions**, is amended as follows:

- (a) Definition **3.3. Claim** is hereby deleted in its entirety and replaced by the following:

**3.3. Claim**

- a) a written demand;
- b) a civil, regulatory, mediation, administrative or arbitration proceeding, including any counter-claim; or
- c) a criminal proceeding,

made or brought against an *insured* alleging a *wrongful act*.

- (b) Definition **3.15. Insured** is amended to include the following paragraph at the end thereof:

3.15. **Insured** means any *company*.

(c) Definition 3.37. **Wrongful Act** is hereby deleted in its entirety and replaced by the following:

3.37. **Wrongful Act** means *corporate liability* and *pollution condition*.

(d) The following definitions are added at the end of that clause:

**Corporate Liability**

any liability arising from any actual or alleged act, error or omission of a *company*, except with respect to any *employment practices violation*.

**Crisis event**

any of the following unforeseen events occurring during the *policy period* where, in the reasonable opinion of the chief executive officer of the *policyholder*, the event has the potential to make a significant impact on the consolidated annual revenues or the reputation of the *company* if left unmanaged:

- (i) the sudden, unexpected death or disability of any director or officer;
- (ii) the criminal conviction of any director or officer;
- (iii) loss of a major customer, contract or credit facility;
- (iv) employee workplace violence;
- (v) the first apparent unauthorized intrusion into any *company's* computer facilities;
- (vi) a recall or boycott of any product;
- (vii) a man-made disaster;
- (viii) any criminal or fraud investigation; or
- (ix) any *claim*.

*Crisis event* does not include an event that affects the *company's* industry in general; rather than the *company*, specifically.

**Pollutant**

any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including, but not limited to, asbestos, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste.

**Pollution condition**

any actual, alleged or threatened discharge, dispersal, release or escape of a *pollutant*; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *pollutants*, nuclear material or nuclear waste.

4. For the purpose of this endorsement, clause 4. Exclusions is amended to include the following exclusions at the end of that clause:

The *insurer* shall not be liable for *loss*:

**4.5. Pollution**

arising out of, based upon or attributable to the actual, alleged or threatened discharge, dispersal, release or escape of, or records concerning, *pollutants*; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *pollutants*. This exclusion shall not apply to Corporate Liability Insurance Cover 1.3 (ii) – *Company Pollution Defence Costs*.

**4.6. Intellectual Property Rights**

in connection with any *claim* made for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights.

**4.7. Anti-competitive practices**

in connection with any *claim* made for any actual or alleged violation of any law, whether statutory, regulatory or common law, with respect to any of the following activities: anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationships.

**4.8. Professional services**

in connection with any *claim* made for rendering or failure to render any service or advice to a customer or client of the *insured*.

**4.9. Benefits**

arising out of, based upon or attributable to any obligation pursuant to any workers' compensation, disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, retirement benefits, social security benefits, pension benefits or any similar law or obligation whatsoever.

**4.10. Contract**

arising out of, based upon or attributable to any liability of any *company* under any express oral or written contract or agreement. This exclusion shall not apply to any *company* liability that would have attached in the absence of such contract, any *claim* in connection with Corporate Liability Insurance Cover 1.3 (iii) – *Company Breach of Contract*.

**4.11. Proceedings seeking fines or penalties**

in connection with any *claim* seeking fines or penalties or non-monetary relief against any *insured*.

5. For the purpose of this endorsement, clause **5. General Provisions**, is amended as follows:

(a) Paragraph **5.1. Severable Nature of the Policy** is hereby deleted in its entirety and replaced by the following.

This policy is a severable policy covering each *insured* for their own individual interest. With respect to Exclusion 4.1- Conduct, and the contents of any proposal form or declaration submitted, or statements, warranties and representations made to the *insurer* in connection with this policy, or any policy of which this policy is a renewal or replacement, only the statements and knowledge of any Chief Executive Officer, Chief Operating Officer, Chief Financial Officer or Chief Legal Officer/General Counsel of the *policyholder*, or any person

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who signed the declaration or proposal form in connection with this policy or any policy of which this policy is a renewal or replacement; will be imputed to all *insured*.

(b) Paragraph **5.2. Non-avoidance** is hereby deleted in its entirety.

6. For the purpose of this endorsement, Items 5, 7 and 10 of the Schedule are amended to include the following retention, continuity date and sub-limits of liability:

**Schedule**

<b>Item 5</b>	<b>Retention</b>	Insurance Cover 1.3 (i), (ii), et (iii):	10% policy limit Per claim
<b>Item 7</b>	<b>Continuity date</b>	Inception date of this endorsement	
<b>Item 10</b>	<b>Sub-Limits of Liability</b>	Insurance Cover 1.3 (ii):	Company Pollution Condition Defense Costs 10% policy limit
		Insurance Cover 1.3 (iii):	Breach of Contract 10% policy limit
		Insurance Cover 1.3 (iv):	Crisis Event Public Relations Expenses 10% policy limit

All other terms, conditions and exclusions shall remain unaltered.