

A large, light gray graphic of a stylized leaf or petal shape, oriented vertically, serves as a background for the central text. It has a curved top and bottom edge and a vertical line running down its center.

CONSULTANTS

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DUAL Asia

Professional Indemnity Insurance Policy Wording

In consideration of the premium, WE agree to provide the cover set out in this POLICY to each INSURED:

Section 1: INSURING CLAUSES

- 1.1 WE agree to indemnify the INSURED for any CLAIM for compensation first made against the INSURED and reported to US during the INSURANCE PERIOD in respect of any civil liability resulting from any breach of professional duty by the INSURED in its conduct of its PROFESSIONAL BUSINESS.
- 1.2 WE also agree to pay DEFENCE COSTS either incurred by US or incurred by the INSURED with OUR prior written consent.
- 1.3 The POLICY shall only provide cover for breaches of professional duty committed after the RETROACTIVE DATE.

Section 2: AUTOMATIC EXTENSIONS

The automatic extensions are subject to the Insuring Clauses and all other POLICY terms and conditions.

WE agree to provide cover in respect of any:

2.1 Fraud and Dishonesty

CLAIM which would otherwise be excluded because of fraud and dishonesty in Exclusion 5.14 of the POLICY provided that WE will not provide cover in respect of any:

- (a) person committing or condoning any act, omission or breach excluded by Exclusion 5.14 of the POLICY.
- (b) CLAIM arising from or directly or indirectly attributable to or in consequence of:
 - (i) any loss of money, negotiable instruments, bonds, coupons, currency, bank notes, stamps, cheques, bills of exchange, letters of credit or other instruments whether negotiable or not or whether matured or not or securities or documents evidencing title to or ownership of land or any other property; or
 - (ii) any actual or alleged fraudulent or dishonest instruction or direction; or use of electronic equipment, including but not limited to, telephony or the internet; resulting in:
 - a) any unauthorised transfer, delivery or payment of, or dealing with, any money, land or other property; or
 - b) any unauthorised reduction in the amount of any funds or other assets held by any person with any bank, building society or other institution or person having a responsibility for the maintenance or care of such funds or assets; or
 - c) any adverse effect upon any right of any person to the payment of money.

2.2 Former Principals

CLAIM against any former principal, partner, director, or EMPLOYEE of the INSURED in respect of the conduct of the INSURED's PROFESSIONAL BUSINESS.

2.3 **Consultants, Subcontractors and Agents**

CLAIM against the INSURED resulting from the conduct of any consultant, subcontractor or agent in the PROFESSIONAL BUSINESS of the INSURED and for whose acts, errors or omissions the INSURED is liable.

WE will not cover the consultant, subcontractor or agent.

2.4 **Loss of Documents**

Costs and expenses incurred by the INSURED in replacing or restoring LOST DOCUMENTS for which the INSURED is legally responsible in respect of the conduct of the INSURED's PROFESSIONAL BUSINESS if:

- (a) The loss of the DOCUMENTS is first discovered during the INSURANCE PERIOD;
- (b) The INSURED notifies US within 30 days of discovery of the loss of the DOCUMENTS;
- (c) The INSURED provides US with bills and accounts substantiating the costs and expenses incurred by the INSURED in replacing or restoring the LOST DOCUMENTS; and
- (d) WE approve or a competent person nominated by US approves the bills and accounts.

OUR total liability under this extension for any one claim and in the aggregate from all claims during the INSURANCE PERIOD shall not exceed HK\$3,000,000. This sub-limit is part of and not in addition to the INDEMNITY LIMIT and a separate deductible of HK\$10,000 will apply to each CLAIM and loss under this extension.

2.5 **Run-off Cover Insured Entity or Subsidiary (Former Subsidiary)**

CLAIM against the INSURED resulting from the conduct of the PROFESSIONAL BUSINESS by a SUBSIDIARY that ceased or ceases to be a SUBSIDIARY either before or during the INSURANCE PERIOD.

2.6 **Joint Venture Liability**

CLAIM against the INSURED resulting from its conduct of the PROFESSIONAL BUSINESS as a joint venturer.

WE will not cover any liability of the joint venture partner.

2.7 **Defamation**

CLAIM against the INSURED which results from the INSURED making a defamatory statement in the conduct of the PROFESSIONAL BUSINESS.

2.8 **Fidelity**

CLAIM against, or loss discovered by, the INSURED resulting from:

- (a) any loss of money, negotiable instruments, bonds, coupons, currency, bank notes, stamps, cheques, bills of exchange, letters of credit and other instruments whether negotiable or not or whether matured or not or securities or documents evidencing title to or ownership of land or any other property belonging to the INSURED or for which the INSURED is legally liable; and/or
- (b) any actual or alleged fraudulent or dishonest instruction, direction or use of electronic equipment, including but not limited to telephony and the internet, resulting in the unauthorised transfer, delivery or payment of, or dealing with, money, land or any other property belonging to the INSURED or for which the INSURED is legally liable ("fraudulent transaction")

where such loss is sustained or fraudulent transaction occurs in consequence of any dishonest, fraudulent, malicious or reckless act or omission of any INSURED, provided always that:

- (i) Such CLAIM is first made against the INSURED or loss or fraudulent transaction is first discovered by the INSURED during the INSURANCE PERIOD and is notified in writing to US within 28 days after such discovery and where the INSURED must bear any costs or expenses to substantiate the loss or fraudulent transaction;
- (ii) We shall not be liable for any CLAIM based on or loss sustained in respect of any fraudulent transaction which occurs in consequence of any act or omission occurring after the date of the discovery of, or of reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of the INSURED concerned; nor will we be liable to indemnify any INSURED committing or condoning any dishonest or fraudulent conduct.

The cover provided under this extension is sub-limited to HK\$300,000 any one CLAIM or loss and in the aggregate all CLAIMS and losses. This sub-limit is part of and not in addition to the INDEMNITY LIMIT. A separate DEDUCTIBLE will apply to each CLAIM and loss under this extension.

2.9 Intellectual Property

CLAIM which would otherwise be excluded by Exclusion 5.9 of the Policy (Intellectual Property), provided that the liability incurred from the breach of intellectual property rights results directly from the provision by the INSURED of advice, specification or formula in its professional capacity in the conduct of the PROFESSIONAL BUSINESS.

2.10 Attendance at Inquiries

Legal representation costs resulting directly from the attendance by the INSURED at any INQUIRY. We will only do this if:

- (a) the INQUIRY is ordered or commissioned during the INSURANCE PERIOD, and
- (b) OUR consent is obtained before such costs are incurred, and
- (c) the INSURED notifies US during the INSURANCE PERIOD that the INSURED is legally compelled to attend the INQUIRY, and
- (d) the INQUIRY is not being held in USA or Canada, and
- (e) the INSURED's attendance is required because of the INSURED's conduct of its PROFESSIONAL BUSINESS, and
- (f) at our option, WE can nominate legal advisers to be used.

The cover provided under this extension is sub-limited to HK\$500,000 any one INQUIRY and in the aggregate for all INQUIRIES and a separate DEDUCTIBLE will apply to each INQUIRY under this extension. This sub-limit is part of and not in addition to the INDEMNITY LIMIT. For the application of the terms and conditions of this POLICY to this Extension, INQUIRY is deemed to be a CLAIM.

2.11 Court Attendance Costs

Court attendance costs of any partner, principal, director or EMPLOYEE of the INSURED who is legally required to attend Court as a witness in a CLAIM covered by the POLICY, to an amount not exceeding HK\$2,500 per day for EMPLOYEES and HK\$5,000 per day for those other persons. No DEDUCTIBLE applies.

2.12 Heirs, Estates and Legal Representatives

Estate, heirs, legal representatives or assigns of any deceased or mentally incompetent INSURED in respect of CLAIMS resulting from the conduct of the PROFESSIONAL BUSINESS by such INSURED.

2.13

New Subsidiaries

CLAIM(S) against any SUBSIDIARIES, which the INSURED acquires or creates after the inception date of this POLICY provided that the SUBSIDIARIES:

- (a) undertake the same PROFESSIONAL BUSINESS covered under this POLICY;
- (b) do not have any revenue from the United States of America or Canada; and
- (c) have total gross revenues that are less than 10% of the total gross revenue of the INSURED covered under this POLICY.

The INSURED can request US to extend this POLICY to cover any SUBSIDIARIES which fail to meet any one of the above conditions, our written acceptance is required and WE may amend POLICY terms or conditions.

Section 3:

OPTIONAL EXTENSIONS:

Subject to the terms and conditions of this POLICY, if shown in the Schedule or by endorsement as operative, WE agree to provide cover:

3.1

Reinstatement of INDEMNITY LIMIT

CLAIM(S) which require(s) reinstatement of the INDEMNITY LIMIT during the INSURANCE PERIOD because the INDEMNITY LIMIT is eroded (partially or totally) as a result of the payment of an earlier and separate CLAIM, CLAIMS or DEFENCE COSTS. However the aggregate of all such reinstatements in connection with all CLAIMS will not exceed a total amount equal to the INDEMNITY LIMIT, inclusive of DEFENCE COSTS, and such reinstatements are only available where the subsequent CLAIM(S) is/are based on facts and matters totally different from and unrelated to those which gave rise to the erosion or exhaustion of the INDEMNITY LIMIT. Further, this Extension does not apply until the INSURED has exhausted the limits of any policy which is in excess of the original INDEMNITY LIMIT under this POLICY, other than any similar reinstatement provisions under such excess policies.

3.2

Previous Business

- (a) To any principal, partner or director of the INSURED named on the Schedule under the heading "Previous Business" for CLAIMS resulting from professional services they performed before joining the INSURED.
- (b) This extension will only apply if the professional services were performed in the same profession as the PROFESSIONAL ACTIVITY of the INSURED and are not covered under any other insurance or the principal, partner or director does not have the benefit of cover under any other insurance or indemnity.

3.3

Defence Costs In Addition

Section 7.1 of the POLICY is hereby amended. Subject to Clause 3.1 of the POLICY (Reinstatement) WE will pay DEFENCE COSTS in addition to the INDEMNITY LIMIT, in an amount not exceeding the INDEMNITY LIMIT or HK\$2,000,000 (whichever is the lower figure) for any one CLAIM and for all CLAIMS in the aggregate. This extension does not apply if Clause 3.1 is operative.

We will only pay these, however, if either:

- (a) WE incur them; or
- (b) The INSURED incurs them after first obtaining OUR agreement in writing and the DEFENCE COSTS are in OUR view reasonable and necessary.

We will not be obliged to defend, or to continue to defend, any CLAIMS or pay, or continue to pay, any DEFENCE COSTS associated with such defence, once the INDEMNITY LIMIT has been exhausted.

DEFENCE COSTS does not include any internal or overhead expenses of the INSURED or the cost of the INSURED'S time.

Section 4: DEFINITIONS

In the POLICY:

4.1 CLAIM means

- (a) any civil proceeding brought by a third party against the INSURED for compensation; or
- (b) written demand by a third party for monetary damages.

4.2 DEFENCE COSTS means any necessary and reasonable fees, expenses, costs and disbursements incurred in investigating or defending a CLAIM covered by the POLICY.

4.3 DEDUCTIBLE means the amount specified in Item 6 of the Schedule.

4.4 DOCUMENTS means deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature, whether printed, written or reproduced by any method including computer records and electronically stored data but does not mean bearer bonds or coupons, stamps, bank or currency notes, money or any negotiable instrument.

4.5 EMPLOYEE means any person employed by the INSURED under a contract of service or apprenticeship during or prior to the commencement of the INSURED PERIOD.

4.6 FAMILY MEMBER means the INSURED'S

- (a) Legal or defacto spouse, domestic partner or companion;
- (b) Parent, or the parent of the INSURED'S legal or defacto spouse, domestic partner or companion;
- (c) Children and children of (a) and (b) above
- (d) Siblings.

4.7 INCIDENT means a matter in which the INSURED'S reputation and skill in the conduct of the PROFESSIONAL BUSINESS is brought into question.

4.8 INDEMNITY LIMIT means the amounts specified in Item 5 of the Schedule.

4.9 INQUIRY means any official investigation, examination, inquiry or other proceedings ordered or commissioned by any official body or institution empowered by law to investigate the conduct of the PROFESSIONAL BUSINESS of the INSURED.

4.10 INSURANCE PERIOD means the period specified in Item 4 of the Schedule.

4.11 INSURED means

- (a) The person, partnership, company, SUBSIDIARY or other entity, specified as the INSURED in the Schedule; and
- (b) Any person who is during the INSURANCE PERIOD a principal, partner, director or employee of the person, partnership, company, SUBSIDIARY or other entity specified as the INSURED in the Schedule, but only while acting in the course of the PROFESSIONAL BUSINESS.

4.12 LOST DOCUMENTS means DOCUMENTS that cannot be located following a diligent search, and documents that have been destroyed or damaged.

4.13 POLICY means this POLICY wording, the Schedule, the PROPOSAL and any endorsement attaching to

and forming part of the POLICY either at commencement or during the INSURANCE PERIOD.

- 4.14 POLLUTANTS means any contaminant whether solid, liquid or gas including but not limited to chemicals, smoke, vapours and fumes.
- 4.15 PROFESSIONAL BUSINESS means the PROFESSIONAL ACTIVITY set out in the Schedule.
- 4.16 PROPOSAL means the written proposal made by the INSURED to US together with any attachments.
- 4.17 RETROACTIVE DATE means the date specified in Item 7 of the Schedule.
- 4.18 SUBSIDIARY means any entity which by virtue of any applicable legislation or law is deemed to be a SUBSIDIARY of the INSURED or in which the INSURED owns or controls, directly or indirectly 50% of the issued voting shares of such entity.
- 4.19 WE/US/OUR means DUAL Asia, as agent of the Underwriters named in the Schedule under the heading "Underwriters".

Section 5: EXCLUSIONS

WE will not cover the INSURED, including for compensation, DEFENCE COSTS or other costs, expenses or loss, in respect of:

5.1 Prior knowledge

- (a) Any CLAIM arising from or in connection with a fact or circumstance that the INSURED knew or ought reasonably to have known prior to the INSURANCE PERIOD might or could give rise to a CLAIM;
- (b) Any CLAIM arising from or in connection with a fact or circumstance of which notice has been or reasonably should have been given under any previous insurance.
- (c) Any CLAIM that was first made, threatened or intimated against the INSURED prior to the INSURANCE PERIOD.

5.2 Fines and Penalties and Non-Compensatory

- (a) Taxes, fines or penalties;
- (b) Punitive, aggravated, multiple, exemplary, liquidated or other non-compensatory damages or the consequences of non-payment;
- (c) Any demand for the repayment or refund by the INSURED to a third party of professional fees paid to the INSURED for the provision of professional or other services.

5.3 Assumed Liability

Any CLAIM arising from or directly or indirectly attributable to or in consequence of any duty or obligation assumed by the INSURED by way of warranty, guarantee, indemnity, contract or agreement, unless the INSURED would have incurred the liability in the absence of such warranty, guarantee, indemnity, contract or agreement.

5.4 Liability to EMPLOYEE's

Any CLAIM arising from or directly or indirectly attributable to or in consequence of bodily injury, mental injury, sickness, disease or death of any EMPLOYEE or damage to or destruction of any property of any EMPLOYEE, including loss of use.

5.5 **Bodily Injury**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of the death of, or bodily injury or illness to, any person.

5.6 **Property Damage**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of the loss or destruction of, or damage to, any property.

5.7 **Liability As Occupier**

Any CLAIM or liability arising from or incurred or alleged to have been incurred in connection with the use, occupation, ownership or lease of any real estate or personal property, by or on behalf of the INSURED.

5.8 **Product Liability**

Any CLAIM or liability arising from or in connection with the manufacture, preparation, modification, repair, supply, maintenance or treatment of any goods or products sold, supplied or distributed by the INSURED.

5.9 **Intellectual Property**

Any CLAIM arising from infringement or alleged infringement of any intellectual property right including but not limited to copyright, patent, trademark, privacy, plagiarism, design or confidentiality.

5.10 **Pollution**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of the actual or alleged release or discharge of POLLUTANTS.

5.11 **War/Terrorism**

Any CLAIM or liability of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following, regardless of any cause or event contributing concurrently or in any other sequence:

- (a) War, invasion, acts 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, military or usurped power; or
- (b) Any act of terrorism; or
- (c) Any action taken in controlling, preventing, suppressing or in any way relating to (a) and/or (b) above.

For the purposes of this exclusion, an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

5.12 **Nuclear**

Any CLAIM or liability arising from or directly or indirectly attributable to or in connection with:

- (a) Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting from or arising therefrom or any consequential loss; or
- (b) Any legal liability 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; or
- (b) The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

5.13 **Trading Debts**

Any CLAIM arising from or directly or indirectly attributable to any trading debt or business liability of the INSURED or any guarantee given by the INSURED for a debt.

5.14 **Fraud and Dishonesty**

- (a) Any CLAIM arising from or directly or indirectly attributable to or in consequence of any actual or alleged act or omission by the INSURED, its consultants, sub-contractors or agents which was reckless, fraudulent, dishonest, malicious or criminal.
- (b) Any CLAIM arising from or directly or indirectly attributable to or in consequence of any wilful breach of any statute, regulation, contract or duty by the INSURED, its consultants, sub-contractors or agents.

5.15 **Associates**

- (a) Any CLAIM by, on behalf of or for the benefit of any INSURED;
- (b) Any CLAIM by, on behalf of or for the benefit of any SUBSIDIARY; or
- (c) Any CLAIM by, on behalf of or for the benefit of any FAMILY MEMBER of the INSURED, unless the FAMILY MEMBER is acting without any prior direct or indirect solicitation or co-operation from the INSURED.

irrespective of the capacity in which the CLAIM is brought.

5.16 **Directors & Officers**

Any CLAIM alleging a breach by an INSURED of a duty owed or any alleged wrongful conduct in the capacity of a director, secretary or officer of a body corporate.

5.17 **Asbestos**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of asbestos or other things that contain it.

5.18 **Performance Obligation**

Any CLAIM arising from or directly or indirectly caused by, or in any way connected with the INSURED's failure to perform its obligations within any agreed period of time, including but not limited to any delay in delivery or failure to deliver the product or service to be supplied by the agreed time.

5.19 **Infrastructure, Manufacturing and Financial**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of:

- (a) any errors in an estimate of probable construction cost or cost estimate unless provided by the INSURED in the conduct of the PROFESSIONAL BUSINESS; or
- (b) any construction, assembly, installation, erection or maintenance undertaken by or on behalf of the INSURED ; or

- (c) any breach of any express or implied warranty arising out of the development of any property; or
- (d) the insolvency or financial failure of any person or entity involved in any project; or
- (e) the failure to provide, effect or maintain any bond or any form of insurance; or
- (f) actual or alleged advice in relation to finance, accounting or tax matters; or
- (g) any loss or damage which would normally be the responsibility of a contractor; or
- (h) any loss of or damage to, including loss of use of or value in, any goods in the care, custody or control of the INSURED; or
- (i) any failure by the INSURED to inspect, access, sight or review any property or relevant part thereof in respect of any report or assessment of such property prepared by or on behalf of the INSURED in the conduct of the PROFESSIONAL BUSINESS; or
- (j) any valuation of property or premises made by or on behalf of the INSURED.

5.20

Investment Performance

Any CLAIM or liability directly or indirectly arising from attributable to or in consequence of:

- (a) any actual or alleged dealings of any nature by which it is sought to affect the price of, or market in, any shares or debentures of any company or commodity or currency, or of any negotiable instrument, other than dealings carried out in accordance with the laws, rules and regulations applicable to such dealings;
- (b) any CLAIM arising from any financial or investment advice provided by the INSURED, including but not limited to any advice or recommendation as to the valuation, tax implications or performance of any investment
- (c) a failure by the INSURED to warn of the risks of market fluctuation of any investment.

Section 6:

CLAIM CONDITIONS

6.1

Notification

- (a) The INSURED shall notify US of any CLAIM or loss as soon as practicable and within the INSURANCE PERIOD.
- (b) Notice of any CLAIM or loss shall be given to US in writing, and delivered to:

DUAL Asia
9/F., Cityplaza One
1111 King's Road
Taikoo Shing, Hong Kong

Or

DCS
11th Floor
Hong Kong Club Building
3A Chater Road
Central, Hong Kong

6.2 Co-operation

- (a) The INSURED shall, at the INSURED's own cost, provide US with all information and assistance required by US and/or the lawyers and investigators and others appointed by US in relation to any CLAIM or loss. Any unreasonable failure to comply with this obligation may entitle US to deny cover for the CLAIM or loss, in whole or part.
- (b) The INSURED shall, at its own cost, do all things reasonably practicable to minimise the INSURED's liability in respect of any CLAIM or loss.

6.3 Legal Defence and Settlement

- (a) Unless otherwise agreed, WE shall have the right to assume, in the name of the INSURED, the legal defence of any CLAIM covered under this POLICY. WE shall have the right to appoint the lawyers that will defend and represent the INSURED in respect of any CLAIM.
- (b) WE shall have full discretion in managing any negotiation or proceeding as to the resolution of such CLAIM. WE shall be entitled to settle a CLAIM if WE so choose.
- (c) The INSURED agrees not to admit liability for or settle any CLAIM or loss, make any admission, offer any payment or assume any obligation in connection with any CLAIM or loss, or incur any DEFENCE COSTS in connection with any CLAIM, without OUR written consent.
- (d) WE shall not be liable for any settlement, DEFENCE COSTS, admission, offer, payment or assumed obligation made, incurred or entered into without OUR written consent.
- (e) If WE are of the opinion that a CLAIM will not exceed the DEDUCTIBLE, WE may require the INSURED to conduct the defence of the CLAIM. If the DEFENCE COSTS and/or any other payment exceed the DEDUCTIBLE then WE will pay the amount in excess of the DEDUCTIBLE.

6.4 INSURED's right to contest

In the event that WE recommend settlement of a CLAIM and the INSURED does not agree to the settlement of the CLAIM, and the INSURED decides to contest the CLAIM, OUR liability shall not exceed the amount for which the CLAIM could have been settled, and DEFENCE COSTS incurred up to the date upon which the CLAIM could have been settled.

6.5 Senior Counsel

- (a) WE shall not require the INSURED to contest a CLAIM unless a Senior Counsel (agreed upon by the INSURED and US) advises that the CLAIM should be contested, taking into account all likely DEFENCE COSTS, prospects of successfully defending the CLAIM and the damages and costs likely to be recovered by the third party claimant.
- (b) The costs of Senior Counsel's advice shall be regarded as part of the DEFENCE COSTS.

6.6 Circumstances

If the INSURED during the INSURANCE PERIOD becomes aware of circumstances which may reasonably be expected to become a CLAIM, the INSURED may report this circumstance to US in writing. By doing so, any CLAIM, which is subsequently made against the INSURED, is related to or the same as this circumstance, should be considered as first made against the INSURED and reported to US at the time of this circumstance reported, provided that this circumstance is accepted by US.

6.7 Extended Reporting Period

The INSURED shall have a right to report any CLAIM within 90 days after the date of expiry or cancellation of the POLICY. This extension is only operative if:

- (a) WE cancel or do not renew this POLICY, other than for non-payment of premium or any other breach of the terms of this POLICY by the INSURED; or
- (b) The INSURED cancels or does not renew the POLICY. The extended reporting period shall not apply if the policy cover has not been replaced.

This right of extension shall lapse unless written notice of such election is received by US within thirty (30) days following the expiry of the INSURANCE PERIOD.

6.8 Allocation

- (a) WE agree that, if a CLAIM is brought against the INSURED which involves matters that are covered and not covered under this POLICY, WE will negotiate in good faith with the INSURED to agree a basis for allocation, taking into consideration factors such as (but not limited to):
 - (i) the extent to which the CLAIM is directed to matters which are covered and matters which are not covered;
 - (ii) the relative legal and financial exposure of an INSURED compared to that of a person or persons who is, or are, not covered by this POLICY; and
 - (iii) the benefit to an INSURED of any settlement, compared to that of a person or persons who is, or are, not covered by this POLICY.
- (b) If WE cannot agree a basis for allocation with the INSURED by negotiation, the dispute or difference shall first be referred to mediation at the Hong Kong International Arbitration Centre (HKIAC) and dealt with in accordance with its Mediation Rules. If the mediation is abandoned by the mediator or otherwise ends without the dispute or difference having been resolved, the dispute or difference shall be referred to arbitration at the HKIAC under the HKIAC's Domestic Arbitration Rules. Each of the parties to the mediation or arbitration shall bear their own costs of the mediation or arbitration.

Section 7: GENERAL CONDITIONS

7.1 Indemnity Limit

Subject to Clause 3.1 and Clause 3.3 (if operative), OUR total liability under the POLICY for any one CLAIM including DEFENCE COSTS and in the aggregate from all CLAIMS including DEFENCE COSTS shall not exceed the INDEMNITY LIMIT. For the purposes of determining the INDEMNITY LIMIT available for each CLAIM covered by the POLICY, all CLAIMS arising from the same breach of professional duty, or related breaches of professional duty, shall be regarded as one CLAIM.

7.2 Subrogation

- (a) Where WE have paid an amount under the POLICY WE become entitled to any rights of the INSURED against any party in relation to the CLAIM or loss, to the extent of OUR payment.
- (b) The INSURED, at its own cost, must assist US and provide information as WE may reasonably require to exercise OUR rights of subrogation. This may include providing and signing statements and other documents and the giving of evidence, among other things.

7.3 Alteration to Risk

The INSURED must notify US in writing as soon as practicable of any material alteration to the risk during the INSURANCE PERIOD including:

- (a) The INSURED going into voluntary bankruptcy, receivership or liquidation; or
- (b) The INSURED failing to pay debts as and when those debts become due; or
- (c) The INSURED breaching any other obligation giving rise to the appointment of a receiver or the commencement of bankruptcy or winding up proceedings; or

- (d) Any material change in the nature of the PROFESSIONAL ACTIVITY.

WE may not cover the INSURED for any CLAIM if the INSURED does not notify US in writing as soon as practicable of any material alteration to risk.

7.4 Assignment

The INSURED must not assign the POLICY or any rights under the POLICY without OUR prior written consent by way of endorsement to the POLICY.

7.5 Cancellation

The INSURED has the right to cancel this POLICY at any time by giving US written notice to that effect. Upon cancellation, WE will refund that part of the premium which relates to the unexpired part of the INSURANCE PERIOD.

WE have the right to cancel the POLICY if the premium has not been paid.

7.6 Territorial

The cover provided by the POLICY shall extend to the conduct of the PROFESSIONAL BUSINESS by the INSURED anywhere in the world, except within the territorial limits of the United States of America or the dominion of Canada or their respective territories or protectorates.

7.7 Jurisdictional Limitation

The cover provided by the POLICY shall extend to a CLAIM brought anywhere in the world except:

- (a) Any CLAIM brought within the territorial limits of the United States of America or the dominion of Canada or their territories or protectorates;
- (b) To enforce any judgement, order or award obtained in or determined under the laws of the United States of America or the dominion of Canada or their territories or protectorates.

7.8 Governing Law

This POLICY is to be interpreted in accordance with the laws of the Hong Kong Special Administrative Region.

Any dispute or difference arising from this POLICY which cannot be resolved by negotiation shall first be referred to mediation at the Hong Kong International Arbitration Centre (HKIAC) and dealt with in accordance with its Mediation Rules. If the mediation is abandoned by the mediator or otherwise ends without the dispute or difference having been resolved, the dispute or difference shall be referred to arbitration at the HKIAC under the HKIAC's Domestic Arbitration Rules. Each of the parties to the mediation or arbitration shall bear their own costs of the mediation or arbitration.

7.9 Deductible

- (a) The INSURED is responsible for the DEDUCTIBLE in respect of each and every CLAIM. Subject to clause (c) below, WE are only liable to indemnify the INSURED for that part of the INSURED's liability in respect of each CLAIM and DEFENCE COSTS in excess of the DEDUCTIBLE.
- (b) Where WE have paid on the INSURED's behalf part or all of the DEDUCTIBLE, the INSURED shall reimburse US.
- (c) Unless otherwise expressed in the Schedule, all DEDUCTIBLES are inclusive of DEFENCE COSTS up to the amount of the DEDUCTIBLE.
- (d) Costs and expenses incurred by US in determining whether WE are liable to indemnify the INSURED under the POLICY shall not be subject to the DEDUCTIBLE and will be met by US.

- (e) For the purposes of determining the DEDUCTIBLE(S) applicable to any CLAIM(S) covered by the POLICY, all CLAIMS arising from the same breach of professional duty, or related breaches of professional duty, shall be regarded as one CLAIM.

7.10 Titles

Titles used in this POLICY are descriptive and used for convenience only. They do not lend meaning to this POLICY. Words and expressions in the singular include the plural and vice versa.

7.11 Interpretation

Person includes individuals, partnerships, bodies corporate and associations.

If any part of this POLICY is found to be invalid or unenforceable, the remainder of this POLICY shall remain in full force and effect.

All the documents making up this POLICY shall be read together as one contract and any word or expression to which a specific meaning has been attached shall bear the same meaning wherever it may appear.

Section 8 AUTHORITY

8.1 This is to certify that in accordance with the authorisation granted under Contract to the undersigned by the Underwriters as named in the Schedule.

8.2 In consideration of the premium paid the Underwriters are hereby bound, severally and not jointly, to insure in accordance with the terms and conditions contained herein or endorsed hereon.