

# Liability Insurance

## Definitions

1 Person Entitled to Indemnity shall mean

A) the Insured

B) the personal representatives of the Insured in respect of legal liability incurred by the Insured

C) at the request of the Insured

1) any principal

2) any director or partner of the Insured

3) any Person Employed

against legal liability in respect of which the Insured would have been entitled to indemnity under this Policy if the claim had been made against the Insured

4) the officers committees and members of the Insured's canteen social sports and welfare organisations and first aid fire ambulance medical and security services in their respective capacities as such but this shall not include medical or dental practitioners in relation to medical services provided

5) any director or partner of the Insured or Employee in respect of private work undertaken by any Person Employed for such director partner or Employee with the prior consent of the Insured

each of whom shall as though the Insured be subject to the terms of this Policy so far as they can apply

2 Employee shall mean any individual under a contract of service or apprenticeship with the Insured

3 Person Employed shall mean any

A) Employee

B) labour master and individuals supplied by him

C) individual employed by labour only sub-contractors

D) self employed individual (not being in partnership with the Insured)

E) individual hired to or borrowed by the Insured

F) individual undertaking study or work experience

while under the supervision of the Insured

} while under the direct control and supervision of the Insured

4 Injury shall mean

### Section 1

bodily injury death disease or illness

### Sections 2 3 and 4

bodily injury death disease illness wrongful arrest or false imprisonment

5 Property shall mean material property

6 Business shall mean that which is specified in the Schedule and conducted solely from premises in Great Britain Northern Ireland the Channel Islands or the Isle of Man and shall include

A) ownership repair and maintenance of the Insured's own property

B) provision and management of canteen social sports and welfare organisations and first aid ambulance and medical services for the benefit of any Person Employed

C) fire and security services maintained solely for the protection of premises owned or occupied by the Insured

D) private work undertaken by any Person Employed for any director or partner of the Insured or Employee with the prior consent of the Insured

but in respect of Section 1 shall not include any work undertaken Offshore

7 Offshore shall mean embarkation on to a vessel or aircraft for conveyance to an offshore rig or platform until disembarkation from the conveyance on to land upon return from such offshore rig or platform

8 Event shall mean one occurrence or all occurrences of a series consequent on or attributable to one source or original cause

9 Insured's Contribution shall mean the amount or amounts specified in the Schedule which the Insured agrees to pay

10 Intellectual Property Rights shall mean any patent trade mark copyright registered design technical or commercial information or other intellectual property

**The insurance provided by Section 1 is on a costs inclusive basis whereby the costs and expenses of the claimant and the costs and expenses (incurred by the Company or with the Company's written consent) of any Person Entitled to Indemnity are included within the Limit of Indemnity stated in the Schedule**

## **Section 1 Employers' Liability**

The Company will provide indemnity to any Person Entitled to Indemnity

**1** against legal liability for damages in respect of Injury of any Person Employed caused during any Period of Insurance

A) in Great Britain Northern Ireland the Channel Islands or the Isle of Man

or

B) while temporarily outside these territories

arising out of and in the course of employment by the Insured in the Business

**2** against legal liability for claimant's costs and expenses in connection with 1 above

**3** in respect of

A) costs of legal representation at

1) any coroner's inquest or inquiry in respect of any death

2) proceedings in any court arising out of any alleged breach of statutory duty resulting in Injury

which may be the subject of indemnity under this Section

B) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under 1 above

incurred with the Company's written consent

Provided that in respect of any one Event

**1** the total amount payable under this Section (including all Extensions and Memoranda) shall not exceed the Limit of Indemnity

**2** the Company may at any time pay the Limit of Indemnity (less any sums already paid or incurred) or any less amount for which at the absolute discretion of the Company the claims arising out of such Event can be settled. The Company will then relinquish control of such claims and be under no further liability in respect thereof

### **Exclusions to Section 1**

The indemnity will not apply to legal liability

**1** 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

B) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

where such legal liability is

1) that of any principal

2) accepted under agreement and would not have attached in the absence of such agreement

**2** in respect of Injury for which the Insured is required to arrange motor insurance or security in accordance with any road traffic legislation within the European Community

**Extensions to Section 1** (each of which is subject otherwise to the terms of this Policy)

### **1 Unsatisfied Court Judgements**

In the event of a judgement for damages being obtained

- A) by any Employee or the personal representatives of any Employee in respect of Injury of the Employee caused during any Period of Insurance and arising out of and in the course of employment by the Insured in the Business
- B) against any company or individual operating from premises within Great Britain Northern Ireland the Channel Islands or the Isle of Man

in any court situate in the territories specified in B) above and

- C) remaining unsatisfied in whole or in part six months after the date of such judgement

at the request of the Insured the Company will pay to the Employee or the personal representatives of the Employee the amount of any such damages and any awarded costs to the extent that they remain unsatisfied

Provided that

- A) there is no appeal outstanding
- B) if any payment is made under the terms of this Extension the Employee or the personal representatives of the Employee shall assign the judgement to the Company

### **2 Compensation for Court Attendance**

In the event of any of the undermentioned persons attending court as a witness at the request of the Company in connection with a claim in respect of which the Insured is entitled to indemnity under this Section the Company will provide compensation to the Insured at the following rates per day for each day on which attendance is required

- A) any director or partner of the Insured            £500
- B) any Employee    £250

**The insurance provided by Section 2 is on a claims made basis with the costs and expenses of the claimant and the costs and expenses (incurred with the Company's written consent) of any Person Entitled to Indemnity included within the Limit of Indemnity stated in the Schedule**

## **Section 2 Public/Products Liability**

The Company will provide indemnity to any Person Entitled to Indemnity

**1** against legal liability for damages

A) in respect of

- 1) accidental Injury of any person
- 2) accidental loss of or damage to Property

arising out of the Business

and

B) arising out of

- 1) any claim
- or
- 2) the notification of any circumstance which has caused or is alleged to have caused Injury or loss of or damage to Property

which is

A) first made in writing to the Insured (or any other Person Entitled to Indemnity under this Policy) during any Period of Insurance

and

B) notified to the Company

- 1) during
- or
- 2) within thirty days after expiry of the same Period of Insurance

**2** against legal liability for claimant's costs and expenses in connection with 1 above

**3** in respect of

A) costs of legal representation at

- 1) any coroner's inquest or inquiry in respect of any death
- 2) proceedings in any court arising out of any alleged breach of statutory duty resulting in any Injury loss or damage specified in 1 above

which may be the subject of indemnity under this Section

B) all other costs and expenses in relation to any matter which may form the subject of indemnity under 1 above

incurred with the Company's written consent

Provided that

- 1** the total amount payable under this Section (including all Extensions and Memoranda) shall not exceed the Limit of Indemnity
- 2** the Insured's Contribution will be payable before the Company shall be liable to make any payment
- 3** the Company may at any time pay the Limit of Indemnity (less any sums already paid or incurred) or any less amount for which at the absolute discretion of the Company the claim or claims can be settled. The Company will then relinquish control of such claim or claims and be under no further liability in respect thereof
- 4** where the Company is liable to indemnify more than one person the total amount payable in respect of damages costs and expenses shall not exceed the Limit of Indemnity

## Exclusions to Section 2

The indemnity will not apply to legal liability

- 1 arising from or out of the ownership possession or use by or on behalf of the Insured or any Person Entitled to Indemnity of any
  - A) mechanically propelled vehicle other than legal liability arising out of
    - 1) the use of plant as a tool of trade on site
    - 2) the use of plant at the premises of the Insured
    - 3) the loading or unloading of any vehicleexcept where indemnity is provided by any motor insurance contract or where insurance or security is required by law
  - B) aircraft or other aerial device
  - C) aerospace device
  - D) hovercraft
  - E) water-borne craft (other than hand-propelled or sailing craft in inland or territorial waters)
- 2 for bodily injury to or death disease or illness of any Person Employed arising out of and in the course of employment by the Insured in the Business
- 3 for or arising from loss of or damage to any Property which at the time of the Event giving rise to such legal liability is owned by or held in trust by or in the custody or control of the Insured other than
  - A) Employees' directors' partners' or visitors' personal effects including vehicles and their contents
  - B) premises and their contents not owned by or leased or rented to the Insured at which the Insured is undertaking work in connection with the Business
  - C) premises and their fixtures and fittings leased or rented to the Insured unless such legal liability
    - 1) has been accepted by agreement in which case the indemnity will only be provided to the extent that such liability would have attached in the absence of such agreement
    - 2) arises from an agreement to maintain in force insurance in respect of loss of or damage to such premises and their fixtures and fittings
- 4 caused by or arising out of pollution or contamination of buildings or other structures or of water or land or the atmosphere unless the pollution or contamination is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific moment in time and place

Provided that all pollution or contamination which arises out of one incident shall be considered by the Company for the purposes of this Policy to be made in the Period of Insurance when the first claim was made in writing to the Insured and notified to the Company
- 5
  - A) in respect of loss of or damage to any
    - 1) product supplied
    - 2) contract work executed } by the Insured  
caused by any defect therein or the unsuitability thereof for its intended purpose
  - B) for the costs of recall removal repair alteration replacement or reinstatement of any
    - 1) product supplied
    - 2) contract work executed } by the Insured  
necessitated by any defect therein or the unsuitability thereof for its intended purpose
- 6 arising from or in connection with
  - A) advice
  - B) design
  - C) specification } provided for a fee
- 7 arising from or in connection with any
  - 1) product supplied
  - 2) contract work executed } by the Insured  
where such legal liability has been accepted by agreement except to the extent that such liability would have attached in the absence of such agreement
- 8 for the costs of remedying any defect or alleged defect in premises disposed of by the Insured
- 9 for
  - A) fines or penalties
  - B) compensation ordered or awarded by a Court of Criminal Jurisdiction
  - C) aggravated exemplary or punitive damages awarded by any court outside Great Britain Northern Ireland the Channel Islands or the Isle of Man



#### 4 Data Protection Act 1998

The Business shall include the provision of any reciprocal arrangement for the storage or processing of computer data or for use of computer facilities

Provided that the indemnity will not apply to legal liability in respect of any loss or damage sustained by any party to such an arrangement

The Company will also provide an indemnity to the Insured and if the Insured so requests any Employee or director or partner of the Insured against legal liability to pay damages and claimant's costs and expenses for damage or distress as described in Section 13 of the Data Protection Act 1998

Provided that the Insured is registered in accordance with the terms of the Act or has applied for such registration which has not been refused or withdrawn and has taken all reasonable care to comply with the requirements of the Data Protection Act 1998

This Extension shall not apply in respect of

- A) the payments of fines or penalties
- B) the costs of replacing reinstating rectifying erasing blocking or destroying any personal data
- C) liability arising from or caused by a deliberate or intentional act by or omission of any person eligible for indemnity by this Extension if the result thereof could reasonably have been expected by the Insured or any other person having regard to the nature and circumstances of such act or omission
- D) claims which arise out of circumstances notified to previous insurers or known to the Insured at inception of this Extension
- E) legal liability where indemnity is provided by any other insurance

#### 5 Extended Claims Notification Period

In the event of the Company not inviting renewal of this Policy for reasons other than non-compliance with the terms of this Policy the Company will provide indemnity

- A against legal liability for damages
    - 1) in respect of
      - A) accidental Injury
      - B) accidental loss or damage to Property
    - arising during any Period of Insurance in connection with the Business
    - and
    - 2) arising out of any claim
      - A) which is first made in writing to the Insured (or any other Person Entitled to Indemnity under this Policy) and
      - B) which is notified to the Company during the twelve calendar months immediately following the final Period of Insurance for which the Insured shall have paid and the Company shall have agreed to accept the premium
    - as if the claim had been first made in writing to the Insured and notified to the Company during such final Period of Insurance
  - B against legal liability for claimant's costs and expenses in connection with A above
  - C in respect of
    - 1) costs of legal representation at
      - A) any coroner's inquest or inquiry in respect of any death
      - B) proceedings in any court arising out of any alleged breach of statutory duty resulting in any Injury loss or damage specified in A above
    - which may be the subject of indemnity under this Extension
    - 2) all other costs and expenses in relation to any matter which may be the subject of indemnity under A above
- incurred with the Company's written consent

Provided that

- A) the indemnity will not apply where indemnity is provided by any other insurance
- B) the total amount payable for damages costs and expenses in respect of claims made during the final Period of Insurance together with those made under the terms of this Extension shall not exceed the Limit of Indemnity for the final Period of Insurance

## Section 3 – Legal Defence Costs

The Company will provide indemnity to the Insured and if the Insured so requests any Employee or director or partner of the Insured

up to the Limit of Indemnity in respect of

- A) legal costs and other expenses incurred with the Company's written consent
- B) costs awarded against the Insured or any director partner or Person Employed

in connection with the defence of criminal proceedings brought or in appeal against a conviction arising from such proceedings relating to an offence alleged to have been committed during any Period of Insurance in the course of the Business but only in respect of proceedings brought as stated in Parts **A** and **B** below

### Part A

In respect of a breach of

- 1 the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 where the proceedings relate to the health safety and welfare of any Person Employed director or partner of the Insured

### Part B

In respect of a breach of

- 1 the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 where the proceedings relate to the health safety and welfare of any person other than a Person Employed director or partner of the Insured
- 2 Part II of the Consumer Protection Act 1987

Provided that in respect of Part **A** and **B**

- 1 the indemnity will not apply
  - A) to fines or penalties of any kind
  - B) to compensation ordered or awarded by a Court of Criminal Jurisdiction
  - C) where Injury of any person or loss of or damage to Property has occurred
  - D) where indemnity is provided by any other insurance
  - E) to proceedings consequent upon any deliberate act or omission by
    - 1) the Insured
    - 2) any partner or director of the Insured
    - 3) any Employee with any specific responsibility for compliance with the legislation specified in this Section which could reasonably have been expected to constitute a breach of the legislation specified in this Section
- 2 the indemnity will apply only where shown in the Schedule
- 3 the Company may at any time pay the Limit of Indemnity (less any sums already paid) or any less amount for which at the absolute discretion of the Company the claims arising can be settled but including any amount for which the Company may be responsible prior to the date of such payment. The Company will then relinquish control of such claims and be under no further liability in respect thereof
- 4 where the Company is liable to indemnify more than one person the total amount of indemnity shall not exceed the Limit of Indemnity

### Special Provision

The Company shall pass notification to the FirstAssist Group Ltd (a wholly owned subsidiary of the Company) which shall thereafter administer claims settlement on the Company's behalf

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**THIS POLICY (AND THE SCHEDULE WHICH FORMS AN INTEGRAL PART OF THE POLICY) IS A LEGAL CONTRACT. PLEASE EXAMINE IT THOROUGHLY TO ENSURE IT MEETS YOUR REQUIREMENTS. IF IT DOES NOT PLEASE ADVISE YOUR INSURANCE ADVISER IMMEDIATELY.**

**WE WOULD REMIND YOU THAT YOU ARE REQUIRED TO INFORM US IMMEDIATELY OF ANY FACTS OR CHANGES WHICH WE WOULD TAKE INTO ACCOUNT IN OUR ASSESSMENT OR ACCEPTANCE OF THIS INSURANCE. FAILURE TO DO SO MAY INVALIDATE YOUR POLICY OR RESULT IN CERTAIN COVERS NOT OPERATING FULLY. IF YOU ARE IN ANY DOUBT AS TO WHETHER A FACT IS MATERIAL OR NOT, PLEASE CONTACT YOUR INSURANCE ADVISER.**

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Royal & Sun Alliance Insurance plc (herein called the Company) and the Insured agree that

This Policy the Schedule (including any Schedule issued in substitution) and any Memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears

The Proposal or any information supplied by the Insured shall be incorporated in the contract

The Company will provide the insurance described in this Policy subject to the terms and conditions for the Period of Insurance shown in the Schedule and any subsequent period for which the Insured shall pay and the Company shall agree to accept the premium

## General Conditions/Claims Conditions

- 1 Observance of the terms of this Policy relating to anything to be done or complied with by the Insured is a condition precedent to any liability of the Company except in so far as is necessary to comply with the requirements of any legislation enacted in Great Britain Northern Ireland the Channel Islands or the Isle of Man relating to compulsory insurance of legal liability to employees
- 2 The Insured at his own expense shall
  - A) take reasonable precautions to prevent any circumstances or to cease any activity which may give rise to liability under this Policy and to maintain all buildings furnishings ways works machinery plant and vehicles in a sound condition
  - B) as soon as possible after discovery cause any defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances may require
- 3 The Insured shall give to the Company immediate written notice with full particulars of any claim or circumstances which may give rise to a claim (regardless of the Insured's Contribution)

Every letter claim writ summons and process in connection with such circumstances shall be forwarded to the Company immediately on receipt

Written notice shall also be given by the Insured to the Company immediately the Insured shall have knowledge of any prosecution inquest or inquiry in connection with any circumstances which may give rise to liability under this Policy

No admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company which shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute any claim in the name of the Insured for its own benefit and shall have full discretion in the conduct of any proceedings and in the settlement of any claim

The Insured shall give all such assistance as the Company may require

- 4 If any part of the Premium or Renewal Premium is based on estimates provided by the Insured the Insured shall keep an accurate record containing all relevant particulars and shall allow the Company to inspect such record The Insured shall within one month after the expiry of each Period of Insurance provide such information as the Company may require The Premium or Renewal Premium shall then be adjusted and the difference paid by or allowed to the Insured
- 5 Other than in respect of Extension 3 and 5 to Section 2 if at the time of any claim there is or but for the existence of this Policy there would be any other insurance covering the same legal liability the indemnity will not apply except in respect of any amount beyond that which would have been payable under such other insurance had this Policy not been effected
- 6 Unless the parties have agreed otherwise in writing any dispute concerning the interpretation of the Policy shall be governed and construed in accordance with English law and shall be resolved within the non-exclusive jurisdiction of the courts of England and Wales.

The insurance provided by Section 5 is on a claims made basis with the costs and expenses of the claimant and the costs and expenses (incurred by the Company or with the Company's written consent) of any Person Entitled to Indemnity included within the Limit of Indemnity stated in the Schedule

## Section 5 Additional Liabilities Insurance - Abuse

### Definitions applicable to Section 5

- 1 Person Entitled to Indemnity shall mean
  - A) the Insured
  - B) the personal representatives of the Insured in respect of legal liability incurred by the Insured
  - C) at the request of the Insured
    - 1) any principal
    - 2) any manager or governor of the Insuredagainst legal liability in respect of which the Insured would have been entitled to indemnity under this Section if the claim had been made against the Insured and each of whom shall as though the Insured be subject to the terms of this Policy so far as they can applyother than
  - a) any natural person committing or alleged to have committed Abuse against any other natural person
  - b) any Person who has or has been alleged to have
    - i) authorised or permitted Abuse
    - ii) disregarded knowledge of Abuse
    - iii) had actual or constructive knowledge of Abuse and failed to notify a person with specific responsibility for the protection of children or vulnerable adults from Abuse
    - iv) aided or contributed to or supported Abuse or
    - v) intentionally or wilfully failed to comply with any procedure regulation or licence designed to protect children or vulnerable adults from Abuse
- 2 Abuse shall mean
  - A) acts of hurting or injuring mentally or physically by maltreatment or ill-use
  - B) acts of forcing sexual activity rape or molestation or
  - C) repeated or continuing contemptuous coarse or insulting words or behaviours
- 3 Injury shall mean bodily injury mental injury death disease or illness
- 4 Person shall mean
  - A) an individual (a natural person) whether operating in the individual's own name or under a trade name
  - B) an individual's personal agent or representative or
  - C) any legal or commercial entity including but not limited to
    - 1) a body corporate
    - 2) a corporation sole
    - 3) a body politic
    - 4) a partnership
    - 5) any association or body of persons whether incorporated or not
    - 6) a charity or
    - 7) a trust
- 5 Loss shall mean any claim or all claims of a series that are causally connected and arise out of an isolated repeated or continuing incidence of Abuse committed by one or more natural persons

## Section 5 Additional Liabilities Insurance - Abuse

The Company will provide indemnity to any Person Entitled to Indemnity

- 1 against legal liability for damages and claimant's costs and expenses for accidental Injury resulting from Loss where any claim is
  - A) first made in writing to the Insured (or any other Person Entitled to Indemnity) during the Period of Insurance and
  - B) notified to the Company during or within thirty days after expiry of the same Period of Insurance
  
- 2 in respect of
  - A) costs of legal representation at
    - 1) any coroner's inquest or inquiry in respect of any death
    - 2) proceedings in any court arising out of any alleged breach of statutory duty resulting in any Injury specified in **1** abovewhich may be the subject of indemnity under this Section
  - B) all other costs and expenses in relation to any matter which may form the subject of indemnity under **1** aboveincurred with the Company's written consent

Provided that in respect of any Loss the following shall apply

- 1 the total amount payable under this Section (including all Memoranda) shall not exceed the Limit of Indemnity stated in the Schedule
  
- 2 where the Company is liable to indemnify more than one Person the total amount payable in respect of all damages and claimant's costs and expenses arising out of all claims during any Period of Insurance shall not exceed the Limit of Indemnity
  
- 3 the Company may at any time pay the Limit of Indemnity (less any sums already paid or incurred) or any less amount for which at the absolute discretion of the Company the claim can be settled  
The Company will then relinquish control of such claim and be under no further liability in respect thereof
  
- 4 all Loss shall be deemed to be made in the Period of Insurance when
  - A) the first claim in respect of Loss was first made in writing to the Insured (or any other Person Entitled to Indemnity) and notified to the Company
  - or
  - B) the first notification of any circumstance in respect of Loss was first made in writing to the Company
  
- 5 where Loss involves one or more claimants
  - A) the Company shall not provide indemnity against the consequences of any circumstances
    - 1) where the first claim in respect of Loss was made against the Insured (or any other Person Entitled to Indemnity) and notified to the Company under any policy which was in force prior to the Period of Insurance or
    - 2) where the first notification of any circumstance in respect of Loss was first made to the Company under any policy which was in force prior to the Period of Insurance
  - B) the total amount payable shall not exceed the Limit of Indemnity

## Special Provisions applicable to Section 5

- 1 If during the Period of Insurance the Insured becomes aware of any circumstance which may reasonably be expected to give rise to a claim under this Section and notifies the Company of such circumstance during the Period of Insurance or within 30 days after expiry of the Period of Insurance then such subsequent claim shall be deemed for the purpose of this Section to have been made during the Period of Insurance

## Exclusions applicable to Section 5

The indemnity will not apply to legal liability

- 1 arising from or out of the ownership possession or use by or on behalf of the Insured or any Person Entitled to Indemnity of any
  - A) mechanically propelled vehicle other than legal liability arising out of
    - 1) the use of plant as a tool of trade on site
    - 2) the use of plant at the premises of the Insured
    - 3) the loading or unloading of any vehicleexcept where indemnity is provided by any motor insurance contract or where insurance or security is required by law
  - B) aircraft or other aerial device
  - C) aerospace device
  - D) hovercraft
  - E) water-borne craft (other than hand-propelled or sailing craft in inland or territorial waters)
- 2 for Injury to any Person Employed arising out of and in the course of employment by the Insured
- 3 for
  - A) fines or penalties
  - B) compensation ordered or awarded by a Court of Criminal Jurisdiction
  - C) aggravated exemplary or punitive damages awarded by any court outside Great Britain Northern Ireland the Channel Islands or the Isle of Man
- 4 arising from any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power
- 5 in the event of any failure to comply with the procedural guidelines established by the Insured concerning Abuse
- 6 in respect of claims arising from Loss caused prior to the Retroactive Date
- 7 in respect of claims arising out of circumstances
  - A) known to the Insured or any other Person Entitled to Indemnity prior to inception of this insurance or
  - B) notified under any other policy which was in force prior to the inception of this insurance

which might be reasonably expected to give rise to a claim