



RESIDENTS ASSOCIATION D&O CERTIFICATE

THIS IS TO CERTIFY that in accordance with authorisation granted under the Certificate Number stated below to the undersigned by Markel International Insurance Co Ltd (hereinafter "Underwriters"), which shall be supplied on application by reference to the Binding Authority Number MKL200701, and in consideration of the premium specified herein, the Underwriters are hereby bound to insure in accordance with the terms and conditions herein or endorsed hereon.

SCHEDULE

CERTIFICATE NO : SC1912E070LR/335

Residents Association : APPLEWOOD COURT RESIDENTS (SWINDON) LTD

Address : 15 Windsor Road
Swindon
Wiltshire
SN13 1JP

Period of Insurance : 22/05/2007 to 21/05/2008 (both dates inclusive)

Limit of Indemnity : £ 100,000

Excess : Nil

Premium : £ 150.00 (+ IPT @ 5.00% = £ 7.50) = £ 157.50

IN WITNESS whereof this Certificate has been signed by : 

on behalf of MARKEL (UK) LIMITED.

Dated : 29/05/2007

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PREAMBLE

Underwriters having received a Proposal which shall form the basis of and be incorporated in this contract and in consideration of the Premium having been paid to Underwriters, We agree to pay or indemnify to the extent and in the manner herein provided subject to the terms, limitations, exclusions and conditions of this Certificate.

The headings of each Insuring Clause, Exclusion or Condition are for ease of identification only.

INSURING CLAUSE

(1) DIRECTORS AND OFFICERS LIABILITY

We agree to pay on Your behalf and as incurred Loss arising from

- (a) any Claim or Claims made against You during the Period of Insurance by reason of a Wrongful Act committed by You in Your capacity of director, officer, committee member or trustee
 - (i) of the Residents Association, or
 - (ii) of any Other Concern where You hold such a position at the request, order or direction of the Residents Association,
- (b) Disqualification Proceedings which are first ordered or commissioned during the Period of Insurance
- (c) Your attendance at an Investigation which is first ordered or commissioned during the Period of Insurance
- (d) Your attendance at any Environmental Proceedings which are first ordered or commissioned during the Period of Insurance

except to the extent that such Loss is recoverable by You from the Residents Association under Insuring Clause 2;

(2) RESIDENTS ASSOCIATION REIMBURSEMENT

We agree to pay on behalf of the Residents Association and as incurred Loss arising from

- (a) any Claim or Claims made against You during the Period of Insurance by reason of a Wrongful Act committed by You in Your capacity of director, officer, committee member or trustee of the Residents Association, or
- (b) Disqualification Proceedings which are first ordered or commissioned during the Period of Insurance
- (c) Your attendance at an Investigation which is first ordered or commissioned during the Period of Insurance
- (d) Your attendance at any Environmental Proceedings which are first ordered or commissioned during the Period of Insurance

but only if and to the extent that the Residents

Association shall be required or permitted to indemnify You pursuant to the law, or by reason of any indemnity clause in the Memorandum or Articles of Association, trust deed, constitution or charter of the Residents Association.

LIMIT AND EXCESS

Our total aggregate liability under this Insuring Clause in the Period of Insurance in respect of all Loss shall not exceed the Limit of Indemnity

We shall only be liable for that part of the Loss which exceeds the Excess.

DEFINITIONS

"Assured/You/Yours" shall mean any natural person who was or is or may hereafter be

- (i) a director, officer, committee member or trustee of the Residents Association, or
- (ii) acting at the request, order or direction of the Residents Association as a director, officer, committee member or trustee of the Other Concern, or
- (iii) a Shadow Director, or
(other than in any capacity as external auditor, liquidator, receiver, administrator or administrative receiver),
- (iv) the lawful spouse of any person defined in (i) to (iii) above but only in respect of Loss payable under this Certificate in relation to such person which is by operation of law imputed or transferred to that spouse, or
- (v) the estate, heirs, legal representatives or assigns of any of the foregoing in the event of the death, incompetency, incapacity, bankruptcy or insolvency of that person.

"Claim" shall mean

- (i) any claim form, writ or summons or other application of any description whatsoever or counter claim issued against or served upon You, or
- (ii) any communication or allegation communicated to You which might result in a Loss.

"Costs and Expenses" shall mean all legal costs and expenses reasonably incurred by Us or by You with Our written consent other than

- (i) damages and costs awarded against You
- (ii) remuneration of whatsoever nature due to You.

"Disqualification Proceedings" shall mean legal action against You pursuant to which You are liable to be disqualified from continuing to be a director or officer of the Residents Association.

"Employee" shall mean any person other than a director, officer, committee member or trustee of the Residents Association, who was or is or may hereafter be

- (i) under a contract of service or apprenticeship with the Residents Association, or
- (ii) supplied to or hired or borrowed by the Residents Association, or

(iii) under any work experience or similar scheme

whilst employed or engaged by and under the control of the Residents Association in connection with the activities of the Residents Association, or

(iv) any volunteer working for the Residents Association.

"Employment Wrongful Act" shall mean any actual or alleged

(i) act or omission resulting in a dispute concerning the employment of the Employee or any prospective Employee, or

(ii) Retaliatory Treatment

committed or allegedly committed or attempted by You.

"Environmental Proceedings" shall mean any prosecution, official investigation, examination, inquiry or other proceedings by any official body or institution that is empowered to investigate the affairs of the Residents Association and/or the Other Concern, arising from any actual or alleged Pollution.

"Excess" shall mean the amount stated in the Schedule.

"Investigation" shall mean any official investigation, examination, inquiry or other proceedings, other than when arising from any actual or alleged Pollution, by any official body or institution that is empowered to investigate the affairs of the Residents Association and/or the Other Concern.

"Limit of Indemnity" shall mean the amount stated in the Schedule, inclusive of all Loss under Insuring Clause 1(d) and 2(d), for which Our total aggregate liability under this Certificate in the Period of Insurance shall not exceed 25% of the amount stated in the Schedule or £250,000 whichever is the lesser.

"Loss" shall mean

(i) for the purpose of Insuring Clause 1(a) and 2(a)

(a) Your legal liability for damages, legal costs, charges, expenses or judgments awarded against You,

(b) Costs and Expenses

(ii) for the purpose of all other Insuring Clauses, Costs and Expenses

resulting from or attributable to the same originating cause.

"Other Concern" shall mean

(i) any registered charity and/or any trade, research, promotional, training or similar association or organisation (whether incorporated or not) existing for any non-profit making purpose, not domiciled, registered or incorporated in the United States of America,

(ii) any sports, social or similar association or organisation, (whether incorporated or not), established or conducted for Your or Your family's and dependent's benefit or the benefit of any Employee and their families and dependents.

"Our / Us / We" shall mean the Underwriters.

"Period of Insurance" shall mean the period stated in the Schedule and in the event that

(i) We refuse to renew this Certificate, for reasons other than non-payment of premium to Us or the failure, by You and/or the Residents Association to comply with or observe the terms, provisions and Conditions of this Certificate, or

(ii) the Residents Association and/or any natural person with effective control of the Residents Association decline to accept the renewal terms offered by Us

You and/or the Residents Association shall have the right to a further single period of thirty days from the expiry date of the period stated in the Schedule but only in respect of Loss arising from

(iii) a Wrongful Act committed or attempted, and/or

(iv) Disqualification Proceedings which are first ordered or commissioned, and/or

(v) an Investigation which is first ordered or commissioned, and/or

(vi) Environmental Proceedings which are first ordered or commissioned

prior to the expiry of the period stated in the Schedule.

The further period referred to in this Definition is not applicable to the extent that other insurance policies have been purchased with the intention of providing equivalent cover for any part of such period.

"Pollution" shall mean the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including (but not limited to) smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed).

"Premium" shall mean the amount stated in the Schedule.

"Proposal" shall mean all information supplied to Us (whether by written, electronic or any other means) for the purpose of effecting this contract of insurance.

"Residents Association" shall mean the company, association or organisation stated in the Schedule as such and the Subsidiary Company.

"Retaliatory Treatment" shall mean action taken against an Employee on account of such Employee exercising or attempting to exercise his or her rights under law.

"Shadow Director" shall mean a person who is deemed to be a shadow director (within the meaning given by section 741(2) of the Companies Act 1985 (UK) or any amendment or re-enactment thereof) of any company solely by reason of any activity of the Residents Association.

"Subsidiary Company" shall mean any body corporate in respect of which the Residents Association or any other subsidiary company of the Residents Association controls as at the date of inception of this Certificate

- (i) the composition of the board of directors, or
- (ii) more than half of the voting power, or
- (iii) more than half of the voting issued share capital

and any such company which is subsequently acquired or created and included with Our written consent.

"Terrorism" shall mean any act of terrorism, including but not limited to the use or threat of force or violence, of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for political, religious, ideological or similar purposes including the intention to influence or overthrow any government de jure or de facto and/or put the public or any section of the public in fear.

"Unlawful Association" shall mean any organisation which is engaged in Terrorism and includes any organisation which at any relevant time is a proscribed organisation within the meaning of The Terrorism Act 2000 or any amendment or re-enactment thereof.

"War" shall mean war, invasion, act of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, mutiny or usurped power.

"Wrongful Act" shall mean any actual or alleged act committed or attempted by You or any matter claimed against You solely by reason of You serving in the capacity of director, officer, committee member or trustee of the Residents Association and/or the Other Concern.

Related or continuous or repeated or causally connected Wrongful Acts shall constitute a single Wrongful Act.

EXCLUSIONS

We shall not be liable to pay or indemnify You and/or the Residents Association against Loss

(1) EMPLOYERS LIABILITY

which result directly or indirectly from bodily injury, mental injury, shock, sickness, disease, death, or emotional distress sustained by any Employee arising out of and in the course of their employment by You and/or the Residents Association.

(2) EMPLOYMENT DISPUTES

resulting from

- (i) an Employment Wrongful Act
- (ii) an Investigation in respect of employment discrimination

if the Residents Association is an unincorporated body.

(3) DISHONEST AND MALICIOUS ACTS

arising out of Your actual dishonesty, fraud or malicious conduct.

(4) FINES, PENALTIES AND REMUNERATION

to the extent of any

- (i) fine or penalty
- (ii) non-compensatory damages
- (iii) remuneration of whatsoever nature due to You or any Employee.

(5) OTHER INSURANCE

in respect of which You or the Residents Association are entitled to indemnity under any other insurance.

(6) CIRCUMSTANCES KNOWN AT INCEPTION

brought about by, or contributed to, or consequent upon any circumstances existing prior to the inception date of this Certificate and which You or the Residents Association ought reasonably to have known might give rise to a Loss.

(7) LEGAL ACTION

- (i) where action for damages is brought in a court of law outside the jurisdiction of the United Kingdom, and/or
- (ii) where Costs and Expenses arise outside the jurisdiction of the United Kingdom, and/or
- (iii) where action is brought in a court of law within the jurisdiction of the United Kingdom to enforce a foreign judgment, whether by way of reciprocal agreement or otherwise.

(8) RADIOACTIVE CONTAMINATION OR EXPLOSIVE NUCLEAR ASSEMBLIES, WAR RISKS AND TERRORISM

- (i) brought about by or contributed to by or consequent upon
 - (a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss
 - (b) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from
 - (c) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - (d) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- (ii) based upon, arising out of or relating directly or indirectly from, in consequence of or in any way involving

- (a) War and/or Terrorism
- (b) any action taken in controlling, preventing or suppressing War and/or Terrorism
- (c) any unlawful, wanton or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any Unlawful Association

regardless of any other cause or event contributing concurrently or in any other sequence to such Loss.

Provided always that if We allege that by reason of this Exclusion, any Loss is not covered by this Certificate the burden of proving the contrary shall be upon You and/or Residents Association.

In the event that any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

(9) POLLUTION

other than in respect of Insuring Clauses 1(d) and 2(d), based upon, arising out of or resulting directly or indirectly from, in consequence of or in any way involving Pollution.

(10) BODILY INJURY/PROPERTY DAMAGE

arising from any Claim or Claims

- (i) for bodily injury, mental injury, emotional distress, shock, sickness, disease or death sustained by any person, other than emotional distress arising from any libel, slander or defamation
- (ii) for any loss, damage or destruction of property, including loss of use thereof.

(11) PENSION FUNDS

resulting directly from You acting in the capacity as trustee or administrator of any pension, retirement or superannuation scheme or programme created for Your benefit or that of an Employee.

(12) TAKEOVER OR MERGER

resulting from

- (i) any Wrongful Act of Yours occurring, or
- (ii) any Disqualification Proceedings, Investigation or Environmental Proceedings instigated

subsequent to the effective date of the takeover or merger of the Residents Association by or with any other person.

(13) PROFESSIONAL DUTY TO THIRD PARTIES

arising from any Claim or Claims made by any third party for any breach of any professional duty owed to such third party.

(14) ASSURED OR RESIDENTS ASSOCIATION v. ASSURED

arising from any Claim or Claims made against You by or on behalf of

- (i) the Residents Association

- (ii) any Other Concern of which You are a director, officer, committee member or trustee
- (iii) any other director, officer, committee member or trustee of the Residents Association

provided however that Underwriters shall pay

- (a) Loss arising from any Claim or Claims brought or maintained by any director, officer, committee member or trustee of the Residents Association when such Claim is made solely in that persons capacity as a tenant or general member of the Residents Association
- (b) Loss arising from any Claim or Claims brought or maintained by any director, officer, committee member or trustee of the Residents Association for contribution or indemnity if such Claim directly results from the payment of any other Loss under this Certificate.

(15) COMPUTER DATE RECOGNITION

brought about by or contributed to by or consequent upon any failure of any computer or other electronic data processing device, equipment or system, any hardware, software, program, instruction, data or component utilised or intended to be utilised therein or thereby, or any actual or intended function of or process performed by any of the foregoing (by whomsoever owned or operated) to recognise or respond to, correctly and effectively, any particular date or period of time (continuous or otherwise).

CONDITIONS

(1) CLAIMS NOTIFICATION

- (a) You and/or the Residents Association shall, as a condition precedent to Your and/or the Residents Association's right to payment or indemnity under this Certificate, give Us immediate notice in writing during the Period of Insurance of
 - (i) any Claim made against You,
 - (ii) the receipt of any notice of an intention to make a Claim against You,
 - (iii) any circumstances of which You and/or the Residents Association shall become aware which is likely to give rise to a Claim against You, or the instigation of Disqualification Proceedings, Investigation or Environmental Proceedings, or the seeking by You of any payment or indemnity under this Certificate, giving reasons for the anticipation of such Claim, Disqualification Proceedings, Investigation or Environmental Proceedings, or request for payment or indemnity, together with full particulars as to dates and persons involved.

Such notice having been given as required by (ii) or (iii) above, any subsequent Claim made, or any Disqualification Proceedings, Investigation, Environmental Proceedings instigated, or request for payment or indemnity shall be deemed to have been made or instigated during the Period of Insurance.

Such Claim having been notified as required by (i) above, or having arisen from such circumstance notified as required by (ii) or (iii) above, You shall then (subject to Our written consent) have the right to appoint any appropriately qualified legal representative to deal with that Claim.

(b) You and/or the Residents Association shall, as a condition precedent to Your and/or the Residents Association's right to payment or indemnity under this Certificate,

- (i) give Us such information and co-operation as We may reasonably require,
- (ii) take no action which might prejudice Us,
- (iii) incur no Loss or settle any Claim or admit any liability without first obtaining Our written consent.

(2) CLAIMS HANDLING

As a condition precedent to Your or the Residents Association's right to payment or indemnity under this Certificate neither You nor the Residents Association shall admit liability for or settle any Claim or incur any Costs or Expenses in connection therewith or in connection with any Disqualification Proceedings, Investigation or Environmental Proceedings without Our written consent.

It is Your or the Residents Association's duty to defend any Claim, Disqualification Proceedings, Investigation or Environmental Proceedings. We have the right, but not the obligation, to actively associate with You or the Residents Association in the settlement or handling of any Claim, Disqualification Proceedings, Investigation or Environmental Proceedings.

We shall be entitled at any time to pay to You or the Residents Association (as the case may be) the Limit of Indemnity (or as much of it as remains available), or any lesser sum for which any Loss can be settled, whereupon We shall be under no further liability to You or the Residents Association in respect of such Loss.

You or the Residents Association shall be entitled at Your or the Residents Association's own risk to contest any Claim or legal proceedings which in Our opinion should be compromised or settled provided that We shall not be liable for any Loss incurred directly or indirectly as a result of Your or the Residents Association's refusal to compromise or settle such Claim or legal proceedings.

(3) UNINTENTIONAL NON-DISCLOSURE CLAUSE

- (a) in the event of non-disclosure or misrepresentation of information to Us, We will waive Our rights to avoid this Certificate provided that
 - (i) You or the Residents Association are able to establish to Our satisfaction that such non-disclosure or misrepresentation was innocent and free from any fraudulent conduct or intent to deceive
 - (ii) the Premium and terms and conditions shall be adjusted at Our discretion to those which would have applied had such information been disclosed

- (iii) where You or the Residents Association should have notified Us during a preceding Period of Insurance of a Claim or the instigation of Disqualification Proceedings, Investigation or Environmental Proceedings and the cover to which You or the Residents Association would have been entitled was in any way more restrictive than that provided at the date of notification We shall only be liable to the extent available during such preceding Period of Insurance

- (iv) Where You or the Residents Association has prejudiced the handling or settlement of any Loss, Disqualification Proceedings, Investigation or Environmental Proceedings the amount payable in respect of such Loss, Disqualification Proceedings, Investigation or Environmental Proceedings shall be reduced to such sum as in Our opinion would have been payable in the absence of such prejudice.

(b) We shall not deny payment or indemnity on the grounds of the breach of Conditions 1 or 2 of this Certificate subject to provisos (a)(iii) and (a)(iv) of this clause.

(4) SEVERABILITY

Nothing in the Proposal or otherwise known or done by any Assured shall be imputed to any other person in determining any right or obligation of the Assured or the Residents Association under this Certificate. In no case shall an Assured be prevented from pursuing any point in his or her defence only because it is inimical to the interests of any other Assured.

(5) SUBROGATION

We shall be subrogated to all Your or the Residents Association's rights of recovery against any person before or after any payment or indemnity under this Certificate.

You or the Residents Association shall give all such assistance in the exercise of rights of recovery as We may reasonably require.

(6) PREMIUM PAYMENT

When premium payment has been arranged on a deferred basis with a premium finance company which has entered into a contractual agreement with Markel (UK) Limited to provide premium credit facilities and notwithstanding any other conditions in relation to cancellation it is hereby understood and agreed that

- (i) in the event of payment of any instalment to such premium finance company being overdue, Markel (UK) Limited may, in accordance with the authority granted to the premium finance company by You or the Residents Association under the terms of the signed and dated Credit Agreement, accept cancellation instructions from the premium finance company and will allow a return pro-rata premium to the premium finance company provided there have been no claims or circumstances known or reported to Us during the Period of Insurance

- (ii) all premiums due or returned shall be processed by the premium finance company in accordance with the signed and dated Credit Agreement.

(7) FRAUDULENT CLAIMS

If You or the Residents Association makes any request for payment or indemnity under this Certificate knowing it to be false or fraudulent in any respect, this Certificate shall (unless We determine otherwise) be void and all payment and/or indemnity hereunder shall be forfeited in respect of such Assured or Residents Association.

(8) INSTRUCTIONS

Neither You nor the Residents Association shall have any right to require cancellation of this Certificate or any material reduction in the cover afforded hereunder, and any such cancellation or reduction sought shall be granted only at and to the extent of Our absolute discretion and shall not be effected unless and until We are reasonably satisfied that such cancellation or reduction has been sanctioned by all Assureds whose rights under this Certificate at that time are or may be affected thereby.

(9) LAW OF CONTRACT

The contract of insurance evidenced by this Certificate shall be governed by English and Scottish law and subject to the exclusive jurisdiction of such English and Scottish courts.

(10) OFFERING

If during the Period of Insurance the Residents Association decides to make a public or private offering of its shares or other equity interest, the Residents Association shall provide Us with any prospectus, offering statement or other relevant information to enable Us to amend the terms, limitations, exclusions and/or conditions of this Certificate and/or charge an additional premium, if so required.

(11) NOTICE

Notice under this Certificate shall be deemed duly given

- (a) by any person to Us if sent by first class prepaid post or fax to Markel (UK) Limited, at the address specified in the NOTICE of this Certificate, or such other address as has been notified to that person for that purpose from time to time,
- (b) to You or the Residents Association if sent by post to the last known address thereof.

(12) CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 or any amendment or re-enactment thereof to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available other than by virtue of this Act.

(13) MULTIPLE ASSUREDS

Our liability under this Certificate shall be the liability specified therein which shall not be varied or deemed varied by virtue of the number or type of Assureds or Claims thereunder.

NOTICE

COMPLAINTS

If at any time You have any query or complaint regarding Your contract of insurance, You should in the first instance refer to Your Insurance Broker or other intermediary or advisor, if any.

If Your problem cannot be resolved in this way, please write to Markel (UK) Limited, Riverside West, Whitehall Road, Leeds LS1 4AW quoting Your Certificate Number.

If You are insured with Markel Syndicate 3000 at Lloyd's and are unable to resolve the situation and wish to make a complaint You can do so at any time by referring the matter to the Complaints Department, Lloyd's, One Lime Street, London EC3M 7HA; (Telephone 0207 327 5693. Fax 0207 327 5225. E-mail: Lloyds-Regulatory-Complaints@Lloyds.com).

If You are insured with Markel International Insurance Company Limited and are unable to resolve the situation and wish to make a complaint You can do so at any time by referring the matter to Markel International Insurance Company Limited, The Markel Building, 49 Leadenhall Street, London EC3A 2EA.

Complaints that cannot be resolved in this way may be referred to the Financial Ombudsman Service. Further details will be provided at the appropriate stage of the complaints process.