

March 2012

IRWELL INSURANCE COMPANY LIMITED

Registered Office: 2 Cheetham Hill Road
Manchester
United Kingdom
M4 4FB

COMMERCIAL LEGAL PROTECTION POLICY

This Policy and the schedule shall be read together and the following expressions shall have the following meanings.

- | | | |
|----------|---------------------------------------|--|
| 1 | The Company | Irwell Insurance Company Limited. |
| 2 | The Policyholder | The person, firm or company specified in the schedule. |
| 3 | Employee of the Policyholder | A proprietor, director, partner, manager, officer, employee or worker of The Policyholder . The capacity being prospective, current or previous. |
| 4 | Policyholder's Representative | The solicitors, adjusters, advocates, consultants or investigators appointed by the Company, at such rates as agreed and confirmed by the Company, to act for The Policyholder or to act for such other persons insured under this Policy in accordance with the conditions of this Policy. |
| 5 | Cover | There are four sections to this policy and The Policyholder's cover is directly related to their agreement with Peninsula and is as indicated in The Schedule |
| 6 | Professional Fees and Expenses | The costs, fees and disbursements reasonably properly incurred by the Policyholder's Representative and authorised and approved by The Company in accordance with the conditions of this Policy. The Company will not make payments of value added tax on any costs, fees, disbursements or expenses unless not recoverable from The Policyholder . Such value added tax will be paid directly by The |

Policyholder, where appropriate, to the **Policyholder's Representative**.

7. Limit of Indemnity

The limits specified in **The Schedule**, which shall be calculated as follows;

7.1 Limit per **Insured Event**: by aggregating all amounts indemnified under all sections in respect of all **Insured Events** related in time or by cause.

7.2 Limit per **Period of Insurance**: by aggregating all amounts indemnified in respect of **Insured Events** whose **Time of Occurrence** was in the same **Period of Insurance** and so that if the **Period of Insurance** is greater or less than one year the limit shall be increased or reduced in proportion to the limit specified.

8 Maximum Limit

The Maximum Limit for a claim under Section 2 of this Policy is the limit as set out by Section 124 of the Employment Rights Act 1996 in England Wales and Scotland and the Employment Rights (NI) Order 1996 in Northern Ireland and Section 7(1)(C) of the Unfair Dismissals Act 1977 in the Republic of Ireland.

9 Peninsula

Peninsula Business Services Limited (Company Number 1702759) whose registered office is at The Peninsula, 2 Cheetham Hill Road, Manchester, M4 4FB.

10 The Schedule

The schedule to this Policy.

11 Territorial Limit

United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the Channel Islands and the Republic of Ireland.

12 Time of Occurrence

12.1 In civil cases the time when **The Incident** (or the **Incidents** if more than one) arose, being the cause or causes of action complained about in the claim.

12.2 In criminal cases the time at which the

person firm or company insured under this Policy commenced or is alleged to have commenced to infringe the criminal law in question.

- 13 The Incident** The issue that starts a train of events that leads to a matter which becomes the subject of a claim.
- 14 Period of Insurance** The period specified in **The Schedule** for which **The Company** has agreed to accept, and **The Policyholder** has paid or agreed to pay the premium, and any subsequent period which may be agreed including for cover effected after the original date of the Policy, the period specified in the relevant endorsement.

WHEREAS The Policyholder carrying on the business described in **The Schedule** and no other for the purpose of this insurance has completed the proposals and declaration which are the basis of this contract with **The Company**.

OPERATIVE SECTIONS FOR THE POLICY

The Sections of this Policy reflect the agreement with **Peninsula** as follows:-

- The Policyholder** who has an agreement with **Peninsula** for Personnel Services only are covered by Sections 1 and 2 of this Policy but not further or otherwise;
- The Policyholder** who has an agreement with **Peninsula** for Health and Safety Services only are covered by Sections 3 and 4 of this Policy but not further or otherwise;
- The Policyholder** who has an agreement with **Peninsula** for Combined Services of Personnel Services and Health and Safety Services are covered by Sections 1-4 of this Policy;
- The Policyholder** who has an agreement with **Peninsula** for Advice and Indemnity are covered by Section 1-4 of this Policy.

NOW THIS POLICY WITNESSETH that in consideration of **The Policyholder** having paid or agreed to pay the premium shown in **The Schedule**:

The Company shall, subject to the **Limit of Indemnity** and in accordance with those Sections of the cover stated in **The Schedule** to be operative, indemnify **The Policyholder** (or an **Employee of The Policyholder**) in respect of any **Insured Event** arising out of **The Policyholder's** normal business activities as stated in **The Schedule** which occurred within

the **Territorial Limit** and of which the **Time of Occurrence** was within the **Period of Insurance** and in respect of which any legal proceedings are conducted within the **Territorial Limit**.

TERMS AND CONDITIONS APPLICABLE TO SPECIFIC SECTIONS

SECTION 1

LEGAL COSTS AND EXPENSES INCURRED IN DISPUTES WITH EMPLOYEES

Insured Event

A dispute with:

1. An **Employee of The Policyholder**, trade union or any other person or organisation who brings against **The Policyholder**:-
 - 1.1 a complaint before an Employment Tribunal, (Rights Commissioner, Equality Service, Labour Court or Employment Appeal Tribunal in the Republic of Ireland) in relation to contractual issues or statutory rights; or
 - 1.2 criminal proceedings in relation to discrimination legislation.

Indemnity

Professional Fees and Expenses incurred by **The Policyholder** in respect of the **Insured Event** in:

1. Defending civil or criminal proceedings.
2. Appealing or defending an appeal against judgment, conviction or sentence by the relevant Tribunal or Court.

Exclusions

The Company shall not be liable for any claim for **Indemnity** in respect of, or arising from, or relating to:

1. Any dispute, unless the **Policyholder** has sought advice promptly from **Peninsula** as soon as the **Incident** becomes known and before any action is taken and the **Policyholder** has followed the advice given, and also unless the **Policyholder** has continued to seek advice from **Peninsula** in respect of any developments relating to the **Incident** and has followed the advice given. This is a continuing obligation for each dispute requiring the **Policyholder** to take and follow advice at each stage until the conclusion of each dispute.

2. If the **Policyholder** has not at any time given full and detailed information and facts or has failed to disclose any material information or fact to enable **Peninsula** to give relevant and pertinent advice as required by the Policy.
3. A dispute of which the **Time of Occurrence** was prior to the first **Period of Insurance**.
4. A claim against **The Policyholder** in respect of damages for personal injuries to the claimant and/or loss of or damage to his property.
5. Any dispute or proceedings brought under the Industrial Relations Acts 1946, 1969 and 1990 in Ireland.
6. If the relevant agreement with **Peninsula** and/or this Policy are not in force at the conclusion of the dispute for which **Indemnity** is claimed by the **Policyholder**.

SECTION 2

COMPENSATION AND DAMAGES FOR DISMISSAL AND/OR DISCRIMINATION OF EMPLOYEES

Insured Event

An **Employee of The Policyholder** who brings a complaint against **The Policyholder** at an Employment Tribunal arising out of the Trade Union & Labour Relations (Consolidated) Act 1992, the Employment Rights Act 1996, the Working Time Regulations 1998, the Public Interest Disclosure Act 1998, the National Minimum Wage Act 1998, the Employment Relations Act 1999, the Employment Act 2002, , Transfer of Undertakings (Protection of Employment) Regulations 2006 and the Equality Act 2010, or arising out of the equivalent Acts and Orders in Northern Ireland and the Republic of Ireland.

Indemnity

Basic awards (other than redundancy payments) and compensatory awards (subject to the **Maximum Limit**) payable by **The Policyholder** to an **Employee of The Policyholder** determined by a Tribunal (or recommended by a Rights Commissioner or Equality Officer or by arbitration) in circumstances of an unfair dismissal finding or finding of unlawful discrimination.

1. **Unfair Dismissal**

Cover extends to awards (subject to the **Maximum Limit**) for findings of unfair dismissal for a potentially fair reason for dismissal, these being conduct, capability (including competence) or qualifications, redundancy, statutory ban (contravention of

a duty or restriction imposed under an enactment/illegality of employee's work) and some other substantial reason or grounds.

2. Unlawful Discrimination

Cover extends to awards (subject to the **Maximum Limit**) for findings of unlawful discrimination on the grounds of race, colour, ethnic or national origin, religious belief and religion or belief, political opinion or affiliation, sex, marriage and civil partnership, pregnancy and maternity, sexual orientation, gender reassignment, disability, membership of a travelling community and age.

3. Economic Settlement

The **Indemnity** cover for Unfair Dismissal and Unlawful Discrimination allows funding for any economic settlements reached in such cases, if this is felt to be viable prior to attending a merits hearing, or to minimise compensation instead of attending a remedies hearing.

Exclusions

The Company shall not be liable for any claim for **Indemnity** in respect of, or arising from, or relating to:

1. Any dispute, unless the **Policyholder** has sought advice promptly from **Peninsula** as soon as the **Incident** becomes known and before any action is taken and the **Policyholder** has followed the advice given, and also unless the **Policyholder** has continued to seek advice from **Peninsula** in respect of any developments relating to the **Incident** and has followed the advice given. This is a continuing obligation for each dispute requiring the **Policyholder** to take and follow advice at each stage until the conclusion of each dispute.
2. If the **Policyholder** has not at any time given full and detailed information and facts or has failed to disclose any material information or fact to enable **Peninsula** to give relevant and pertinent advice as required by the Policy.
3. A dispute of which the **Time of Occurrence** was prior to the first **Period of Insurance**.
4. Arrears of contractual payments such as wages properly payable or redundancy pay or cases connected with the assertion of a statutory right, dismissal for health & safety reasons, breach of contract complaints, the Working Time Regulations, Public Interest Disclosure, or Sunday working. In addition, claims in respect of alleged dismissal for pursuing part time or fixed term proportional rights, time off for study or training, all other statutory time off rights, flexible working or dealing with dependants.
5. Any dismissal that is found to be automatically unfair, or that does not comply with

the potentially fair reasons for dismissal as defined above, namely: conduct, capability (including competence) or qualifications, redundancy, statutory ban (contravention of a duty or restriction imposed under an enactment/illegality of employee's work) and some other substantial reason or grounds.

6. Any dismissal or other action that relates to direct intentional discrimination.
7. The breach of a fixed-term contract by **The Policyholder**.
8. Protective awards under the Trade Union and Labour Relations (Consolidation) Act 1992 and protective awards under the Transfer of Undertaking (Protection of Employment) Regulations 2006.
9. Any additional award for non-compliance with a reinstatement or re-engagement order, or any increase in compensation resulting out of such non-compliance.
10. Interim relief or any awards for action short of dismissal.
11. Trade Union activities, Trade Union membership and non-membership.
12. The Industrial Relations Acts 1946, 1969 and 1990 in Ireland.

SECTION 3

CRIMINAL PROCEEDINGS DEFENCE COVER - EMPLOYERS

Insured Event

1. Any act or omission that leads to:
 - 1.1 The prosecution in a Court of Criminal Jurisdiction of **The Policyholder**.
 - 1.2 The serving of an Improvement Notice or Prohibition Order on **The Policyholder**, or any proceedings brought under Health and Safety legislation, the serving of an Enforcement Derogation (Transfer) Prohibition Information or Refusal/Withdrawal of Registration Notice under Data Protection legislation.

Indemnity

1. **Professional Fees and Expenses** and, where applicable, opponents costs incurred by **The Policyholder** in respect of the **Insured Event** in:
 - 1.1 defending criminal proceedings; and/or
 - 1.2 appealing or defending an appeal against:

- 1.2.1 conviction, or sentence resulting from such proceedings,
- 1.2.2 the imposition or terms of a notice specified in the **Insured Event** above.

Proviso

The **Territorial Limit** in relation to proceedings under Health and Safety legislation will be limited to any place where the legislation applies.

Exclusions

The Company shall not be liable for any claim for indemnity in respect of, arising from, or relating to:

1. prosecutions which are deliberately or intentionally solicited by **The Policyholder** or any **Employee of The Policyholder**;
2. offences or alleged offences involving dishonesty or intentional violence to another;
3. prosecutions or alleged prosecutions arising out of the use of a motor vehicle;
4. prosecutions involving or alleging an offence or offences deliberately or intentionally committed by **The Policyholder** or any **Employee of The Policyholder**;
5. any penalties or fines imposed by a Court; or
6. any Insured Event under this section occurring prior to the first Period of Insurance.

SECTION 4

CRIMINAL AND CIVIL PROCEEDINGS DEFENCE COVER - EMPLOYEES

Insured Event

Any act or omission or alleged act or omission of an **Employee of The Policyholder** arising out of or in the course of his/her employment with **The Policyholder** or as a trustee of a pension fund set up for the benefit of **The Policyholder's** employees which leads to:

- 1.1 a prosecution in a Court of Criminal Jurisdiction;
- 1.2 civil proceedings being taken against an **Employee of The Policyholder** for any act of sex or race discrimination, discrimination in relation to sexual orientation, gender, marital status, family status, religious belief, political opinion, disability, membership

of travelling community, age, or any other form of discrimination;

- 1.3 civil proceedings for compensation for alleged breach of duty of care to a data subject under the laws of Tort as clarified by the Data Protection Legislation;
- 1.4 proceedings brought against an **Employee of The Policyholder** under Health and Safety legislation or an Enforcement, Deregistration (Transfer) Prohibition Information or Refusal/Withdrawal of Registration Notice under Data Protection legislation; or
- 1.5 civil proceedings being taken against the person firm or company insured under this Policy as a trustee of a pension fund.

Indemnity

Professional Fees and Expenses incurred by an **Employee of The Policyholder** in respect of the **Insured Event** in:

- 1.1 defending criminal and civil proceedings; and/or
- 1.2 appealing or defending an appeal against:
 - 1.2.1 conviction, or sentence resulting from such proceedings,
 - 1.2.2 the imposition or terms of a notice specified in **Insured Event** above.

Proviso

The **Territorial Limit** in relation to proceedings under Health and Safety legislation will be limited to any place where the legislation applies.

Exclusions

The Company shall not be liable for any claim for Indemnity in respect of, or arising from, or relating to:

1. prosecutions which are deliberately or intentionally solicited by an **Employee of The Policyholder**;
2. offences or alleged offences involving dishonesty or intentional violence to another;
3. prosecutions or alleged prosecutions arising out of the use of a motor vehicle;
4. prosecutions involving or alleging an offence or offences deliberately or intentionally committed by an **Employee of The Policyholder**;

5. any penalties or fines imposed by a Court; or
6. any Insured Event under this section occurring prior to the first Period of Insurance.

EXCLUSIONS APPLICABLE TO ALL SECTIONS OF THE POLICY

The Company shall not be liable for any claim for **Indemnity**:

1. In respect of, arising from, or relating to:
 - 1.1 an **Insured Event** notified to **The Company** more than three calendar months after notification of proceedings have been received by **The Policyholder** or where the delay has caused the defence of the **Insured Event** to be weakened or where a hearing whether by a Rights Commissioner, Equality Officer, Tribunal, Court, by arbitration or otherwise has already taken place;
 - 1.2 fees, costs and disbursements incurred before receipt of a claim by **Policyholder's Representative**;
 - 1.3 fines, penalties, compensation or damages which **The Policyholder** is recommended to pay or ordered to pay by the relevant Rights Commissioner, Equality Officer, Court, Tribunal or Arbitrator except as covered by Section 2 of this Policy;
 - 1.4 any prosecution, contract, act or omission which arises from or relates to the ownership, hiring, use, or otherwise of a motor vehicle by **The Policyholder** or any other person insured under this Policy;
 - 1.5 any contract where the cause of action arises prior to the first **Period of Insurance** under the relevant Section of this Policy;
 - 1.6 prosecutions deliberately or intentionally solicited or committed by an **Employee of The Policyholder**; or
 - 1.7 a dispute with **The Company** not otherwise dealt with under general condition 6.
 - 1.8 claims directly or indirectly caused by or contributed to or arising from:
 - 1.8.1 ionising radiations or contamination by radioactivity from an irradiated nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or

- 1.8.2 the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.
 - 1.9 claims which are a consequence of:
 - 1.9.1 war, invasion, act of foreign enemy hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power; or
 - 1.9.2 riot or civil commotion or malicious acts occurring elsewhere than in Great Britain, the Isle of Man, the Channel Islands or the Republic of Ireland.
2. Where **The Policyholder** or any other person insured under this Policy:
 - 2.1 fails to send to **Peninsula** as soon as practicable all and any Tribunal proceedings papers and documents received by the **Policyholder**;
 - 2.2 fails to co-operate fully and promptly and/or give proper instructions in due time to the **Policyholder's Representative**;
 - 2.3 fails to seek approval from those handling the claim if they wish to dismiss or take action against a witness to the proceedings;
 - 2.4 fails to co-operate with those handling the claim to ensure its proper conduct;
 - 2.5 fails to provide all information and documentation required by the **Policyholder's Representative**, or fails to allow witnesses to be interviewed or appear at hearings to give truthful evidence;
 - 2.6 is responsible for delay which in **The Company's** reasonable opinion is prejudicial to his/her case; or
 - 2.7 is or would be, but for the existence of this Policy, entitled to insurance or indemnity under any other Policy or policies except in respect of any excess beyond the amount that would have been payable under the other Policy or policies had this insurance not been effected.
3. Where **The Policyholder** has failed to disclose to **The Company** any material fact which was known to **The Policyholder** at the time of making this contract with **The Company** (or any renewal thereof) or which would have been known to **The Policyholder** had **The Policyholder** made such inquiries as reasonableness or prudence requires. A fact is material if in the opinion of **The Company** it would have influenced the judgment of **The Company** in deciding whether to accept the risk and

if so at what premium and on what conditions.

4. When **The Policyholder** is bankrupt, has committed an act of bankruptcy, has made an arrangement with its creditors, has entered into a Deed of Arrangement, is in liquidation or part or all of its affairs or property are in the care or control of a Receiver.

GENERAL CONDITIONS APPLICABLE TO ALL SECTIONS OF THE POLICY

1. Obligations of The Policyholder and any other person insured under this Policy

The due and proper observance of the terms, conditions and endorsements of this Policy by **The Policyholder** and any **Employee of The Policyholder** and any other person insured under this Policy insofar as they relate to anything to be done or complied with by him/her shall be a condition precedent to any liability of **The Company**.

2. Cancellation

The Company may cancel this Policy at any time by sending 30 days notice by recorded delivery to **The Policyholder's** last known address, and in such event **The Policyholder** shall be entitled to a return of a proportionate part of the premium corresponding to the unexpired **Period of Insurance**.

Such cancellation shall not prejudice the rights of **The Policyholder** or any other person insured under the Policy in respect of any **Insured Event** occurring prior to the date of cancellation provided that such **Insured Event** is notified to **The Company** within three calendar months after its **Time of Occurrence**.

3. Presentation of Claim

When presenting a claim under the Policy **The Policyholder** or other person insured under the Policy must give **The Company** full written details of the **Insured Event** and provide such proofs, supporting evidence and other information (at **The Policyholder's** expense) as **The Company** may require.

4. Representation

4.1 **The Policyholder** or any other person insured under this Policy may in any event request **The Company** to nominate a representative to act for him/her and **The Company** would do so if it considers it necessary in order to safeguard the interest of **The Policyholder** or any other person insured under this Policy.

- 4.2 A representative nominated to act for **The Policyholder** or any other person insured under this Policy shall be appointed by **The Company** in the name of and on behalf of **The Policyholder** or any other person insured under this Policy provided always that the costs of the said representative shall not be payable for any work undertaken prior to his appointment.

5. Control of Claim

- 5.1 **The Company** shall have direct access to the **Policyholder's Representative**, **The Policyholder**, or any other person insured under this Policy at all times, and **The Policyholder** shall co-operate fully with **The Company** in all respects and shall keep **The Company** fully and continually informed of all material developments in the representation of proceedings. At **The Company's** request such aforementioned persons shall instruct the **Policyholder's Representative** to produce to **The Company** immediately, any documents, information or advice in his/her possession and further shall give him/her such other instructions in relation to the conduct of his/her claim as **The Company** may require.
- 5.2 **Professional Fees and Expenses** relating to an expert witness will only be covered by **The Company** if it has given prior written approval of the appointment of such witness.
- 5.3 **Professional Fees and Expenses** payable are to be in no way affected by any agreement, undertaking or promise made or given by **The Policyholder** to the **Policyholder's Representative** or by either of them to any witness or agent.
- 5.4 **The Policyholder** shall inform **The Company** immediately, in writing, of any proposed offer or payment into Court made with a view to settling the claim and;
- 5.4.1 no agreement to settle which may result in a claim for **Indemnity** under this Policy is to be made without **The Company's** prior written approval.
- 5.5 At **The Company's** request **The Policyholder** or any other person insured under this Policy shall require the **Policyholder's Representative** to have the **Professional Fees and Expenses** or opponent's civil costs taxed, assessed or audited by the relevant authority.
- 5.6 If **The Policyholder**, or any other person insured under this Policy, withdraws their instructions from the **Policyholder's Representative** without the consent of **The Company** or if **The Policyholder** fails to co-operate fully under this Policy, then the liability of **The Company** under this Policy will cease forthwith unless in its absolute discretion it agrees to the appointment of another to continue the claim.

5.7. If **The Policyholder** or any other person insured under this Policy ceases to defend a claim without the prior agreement of **The Company**, then the **Professional Fees and Expenses** will become the responsibility of **The Policyholder**, and **The Company** will be entitled to be reimbursed by **The Policyholder** for any costs paid or incurred during the course of the claim including any **Professional Fees and Expenses** **The Company** considers it is obliged too pay on **The Policyholder** withdrawing from the claim.

6. Differences

If any difference or dispute arises between **The Company** and **The Policyholder** or any other person insured under this Policy, it shall be referred to and finally resolved by arbitration before a sole arbitrator in accordance with the Arbitration Acts as amended (save as the parties may expressly agree) and the President for the time being of AIDA Re-Insurance and Insurance Arbitration (UK) (or President of the Irish Insurance Federation in Ireland) shall on the application of either party appoint the Arbitrator in default of agreement between the parties.

7. Payment of Costs

All accounts for **Professional Fees and Expenses** payable under this Policy shall be submitted to **The Company** at the end of each calendar month for all claims resolved in that particular calendar month.

8. Recovery

The Policyholder and any other person insured under this Policy shall, at **The Company's** expense, take every available step to recover from third parties their **Professional Fees and Expenses** payable under this Policy and such **Professional Fees and Expenses** must be paid to **The Company**.

9. Declarations

The Policyholder shall declare information to **The Company** in the form and at the intervals required by **The Company** and shall pay to **The Company** additional premium or receive a refund of premium from **The Company** as the case may be.

10. Legislation

Any reference to statutory rights or legislation within this Policy shall be deemed to include any Act or Statutory Instrument amending or replacing the same and shall include legislation in England, Wales, Scotland, Northern Ireland, the Isle of Man, the Channel Islands and the Republic of Ireland.

cause (except that a single claim under Section 2 of the Policy is limited as defined)

2. £2,000,000 per Period of Insurance

Estimated annual payroll and salary £

Total number of employees and workers

Operative Sections for the Policy

The sections of the policy reflect your agreement with **Peninsula** as follows:-

1. **The Policyholder** who has an agreement with **Peninsula** for Personnel Services only are covered by Sections 1 and 2 of this Policy but not further or otherwise;
2. **The Policyholder** who has an agreement with **Peninsula** for Health and Safety Services only are covered by Sections 3 and 4 of this Policy but not further or otherwise;
3. **The Policyholder** who has an agreement with **Peninsula** for Combined Services of Personnel Services and Health and Safety Services are covered by Sections 1-4 of this Policy;
4. **The Policyholder** who has an agreement with **Peninsula** for Advice and Indemnity are covered by Section 1-4 of this Policy.

<u>Section Cover</u>	<u>Yes/No</u>
1. Legal costs and expenses incurred in employment litigation disputes with employees	Yes/No
2. Compensation and damages for dismissal and/or discrimination of employees	Yes/No
3. Criminal proceedings defence cover - employers	Yes/No

4. Criminal proceedings defence cover - employees Yes/No

Total annual premium

First premium

Endorsement(s) Operative

Date of issue of Policy day of 20

Signed on behalf of The Company

Agency

Policy cancellation number (if applicable)