



**RAHEJA  
QBE**

**Raheja QBE Buyer's Warranty and Indemnity  
Insurance Policy-  
(Excess Policy)**

## Schedule

This Schedule is a summary of the cover provided by the terms and conditions of the Policy attached. If there is any inconsistency between the terms and conditions of the Policy and this Schedule, the terms and conditions of the Policy shall prevail.

Item 1	Insured	Name : Permanent Address: Correspondence Address : Email:											
Item 2	<b>Insurer</b>	Raheja QBE General Insurance Company Limited											
Item 3	<b>Followed Policy Details</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Insurer/Policy No.</th> <th style="width: 25%;">Limit of Liability</th> <th style="width: 25%;">Retention</th> <th style="width: 25%;">Policy Term</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Insurer/Policy No.	Limit of Liability	Retention	Policy Term							
Insurer/Policy No.	Limit of Liability	Retention	Policy Term										
Item 4	<b>Total Underlying Limit:</b>	(For the avoidance of doubt, the Total Underlying Limit is over and above the Retention as set out in the Followed Policy)											
Item 5	<b>Policy Term</b>	Inception Date: [] Expiration Date: []. The date of Inception shall begin at 12:01 a.m. local time at the address of the Insured shown in Item 1, and the Expiration Date shall end at 11:59 p.m. local time at the address of the Insured shown in Item 1.											

Item 6	<b>Limit of Liability</b>	USD XXX in the aggregate for the Policy Term, in excess of the Total Underlying Limit
Item 7	<b>Premium</b> <b>GST</b>  <b>Total Premium</b>	USD USD Any taxes payable on the Premium will be the responsibility of the Insured USD
Item 8	<b>Intermediary</b>	Name Address
Item 9	<b>Broker Commission</b>	
Item 10	<b>Claim Filing Provisions</b>	With respect to any Claim Notice under this Policy, the Insured shall deliver such notice to the Insurer at the following address  And a copy, not constituting notice to the Broker at: ➡

## Raheja QBE Buyer's Warranty and Indemnity Insurance Policy- (Excess Policy)

This Excess Warranty and Indemnity Insurance Policy is issued by the Insurer to the Insured and represents the complete agreement between the Insurer and the Insured concerning the coverage provided hereunder.

**WHEREAS**, the Insured has executed the Acquisition Agreement; and

**WHEREAS**, the Insured has purchased primary insurance coverage from the Primary Insurer pursuant to the Followed Policy; and

**WHEREAS**, the Insured desires to purchase excess insurance coverage to insure itself against Insured Loss (as defined in Section 2A below) in excess of the coverage provided by the Followed Policy and the Insurer desires to provide such excess insurance, subject to the terms and conditions of this Policy.

### SECTION 1 DEFINITIONS

All capitalised terms which are not otherwise defined in this Policy shall have the respective meanings given to them in the Followed Policy at the Inception Date of this Policy.

The following capitalised terms shall have the meanings set out next to them below:

- (a) **"Claim Notice"** has the meaning given to this term in Section 6(A) of this Policy.
- (b) **"Declarations"** means the Declarations of this Policy.
- (c) **"Expiration Date"** means the date set forth in Item 5 of the Declarations.
- (d) **"Followed Policy"** means the primary buyer-side warranty and indemnity insurance policy set forth in Item 3 of the Declarations.
- (e) **"Inception Date"** means the date set forth in Item 5 of the Declarations.
- (f) **"Insolvency"** means, in relation to any entity, that entity entering into receivership, administration, formal insolvency, liquidation, dissolution, rehabilitation or any similar proceeding, or such entity being taken over by any regulatory authority due to it being unable to pay its debts.
- (g) **"Insolvent"** means being in a state of Insolvency.

- (h) **“Insured”** means the Insured set forth in Item 1 of the Declarations.
- (i) **“Insured Loss”** has the meaning set forth in Error! Reference source not found. of this Policy.
- (j) **“Insurer”** means the Insurer set forth in Item 2 of the Declarations.
- (k) **“Limit of Liability”** means the amount set forth in Item 6 of the Declarations.
- (l) **“Policy”** means this first excess warranty and indemnity insurance policy including any Declarations, exhibits, attachments or endorsements attached hereto.
- (m) **“Policy Term”** means the period of time set forth in Item 5 of the Declarations, commencing on the Inception Date and ending on the relevant Expiration Date (both dates inclusive).
- (n) **“Programme of Insurance”** means the programme of insurance policies put in place for the Insured for the amount of USD [] pursuant to the Followed Policy, this Policy, and other excess policies.
- (o) **“Premium”** means the amount set forth in Item 7 of the Declarations.
- (p) **“Primary Insurer”** means the insurer under the Followed Policy, as set forth in Item 3 of the Declarations.
- (q) **“Retention”** means the Retention set forth in Item 3 of the Declarations.
- (r) **“Total Premium”** means the amount set forth in Item 7 of the Declarations.
- (s) **“Total Underlying Limit”** means the amount set forth in Item 4 of the Declarations.

## SECTION 2 INSURING AGREEMENT

A. Subject to the terms and conditions of this Policy, the Insurer shall, in excess of the Retention and the Total Underlying Limit, provide the Insured with coverage for Loss (as defined in the Followed Policy) in accordance with the same terms, conditions, exclusions and limitations of the Followed Policy as were in existence at the Inception Date of this Policy and as may be amended, deleted or inserted pursuant to any amendments or endorsements issued to the Followed Policy (any such Loss being “Insured Loss”), except as regards the Premium, the Limit of Liability, the Total Underlying Limit (subject to the provisions of Section 4 below) and any other provisions expressly stated in this Policy (noting that for the avoidance of doubt, no additional or separate retention or de minimis shall apply to this Policy).

B. Notwithstanding anything herein to the contrary, in no event shall this Policy provide coverage broader than that provided by the Followed Policy, except with respect to the Limit of Liability

### **SECTION 3      LIMIT OF LIABILITY**

A. The Limit of Liability is the limit of the Insurer's aggregate liability for all payments made by the Insurer in connection with this Policy. It is expressly agreed that liability for any Insured Loss shall attach to and be payable by the Insurer only after:

(i) the Primary Insurer has either: (a) paid; (b) agreed in writing to pay; or (c) been found liable to pay (pursuant to a final determination in accordance with the respective dispute resolution provisions governing the Followed Policy) the full amount of the Total Underlying Limit, in accordance with the terms of the Followed Policy; or

(ii) if payment(s) in respect of any Insured Loss is made by the Primary Insurer of an aggregate amount which is less than the Total Underlying Limit (including due to uncollectability), but the relevant Insured Loss exceeds the Total Underlying Limit, then such payment will, for the purposes of determining the application of this Policy to such Insured Loss, be deemed to exhaust the Total Underlying Limit (provided that: (a) to the extent permissible under applicable law, details of such payment and its terms, including (without limitation) its quantum and the basis for non-payment of the Total Underlying Limit, have been provided to the Insurer (so as to allow it a reasonable period of time to consider the same), whether or not such payment is made pursuant to a settlement agreement or otherwise; and (b) the Insurer will be liable to pay only that part of Insured Loss which exceeds the Total Underlying Limit); or

(iii) the Primary Insurer has become Insolvent and is unable to pay amounts in respect of the Total Underlying Limit and the Insured has suffered Insured Loss up to the full amount of the Total Underlying Limit that the Primary Insurer would have been liable for, but for such Insolvency (provided that the Insurer will be liable to pay only that part of Insured Loss which exceeds the Total Underlying Limit).

B. In the event of cancellation of the Followed Policy or the Followed Policy otherwise ceasing to be in effect, this Policy will continue in effect (subject to and in accordance with its terms) provided that the Insurer shall only be liable for Insured Loss to the extent that it would have been liable had the Followed Policy not been cancelled or otherwise ceasing to be in effect and for the purposes of this Policy, the Primary Insurer shall be deemed to have paid in full the amount of any loss that it would have paid under the Followed Policy had it not been cancelled.

C. After the Total Underlying Limit has been exhausted or is deemed to be exhausted by the reasons set out in Section 3(A) or 3(B) above:

- (i) the Insurer shall pay the Insured Loss in excess of the Total Underlying Limit; and
- (ii) this Policy shall “drop down” and continue in force as the primary insurance.

This Policy shall not drop down for any other reason, including (without limitation) any other inability or refusal of the Primary Insurer to pay any Insured Loss or the un-collectability (in whole or in part) of any amounts under the Followed Policy.

D. Defence Costs are not payable by the Insurer in addition to the Limit of Liability. Such Defence Costs are part of Insured Loss and are subject to the Limit of Liability, which will be reduced by any such Defence Costs the Insurer pays.

#### **SECTION 4 EROSION OF THE TOTAL UNDERLYING LIMIT AND THE RETENTION**

A. The Total Underlying Limit shall be eroded by all Insured Loss that the Primary Insurer is liable for under the Followed Policy.

B. Subject to Section 3(A)(ii), this Policy shall recognise erosion of the Total Underlying Limit by all Insured Loss that the Primary Insurer has either: (a) paid; (b) agreed in writing to pay; or (c) been found liable to pay (pursuant to a final determination in accordance with the respective dispute resolution provisions governing the Followed Policy), notwithstanding that such Insured Loss is not covered under this Policy.

C. The Retention and the Total Underlying Limit can be eroded as set forth under the Followed Policy (notwithstanding that such Insured Loss is not covered under this Policy).

#### **SECTION 5 TOTAL UNDERLYING LIMIT**

A. If a notification is made under Section 6(B) below, then this Policy shall continue in effect, but:

- (i) the Insured, or any insurer(s) providing replacement coverage for the Primary Insurer (if such replacement coverage is obtained), shall be liable for the amount of the Total Underlying Limit; and
- (ii) the Insurer shall be liable only to the extent that it would have been liable had the relevant circumstance leading to such notification not arisen.

B. The risk of un-collectability (in whole or in part) of any part of the Total Underlying Limit, whether because of financial impairment or Insolvency of the Primary Insurer or for any other reason whatsoever, is expressly retained by the Insured and is not in any way or under any circumstances insured or assumed by the Insurer.

C. If the terms, conditions, exclusions and/or limitations of the Followed Policy are changed in any manner, as soon as reasonably practicable the Insured (or the Broker on behalf of the Insured) shall give to the Insurer written notice of the full particulars of such change. This Policy shall become subject to any such change only if: (a) the Insurer, in its sole and absolute discretion, and the Insured agree to follow such changes by way of a written endorsement signed or shared via e-mail by an authorised representative of the Insurer and the Insured; or (b) the Insurer acknowledges by e-mail to the Broker that the changes to the Followed Policy agreed between the Insured and the Primary Insurer will apply to this Policy. Unless and until the Insurer gives such written endorsement, the Insurer's obligations and liability under this Policy shall not be increased, expanded or otherwise changed due to any changes made to the Followed Policy and the Total Underlying Limit shall not be treated as exhausted to the extent that the Primary Insurer would not have been liable to pay any Insured Loss (or part of it) if such changes had not been made.

## **SECTION 6 CLAIM FILING AND NOTICE PROVISIONS**

A. With respect to any breach, circumstance or event which is a claim, the Insured shall deliver a notice of such claim (a "Claim Notice") to the Insurer at the address set out in Item 10 of the Declarations (with a copy not constituting notice to the Broker at the address set out in Item 10 of the Declarations). Such Claim Notice shall be provided in the same manner, containing the same information and subject to the same terms provided in the Followed Policy. Provided that, subject always to the provisions of Section V of the Followed Policy, a delay in delivering notice to the Insurer or a deficiency in such notice will not affect the Insurer's obligations hereunder unless, and to the extent, such delay or deficiency actually prejudices the Insurer's interests (and the Insurer shall bear the burden of proving such prejudice).

B. As soon as reasonably practicable after a director or other executive officer of the Insured obtains Actual Knowledge of any of the following events, the Insured shall give written notice thereof to the Insurer:

- (i) the cancellation of the Followed Policy, the Followed Policy otherwise ceasing to be in effect, or the Total Underlying Limit (or any portion of it) being uncollectable under the Followed Policy (in whole or in part); or
- (ii) any Insolvency of the Primary Insurer,

provided, however, that failure for whatever reason to give notice shall not prejudice the relevant Insured's ability to bring a Claim or deliver a Claim Notice under this Policy unless, and to the extent, that such delay actually prejudices the Insurer's interests (and the Insurer shall bear the burden of proving such prejudice).



- C. A copy of each notice sent by the Insured to the Primary Insurer shall be provided to the Insurer as far as is reasonably practicable at the same time as it is sent to the Primary Insurer (save for those notices which Sections 6(A) and (B) above apply to and govern).
- D. Any notice or communication:
- (i) to the Insured shall be delivered in the manner set out in the Followed Policy; and
  - (ii) to the Insurer shall be delivered to the Insurer at its address as set out in Item 10 of the Declarations,
- and a copy not constituting notice shall be sent to the Broker at the address set out in Item 10 of the Declarations

## **SECTION 7 CLAIM PARTICIPATION**

- A The Insurer does not assume any duty to defend the Insured.
- B Subject to the terms of the Followed Policy, and provided (and to the extent) that it is within the Insured's control, the Insurer shall, at its own expense, be entitled to participate fully in the defence, negotiation and settlement of any matter that is reasonably likely to involve the Insurer and this Policy save in relation to a claim where the quantum of Insured Loss is not reasonably expected to exceed the Retention. With respect to any such matter, the Insured shall give the Insurer co-operation and such information in accordance with the Followed Policy as the Insurer may reasonably request.
- C. If any disagreement and/or dispute arises between: (a) the Insurer and (i) the Insured, or (ii) any other insurer participating in the Programme of Insurance; or (b) the Insured and any insurer (other than the Insurer) participating in the Programme of Insurance in relation to any matter in connection with this Programme of Insurance, including, but not limited to, conduct of a claim, settlement, coverage or quantum of payment to be made, the Insurer shall in each case make reasonable endeavors' to settle such disagreement and/or dispute, with the intended outcome that all insurers participating on the Programme of Insurance take a consistent approach to responding to a claim. The Insurer agrees to act reasonably and in good faith in respect of the conduct and settlement of the disagreement and/or dispute.
- D. The Insurer shall bear its own legal and other costs and expenses in connection with preparing for and attending any such dispute resolution process.

## **SECTION 8 FOLLOWED POLICY**

Except as otherwise provided in this Policy, the Insurer shall be entitled to all of the rights, privileges and protections which the Followed Policy affords to the Primary Insurer. Except as otherwise provided in this Policy, the Insured shall be entitled to all of the rights, privileges and protections which the Followed Policy affords to the Insured.

## **SECTION 9 PREMIUM PAYMENT**

The Insurer's obligations under this Policy shall be conditional upon payment of the Total Premium to the Insurer (or Broker at the direction of the Insurer) in accordance with the terms of the Followed Policy. Subject to Section 10, the Total Premium shall be fully earned at the Closing Date

## **SECTION 10 CONDITIONS OF COVER**

- A. The Insurer's obligations under this Policy shall be conditional upon:
- (i) the conditions of Section XIV (Acquisition Agreement) and Section XVIII (Premium Refunds and Cancellation) of the Followed Policy being satisfied without amendment, unless such amendment is agreed to in writing between the Insured and the Insurer;
  - (ii) the inception of the Followed Policy (a PDF copy of the executed Followed Policy will be provided to the Insurer);
  - (iii) delivery to the Insurer of an executed copy of the signed Inception No Claims Declaration on the Inception Date;
  - (iv) delivery to the Insurer, within 60 Business Days after the Closing Date, of (X) copies of (i) the final, executed Acquisition Agreement (and any amendments thereto) and (ii) Closing deliveries exchanged pursuant to the Acquisition Agreement; and (Y) a USB, CD or DVD-ROM or download link containing a complete copy of the Data Room; and
  - (v) payment of the Total Premium to the Insurer (or Broker at the direction of the Insurer) in cleared funds on or prior to the date falling 30 Business Days after the Completion Date (unless an extension is consented to by the Insurer in writing).

- B The Insurer's obligations under this Policy with respect to a Breach of the Insured Completion Warranties (in whole or in part) shall be conditional upon delivery to the Insurer of an executed copy of the Closing No Claims Declaration on the Closing Date.

C Failure to meet Conditions

If a condition in Section XIV (Acquisition Agreement) and/ or Section XVIII (Premium Refunds and Cancellation) of the Followed Policy has not been satisfied (and provided that, the Primary Insurer has first given the Insured written notice of the non-fulfilment of the relevant condition and such condition is still not remedied or fully met by the Insured within a further ten (10) Business Days of receiving such notice), the Insurer or, notwithstanding any other provisions in the Policy, the Insured shall be entitled to terminate and render void ab initio this Policy by written notice to the other party, in which case:

- (a) the Insurer shall have no liability under this Policy in respect of any Insured Loss or otherwise; and
- (b) the Insurer shall refund the Premium (if it has been paid by the Insured to the Insurer) to the Insured.

- D Subject to Section 10(C) above, this Policy is non-cancellable and non-renewable, and the Premium hereunder is earned fully on the Inception Date and is non-refundable; provided, however, that this Policy shall be deemed cancelled and void ab initio, and the Insurer shall have no liability in respect of any Insured Loss under this Policy, if the conditions contained in Section 10A of this Policy have not been satisfied in which case:

- (a) if the condition in Section 10A(v) of this Policy has been satisfied, the Insurer shall refund the Premium to the Insured; or
- (b) if the condition in Section 10A(v) of this Policy has not been satisfied, the Insured shall not be liable for the Premium.

- E. If the conditions under this Section 10 are not met the Insurer will give the Insured the opportunity to cure the failure to satisfy these conditions within 10 Business Days of the Insurer's written notice.

## **SECTION 11 OTHER MATTERS**

- A. The descriptions in the headings of this Policy are solely for convenience, and form no part of the interpretation or the terms and conditions of coverage.
- B. This Policy constitutes the entire agreement between the Insurer and the Insured concerning the subject matter of this Policy and supersedes any and all other agreements, oral or written, between the Insurer and/or its Affiliates on the one hand and the Insured and/or its Affiliates on the other hand, concerning the subject matter of this Policy. Nothing in this Section 11(B) shall exclude or limit any liability or any right which

any party may have in respect of any statements made fraudulently or dishonestly prior to the date of this Policy.

- C. The Insurer shall act on its own behalf with respect to all matters concerning this Policy, and neither the Primary Insurer nor any other insurer in the Programme of Insurance nor any other person whatsoever may act on behalf of or bind the Insurer with respect to the Policy terms or any matter concerning the Policy.
- D. The Insurer shall not be responsible for any liability or obligation of the Primary Insurer.
- E. The Insurer shall not be deemed to provide cover and the Insurer shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Insurer, its parent company or its ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the United Kingdom, Singapore, the European Union or the United States of America.

## **SECTION 12 CHOICE OF LAW AND DISPUTE RESOLUTION**

This Policy shall be governed by and construed in accordance with \* law, and any dispute arising out of or in connection with this Policy, which cannot be otherwise resolved by the Insurer and the Insured, shall be referred to and resolved by arbitration in accordance with Section 12 of the Followed Policy, which will apply to this Policy mutatis mutandis as if set out in full in this Policy.

**In Witness** Whereof the Insurer and the Insured have executed this Policy by their duly authorised representatives.

Signed by \_\_\_\_\_  
For and behalf of •  
Date:

