



**Circle Financial Lines
Complete**

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Specific Conditions by cover
General Conditions

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Specific Conditions General Conditions

This document completes the particular conditions and together with the particular conditions forms the insurance policy. It determines the characteristics specific to each cover, « What is covered » and « What is not covered (unless otherwise specified in the particular conditions) » as well as the general conditions and general exclusions applied to every cover (unless otherwise specified in the particular conditions).

You asked for Perfection...

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1 / CONDITIONS OF INSURABILITY

This insurance policy is only valid if the conditions listed under the present section are fulfilled. Should one of the conditions not be fulfilled, we are entitled to refuse any indemnity unless otherwise provided by the particular conditions.

1.1 CONDITIONS OF INSURABILITY FOR ALL COVERS

1.1.1 TERRITORY

Worldwide cover with the exception of countries with sanctions on them and countries at **war**.

1.1.2 INSURED

The **named insured** must have a usual place of **business** in an Asian country.

Each **insured** must comply with the requirements of any law, court, tribunal or regulatory or administrative body of whatever jurisdiction in which they operate.

1.1.3 CONTRACTUAL HISTORY

The **named insured** warrants on behalf of itself (or, where the **named insured** is a natural person, on behalf of himself or herself) and all other **insureds** that no **insured**:

- a) Has ever had insurance refused or cancelled for any reason, or avoided for non-disclosure or misrepresentation;
- b) Knows of anything occurring in the three years before the **period of insurance** which makes them a riskier prospect to insure and which has not been disclosed to **us**.

1.2 ONLINE CONDITIONS RELATING TO A SPECIFIC COVER

1.2.1 PROFESSIONAL INDEMNITY COVERAGE

A **business** meeting the following requirements can be insured online for professional indemnity coverage:

- a) The **professional services** offered fall within the list of **professional services** described on our website.

1.2.2 DIRECTORS' AND OFFICERS' LIABILITY

A **business** meeting the following requirements can be insured online for Management liability – directors' and officers' coverage:

- a) Not listed on any stock exchange or bourse or the subject of an existing or contemplated initial public offering, private placement of shares or capital raise;
- b) Not a real estate trust or involved in real estate investment;
- c) If a mining company, has operated profitably for more than two years.

2/ SPECIFIC CONDITIONS PROFESSIONAL INDEMNITY

2.1 SPECIAL DEFINITIONS FOR THIS SECTION

Crime liability claim

- a) A written demand seeking monetary damages or non-pecuniary relief from an **insured**; or
- b) A civil, criminal, administrative, regulatory, arbitration, mediation, conciliation or alternative dispute resolution proceeding,

alleging a **civil liability** against that **insured** resulting directly from a client **crime**.

Professional Services

The professional services provided to a client by an **insured** in the course of the **business**, but does not include services as a superannuation trustee or whilst acting in the capacity of a director or officer or whilst managing a sole proprietorship.

Professional Wrongful Act

Any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed or attempted by an **insured** before or during the **period of insurance**, solely while providing **professional services** and includes but is not limited to:

- a) Negligence or breach of a duty of care;
- b) Negligent misstatement or negligent misrepresentation;
- c) Breach of confidence or misuse of any information which is either confidential or subject to statutory restrictions on its use;
- d) Libel, slander and defamation (but not defamatory statement, remark or comment made by an **insured** with knowledge of the falsity of the statement, remark or comment);
- e) Dishonesty of an **insured person**;
- f) Any other **civil liability** unless excluded under the "What is not covered" clause 2.5 in this section.

2.2 WHAT IS INSURED

The business and/or advertising.

2.3 WHAT IS COVERED

2.3.1 BASIS OF COVER

We will pay on behalf of an **insured** all **loss** for a **professional wrongful act** occurring within the **geographical limits**.

2.3.2 SUB-CONTRACTORS

We will pay on behalf of an **insured** all **loss** arising from **professional services** provided on an **insured's** behalf by a sub-contractor engaged by

that **insured** under a written contract for **professional services** in connection with the **business**.

2.3.3 **AVOIDING A
POTENTIAL CLAIM
AGAINST AN
INSURED**

If a claim is made by a client of an **insured** and **we** agree that **claim** would be capable of settlement if that **insured** agreed not to press for a disputed amount of a fee charged for **professional services**, **we** will pay that **insured** the disputed amount of that fee once a binding settlement of that **claim** has been reached.

2.3.4 **LOSS OF TANGIBLE
DOCUMENTS**

If an **insured's** tangible document(s) which are necessary for the **business** are unintentionally destroyed, misplaced, damaged or lost while in that **insured's** possession during the **period of insurance**, **we** will pay that **insured's** reasonable expenses incurred to restore or replace those document(s), up to but not exceeding the **limit of indemnity**.

2.3.5 **ANTI
COMPETITION
LEGISLATION**

We will pay on behalf of an **insured** all loss for an unintentional violation by that **insured** of the Competition Ordinance or any similar or equivalent legislation enacted by the Government of the Hong Kong Special Administrative Region.

2.4 **ADDITIONAL
COVERS**

2.4.1 **CRIME LIABILITY
CLAIM**

We will pay on behalf of an **insured** all **loss** for a **crime liability claim** discovered during the **period of insurance** and occurring within the **geographical limits**.

2.4.2 **COURT
ATTENDANCE
COMPENSATION**

If an **insured person** has to attend court as a witness in connection with a **claim** against an **insured** covered under this section, **we** will pay such **insured person** compensation of up to USD 250 (if they are or have been an employee of the **named insured**) or USD 500 (if they are or have been a principal, partner or director of an **insured entity** or if they are the sole proprietor of the **named insured**) for each day of attendance at court. **Our** total aggregate liability during any one **period of insurance** for all compensation paid under this section for court attendance will not exceed the amount shown in the **particular conditions** and any payments **we** make under this section will be part of and not in addition to the **limit of indemnity**.

2.4.3 **REINSTATEMENT
OF LIMIT**

If the **limit of indemnity** is exhausted during the **period of insurance** by **loss** **we** have either paid or agreed to pay, the **limit of indemnity** will be reinstated as many times as stated in the **particular conditions**, subject to the following:

- a) A reinstated **limit of indemnity** shall only apply to a **claim** covered by this section which does not arise out of, and has no connection with, the source or originating cause of any **claim** already paid or payable from an exhausted **limit of indemnity**;

- b) All other terms, conditions, exclusions and limitations of this **policy** will continue to apply, in the same manner, to **loss** covered under this section to which a reinstated **limit of indemnity** applies;
- c) The request for reinstatement of the **limit of indemnity** must be made by the **named insured** and all **our** requirements relating to that request, including payment of the additional premium stated in the particular conditions, must be satisfied before the **period of insurance** expires;
- d) There will be no reinstatement of any sub-limit.

It is agreed that an **insured** will be entitled to this reinstatement of limit in exchange for the additional premium indicated in the **Particular Conditions**.

2.4.4 ESTATES AND LEGAL REPRESENTATION

If an **insured person** dies or suffers a mental disorder and/or other incapacity established by a certified medical practitioner, or is declared bankrupt during the **period of insurance**, we will indemnify the estate, heirs, legal representatives or assignees of such **insured person** for any claim resulting from a **civil liability** incurred by that **insured person** to the extent that they would have been covered for such liability by this **policy** if they had lived, retained capacity or avoided bankruptcy, provided that in consideration for being covered by this section the estate, heirs, legal representatives or assignees of that **insured person** agree to comply with all the terms, conditions and exclusions of this **policy**.

2.5 WHAT IS NOT COVERED

We will not make any payment for any **loss** directly or indirectly due to:

2.5.1 MATTERS SPECIFIC TO THE INSURED'S BUSINESS

- a) Any investment of, or direct advice on the investment of, client funds;
- b) Any survey of premises or land or any construction or erection work, other than heating, lighting, electrical, venting and other work normally undertaken by a building services engineer;
- c) Any valuation of premises or land or any construction or erection work;
- d) Any operation or administration of any trustee of a superannuation fund, pension fund, retirement fund, employee benefit fund, provident benefit fund or trust fund, or the sale or purchase of stocks, shares or **securities** or the misuse of any information relating to them, or breach of regulation related to these activities;
- e) Any liability for any breach of any taxation, restraint of trade or anti-trust legislation or regulation;
- f) Any **pollution** or contamination, including, electromagnetic, noise, radiation and radio waves, however this will not apply where there has been a sudden and accidental release of **pollutants** directly caused by design error;
- g) Work completed by any **employee** supplied by an **insured** to a client (any **professional wrongful act** in the process of selecting and supplying the **employee** will be excepted from this exclusion);

2.5.2 MATTERS NOT INSURABLE UNDER THIS SECTION

- h) Cyber liability.
- a) Any liability arising from the relationship of employment with or work for the **named insured** or a **subsidiary**, or any breach of an obligation owed by the **named insured** or a **subsidiary** as an employer;
- b) Any liability of a sub-contractor and any liability arising from services provided on an **insured's** behalf by a sub-contractor in breach of the sub-contractor's contract for **professional services** or for professional services not listed in a written contract between that **insured** and the sub-contractor;
- c) Any discrimination, harassment or unfair treatment;
- d) Contagious or infectious disease or a virus of any kind which causes or contributes to death or bodily or mental injury or illness;
- e) Death or bodily or mental injury or illness:
- Where contagious or infectious disease or a virus of any kind is not a cause or contributory factor; and
 - Which is not a direct result of an **insured's** negligence or breach of a duty of care solely while providing **professional services**;
- f) Loss, damage or destruction of any **property** other than documents in an **insured's** care, custody or control for a client in connection with the **business** or unless arising directly from an **insured's** negligence or breach of a duty of care solely while providing **professional services** (this clause is to be read subject to the loss of tangible documents cover in "What is covered");
- g) Loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, **money** or other negotiable paper;
- h) Any personal liability incurred by an **insured person** when acting in a personal capacity or managing their personal business, or a breach of any fiduciary duty, other than when providing **professional services**;
- i) Any personal liability incurred by an **insured person** (other than a person falling within sub-clause (a) of the definition of 'insured person') for any statement, representation or information concerning an **insured** or the business contained in the **named insured's** accounts, reports or financial statements;
- j) A professional wrongful act occurring before the retroactive date;
- k) Any supply, manufacture, sale, installation or maintenance of any product.

2.5.3 DELIBERATE, RECKLESS, DISHONEST ACTS

- a) Any statement an **insured person** knows, or should have reasonably known, was incorrect at the time it was made;
- b) Any act, error or omission of any **insured person** which is dishonest, fraudulent, criminal or malicious or which is intended by that person to cause **loss**, damage or injury or to deprive a third party of a right to which they would otherwise be entitled (or which is done or omitted to be done with reckless disregard for the consequences) or is a wilful or reckless breach of statute, contract or duty.

- 2.5.4 **PRE-EXISTING PROBLEMS** Any error, omission or deficiency in an **insured's** work or **loss** known to an **insured person**, or which an **insured person** should reasonably have known about, before the **period of insurance**.
- 2.5.5 **CLAIMS BROUGHT BY A RELATED PARTY** Any **claim** made by or on behalf of;
- a) An **insured** (X) against another **insured** (Y), other than a **claim** for contribution or indemnity by X against Y and which directly results from a **claim** against X which, if it had been made directly against Y, would be covered under this section of the **policy**;
 - b) Any entity owned, controlled or managed by an **insured**;
 - c) Any parent company or other entity which owns, controls or manages an **insured entity**;
 - d) Any shareholder of an **insured entity**.
- 2.5.6 **TRADING LOSSES** Any trading loss, trading liability or debt incurred by the **business**.
- 2.5.7 **SUBSIDIARIES** If an entity ceases to be a **subsidiary** during the **period of insurance**, the cover available to that entity under this section of the **policy** will be subject to the following additional restriction:
- a) Under clause 2.3.1, cover will be limited to loss for a **professional wrongful act** committed by that entity before the effective date it ceased to be a **subsidiary**;
 - b) Under clause 2.3.2, cover will be limited to loss arising from **professional services** provided to that entity by a sub-contractor before the effective date the entity ceased to be a **subsidiary**;
 - c) Under clause 2.3.4, cover will be limited to tangible document(s) destroyed, misplaced, damaged or lost before the effective date the entity ceased to be a **subsidiary**;
 - d) Under clause 2.3.5, cover will be limited to any unintentional violation by that entity before the effective date it ceased to be a **subsidiary**;
 - e) Under clause 2.4.1, cover will be limited to a **crime liability claim** discovered before the effective date the entity ceased to be a **subsidiary**.

3/ SPECIFIC CONDITIONS DIRECTORS' & OFFICERS'

3.1 SPECIAL DEFINITIONS FOR THIS SECTION

Bail bond costs

Costs incurred with **our** prior written agreement to pay for a bond or other financial instrument to guarantee an **insured person's** contingent obligation for bail or its equivalent in any jurisdiction.

Extradition proceeding

- a) A request for the extradition of an **insured person**, a warrant to arrest an insured person or other related proceedings under the provisions of the Fugitive Offenders Ordinance (Cap. 503) and/or Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525);
- b) Any associated appeal against, or the pursuit of judicial review proceedings of, the decision of an appropriately authorised representative of the Government of Hong Kong to extradite an **insured person**; or
- c) The equivalent of the above in any other jurisdiction.

Health and safety/manslaughter claim

Any **claim** alleging involuntary, constructive or gross negligence manslaughter or any **claim** under the provisions of the Occupational Safety and Health Ordinance (Cap.509) or its equivalent in any other jurisdiction.

Management wrongful act

An actual or alleged act, error or omission committed or attempted by an **insured person** arising from the performance of the **insured person's** duties solely in their capacity as a director, officer or **employee** of an **insured entity** or solely in their capacity as the sole proprietor of the **named insured** including:

- a) Breach of any duty, including fiduciary or statutory duty;
- b) Breach of trust;
- c) Negligence, negligent misstatement, misleading statement or negligent misrepresentation;
- d) Defamation;
- e) Breach of warranty of authority;
- f) An actual or alleged act, error or omission, the commission or attempted commission of which is imputed to an **insured person** solely by reason of their status as a director, officer or **employee** of an **insured entity** or the sole proprietor of the **named insured**.

3.2 WHAT IS INSURED

The business and / or advertising.

3.3 WHAT IS COVERED
3.3.1 CLAIMS AGAINST AN INSURED PERSON

We will pay on behalf of an insured person all loss for any management wrongful act within the geographical limits.

No **excess** applies to **loss** covered under this clause 3.3.1.

3.3.2 COMPANY REIMBURSEMENT

We will pay on behalf of an **insured entity** all **loss** that **insured entity** is legally obliged or permitted to pay on behalf of an **insured person** for a **management wrongful act** within the **geographical limits**.

An **excess** applies to **loss** covered under this clause 3.3.2 and is payable by the **insured entity**. If the **insured entity** fails to pay the **excess** for any reason other than **insolvency**, we will be entitled to deduct the **excess** from any **loss** payable under this clause 3.3.2.

3.3.3 HEALTH AND SAFETY/ MANSLAUGHTER

We will pay on behalf of an **insured** all **loss** an **insured person** is legally obliged or permitted to pay arising from a **health and safety / manslaughter claim** against an **insured person** for a **management wrongful act** within the **geographical limits**.

In providing an indemnity under this clause, we will be entitled to prefer reimbursement of an **insured entity** over indemnification of an **insured person** and apply an **excess** which is payable by the **insured entity**. If the **insured entity** fails to pay the **excess** for any reason other than **insolvency**, we will be entitled to deduct the **excess** from any **loss** reimbursed to the **insured entity** under this clause 3.3.3.

3.3.4 EXTRADITION PROCEEDINGS

We will pay on behalf of an **insured person** all **loss** arising from an **extradition proceeding** started during the **period of insurance**.

No **excess** applies to **loss** covered under this clause 3.3.4.

3.3.5 OUTSIDE ENTITY

We will pay on behalf of an **insured person** all **loss** for any **management wrongful act** when and to the extent that an **insured person** is acting in their capacity as a director or officer of an **outside entity**, at the specific written request of the **named insured**. However, we will only pay in excess of any indemnity provided by the **outside entity** to its directors or officers and/or any valid and collectible directors' and officers' liability insurance providing cover to the directors and officers of the **outside entity**.

No **excess** applies to any indemnification provided under this clause 3.3.5.

3.3.6 POLLUTION

We will pay on behalf of an **insured person** all **loss** arising from any **management wrongful act** within the **geographical limits** causing pollution.

No **excess** applies to **loss** covered under this clause 3.3.6.

- 3.3.7 **BAIL BOND COSTS** We will pay on behalf of an **insured person bail bond costs** arising from a **management wrongful act** within the geographical limits.
No **excess** applies to **loss** covered under this clause 3.3.7.

3.4 **ADDITIONAL COVERS**

- 3.4.1 **DEDICATED ADDITIONAL LIMIT FOR INSURED PERSONS** Where the **limit of indemnity** and any indemnity or insurance which is excess of this policy is exhausted during the **period of insurance** by **loss** we have either paid or agreed to pay, we will pay additional **loss** up to the amount stated in the **particular conditions**.
- 3.4.2 **SHARE OFFERINGS** We will pay on behalf of an **insured person** all **loss** for any **management wrongful act** committed by an **insured person** in relation to any initial public offering, private placement of shares or capital raise involving the **named insured's** share capital that we have agreed in writing to cover under this **policy**, subject to any additional premium having been paid and any amendments we may require to the terms and conditions of this **policy** having been accepted.

3.5 **WHAT IS NOT COVERED**

- 3.5.1 **DELIBERATE OR DISHONEST ACTS** We will not make any payment for **loss**:
Based upon, attributable to or arising out of:
a) A dishonest or fraudulent act or omission or any intentional breach of any statute or regulation committed by an **insured person**;
b) An act intended to secure or which does secure a personal profit or advantage to which an **insured person** was not legally entitled;
c) An act intended to secure or which does secure a profit or advantage for any entity in which an **insured person** is a director, officer or employee or of which an **insured person** is the sole proprietor and that entity was not legally entitled to that profit or advantage.
This exclusion will only apply after a **final adjudication** or there is an admission by an **insured person** that any of the acts described in sub-clause a) to c) did occur.
- 3.5.2 **FINANCIAL INSOLVENCY** Based upon, attributable to or arising out of any **claim** brought or maintained by an **insured** or an **outside entity** subsequent to the date of **insolvency**. This exclusion will not apply where the **insured** against whom the **claim** has been made establishes to **our** satisfaction that the **claim** would have arisen notwithstanding **insolvency**.

- 3.5.3 **PREVIOUSLY KNOWN CLAIMS, INVESTIGATIONS OR CIRCUMSTANCES** Based upon, attributable to or arising out of any **claim** or circumstance which might give rise to a **claim**:
- Known to an insured person;
 - Which an **insured person** should reasonably have known about; or
 - Was or could have been notified to any **policy** in existence before the **period of insurance**.
- 3.5.4 **PRIOR LITIGATION** Based upon, attributable to or arising out of the same facts or allegations stated in any litigation or proceeding involving an **insured** or an **outside entity** begun or threatened before the **prior and pending litigation date**.
- 3.5.5 **RICO/SEC/ERISA** Based upon, attributable to or arising out of the following legislation, including any amendments and any rules or regulations made under such legislation in the United States of America:
- The Racketeer Influenced and Corrupt Organizations Act 18 USC Sections 1961 et seq.;
 - The Securities Act of 1933 and the Securities Exchange Act of 1934, and similar securities laws or regulations of any state, or any laws of any state relating to any transaction arising out of, involving or relating to the sale of **securities**;
 - The Employment Retirement Income Security Act of 1974 and similar provisions of any federal, state or local law.
- 3.5.6 **MATTERS INSURABLE UNDER OTHER TYPES OF INSURANCE**
- For mental or emotional distress, sickness, disease, bodily injury or death, or the **loss**, damage or destruction of any **property** including the loss of use of such **property**, provided always that this exclusion will not apply to a **health and safety/manslaughter claim**;
 - Based upon, attributable to or arising out of the ownership, possession or use of any land or building, any animal, any aircraft, watercraft or any motor vehicle.
- 3.5.7 **CLAIMS BROUGHT BY A RELATED PARTY IN THE UNITED STATES OF AMERICA** Based upon, attributable to or arising out of any **claim** brought or maintained by an **insured** or an **outside entity** within or subject to the laws of the United States of America.
- 3.5.8 **BREACH OF PROFESSIONAL DUTY** Based upon, attributable to or arising out of any **claim** alleging a **professional wrongful act**.
- 3.5.9 **SHAREHOLDERS** Brought by or on behalf of any individual or entity owning or beneficially entitled to 25% or more of an **insured entity's** issued share capital.
- 3.5.10 **TAKEOVERS AND MERGERS** Based upon, attributable to or arising out of any **claim** for a **management wrongful act** committed by an **insured person** after the **named insured** or a **subsidiary** in relation to which that person is an **insured person** merges or consolidates with another entity or any party (including a person or entity acting in concert with others) acquires, in aggregate, more than 50% of the **named insured's** or a **subsidiary's** issued share capital or, in

the case of a sole proprietorship, the **business** or assets of the **named insured**.

If an entity ceases to be a **subsidiary** during the **period of insurance**, cover under this section of the **policy** will be limited in respect of that entity to **loss**:

- a) For a management wrongful act committed by an insured person; or
- b) Arising from an **extradition proceeding** started,

before the effective date the entity ceased to be a **subsidiary**.

3.5.11 SHARE OFFERINGS

Based upon, attributable to or arising out of any **claim** for a **management wrongful act** committed by an **insured person** in relation to any initial public offering, private placement of shares or capital raise involving an **insured entity's** share capital that **we** have not agreed in writing to cover under this **policy**.

3.5.12 CYBER LIABILITY

Based upon, attributable to, arising out of or in any way connected with **cyber liability**.

3.6 SPECIAL CONDITIONS

3.6.1 EXTENDED NOTIFICATION PERIOD

If **we** or the **named insured** cancel this section of the policy for any reason other than non-payment of premium or **insolvency**, an **insured** may purchase an extended notification period of 12 months upon payment of 50% of the full annual premium.

An extended notification period is only available under this section of the **policy** where:

- a) **We** receive written notice of purchase from an **insured**, together with the additional premium, within 30 days following the end of the **period of insurance**; and
- b) This section of the policy is not replaced or succeeded by any other policy providing directors and officers liability cover;
- c) By the end of the **period of insurance**, the **named insured** or a **subsidiary** has not merged or consolidated with another entity and no party (including a person or entity acting in concert with others) has acquired, in aggregate, 50% or more of the **named insured's** or a subsidiary's issued share capital or, in the case of a sole proprietorship, the **business** or assets of the **named insured**;
- d) Cover under this section or the policy is continued solely as a result of the former directors special condition (3.6.4); or
- e) This section or the **policy**, or the **policy**, has been cancelled.

The offer of renewal terms, conditions, limits of liability or premium for this section of the **policy** which are different from those of the expiring **policy** does not constitute cancellation of this section of the **policy**.

The entire additional premium for this section of the **policy** is considered fully earned at the beginning of the extended notification period. **We** will

not refund any premium if an **insured** cancels the extended notification period before it ends.

The **limit of indemnity** for the extended notification period will be part of and not in addition to the **limit of indemnity** shown in the schedule.

3.6.2 TAKEOVERS AND MERGERS EXTENDED NOTIFICATION PERIOD

If, during the period of insurance, the **named insured** or a **subsidiary** merges or consolidates with another entity, or any party (including a person or entity acting in concert with others) acquires, in aggregate, more than 50% of the **named insured's** or a **subsidiary's** issued share capital or, in the case of a sole proprietorship, the **business** or assets of the **named insured**, an **insured** may ask for this section of the **policy** to continue in force for a period of 72 months from the expiry of the **period of insurance**. If we agree to that request then:

- a) Upon payment of an additional premium of 200% of the annual premium for this section of the **policy**, this section of the **policy** will continue in force for a period of 72 months from the expiry of the **period of insurance**, but will only apply to **claims** arising from a **management wrongful act** committed or alleged to have been committed before the date of the merger, consolidation or share acquisition referred to in this clause 3.6.2; and
- b) The extended notification period provided for in clauses 3.6.1 and 3.6.4 will not apply to this section of the **policy** where we have agreed to extend continuation of this **policy** under this clause 3.6.2.

3.6.3 MANAGEMENT BUY-OUTS

If the existing management of an **insured entity** conduct a management buy-out during the period of insurance, we agree to provide cover to the same level and terms of this **policy** for the new entity for any **management wrongful act** committed by an **insured person** within a period of 30 days from the buy-out date.

This cover will only apply excess of any other insurance and indemnification available from any other source.

3.6.4 FORMER DIRECTORS

If this section of the **policy** is not renewed, this section of the **policy** will continue in force for a period of 72 months from the date of non-renewal (the 'run-off period') for any **insured person** who ceased to be a director or sole proprietor of the **named insured** or a **subsidiary** prior to the date of non-renewal for reasons other than disqualification as a director or sole proprietor or **insolvency**, provided that:

- a) This section of the policy will only apply to **claims** arising from a **management wrongful act** committed or alleged to have been committed prior to the date of retirement of the **insured person** as a director or sole proprietor of the **named insured** or a **subsidiary**;
- b) The run-off period shall run concurrently with any extended notification period;
- c) No similar insurance is effected elsewhere;
- d) This section of the **policy**, or the **policy**, has not been cancelled.

4/ SPECIFIC CONDITIONS CRIME

4.1 SPECIAL DEFINITIONS FOR THIS SECTION

Crime

- a) The criminal taking or misappropriation by a partner, director, officer or trustee of an **insured entity**, or an **employee**, of an **insured's money, securities or property**.
- b) The criminal physical destruction or disappearance of an **insured's money, securities or property** from within a building occupied by an **insured** for the purposes of the **business** whilst in the custody of a partner, director, officer or trustee of the **named insured**, or an **employee** or whilst in the custody of a third party with an **insured's** authority in circumstances where that third party has agreed in writing to indemnify that **insured** in respect of the destruction or disappearance of the **money, securities or property**.

Employee benefit scheme

Any superannuation fund, pension fund, retirement fund, employee benefit fund, provident benefit fund or trust fund established for the benefit of **employees**.

Expenses

Reasonable expenses, not including an **insured's** own overheads, incurred with our prior written agreement to:

- a) Establish the existence, and verify the amount, of a **loss** following a covered **crime**;
- b) Repair or replace to a similar standard any vault or safe that has been physically damaged as a result of a covered **crime**.

Funds transfer fraud

The transfer, payment or delivery of **money** or **securities** from any account held or maintained by an **insured** with a financial institution, without that **insured's** knowledge or consent.

Interest

Interest accruing between when the **crime** occurred and when the **crime** was discovered, calculated using the 12 month Hang Seng Interbank Offered Rate (HIBOR) published by Hang Seng Bank on the date the **crime** was discovered or the first date afterwards on which the Hang Seng Bank publishes its 12 month HIBOR, if the HIBOR was not published on the day the **crime** was discovered.

Money

Cash, coin, bank and currency notes, bullion, funds, cheques, registered cheques, travellers' cheques, postal orders, bank drafts or money orders.

4.2 WHAT IS INSURED

The business and/or advertising.

4.3 WHAT IS COVERED

4.3.1 LOSSES FROM CRIME

We will indemnify an **insured** for **loss** incurred in the course of the **business** within the **geographical limits** as a result of a **crime** which is **discovered** during the **period of insurance**.

We will also indemnify interest.

4.3.2 EXPENSES

We will indemnify an **insured** for **expenses** as a result of a **crime** covered under clause 4.3.1.

4.3.3 CLIENT CRIME

We will pay on behalf of an **insured** all **loss** for a **client crime** **discovered** during the **period of insurance** and occurring within the **geographical limits**.

4.3.4 FUNDS TRANSFER FRAUD

We will indemnify an **insured** for **loss** incurred in the course of the **business** within the **geographical limits** as a result of **funds transfer fraud** **discovered** during the **period of insurance**.

4.3.5 COMPENSATION FOR ATTENDANCE AT COURT

If an **insured person** has to attend court as a witness in connection with a **loss** covered under this section of the **policy**, we will pay that **insured person** the amount shown in clause 4.3.6(d) for each day or part of a day of attendance at court. **Our** total aggregate liability during any one **period of insurance** for all compensation for attendance at court under this section of the **policy** will not exceed the amount shown in the **particular conditions** and any payments we make under this section shall be part of and not in addition to the **limit of indemnity**.

4.3.6 CALCULATION

Any amount we pay under this section of the **policy** will be reduced by the value of any property received from any source, including payments and receipt of interest, dividends, commissions and the like received in connection with any **loss** covered under this section of the **policy**.

Where we pay **loss** arising from the dishonesty of an **employee**, we will first deduct from that payment any amount the **employee** owes to an **insured** and the value of any property an **insured** holds belonging to the **employee**.

Subject to the foregoing, the amount we will pay will be calculated as follows:

a) **Special Limits**

All special limits below are included within, and not in addition to, the overall **limit of indemnity** stated in the **particular conditions** for this section of this **policy**;

b) **Client crime**

We agree to pay in total up to the amount stated in the **particular conditions** for **loss** for **client crime** **discovered** during the **period of insurance** and occurring within the **geographical limits**;

c) **Funds transfer fraud:**

We agree to pay in total up to the amount stated in the **particular conditions** for **funds transfer fraud**, regardless of the number of instances of **funds transfer fraud discovered** during the **period of insurance**;

d) Compensation for attendance at court

We agree to pay in total up to the amount stated in the **particular conditions**, but limited to USD 250.00 per day or the equivalent amount in any other currency, as compensation for attendance at court as a witness in connection with a **loss** covered by this section of this **policy**.

 4.3.7 **PAYING OUT THE LIMIT OF INDEMNITY**

We have the right, at any stage of an incident covered under this section of the **policy**, to pay an **insured** the amount of any **loss** claimed by way of indemnity under this section of the **policy** or any other amount **we** believe the **insured** has incurred and is covered for under this section of the **policy**, together with expenses already incurred at the date of payment, up to the **limit of indemnity** or what remains of the **limit of indemnity** after taking into account payments **we** have already made or agreed to make. **We** will then have no further liability under this section of the **policy**.

 4.4 **WHAT IS NOT COVERED**

Trade secrets and confidential information

Losses benefiting other named insureds

Loss sustained after knowledge

Prior knowledge

Retroactive date

We will not make any payment for:

a) Any amount:

- Arising from the accessing of any confidential information including but not limited to trade secrets, computer programs, customer information, patents, trademarks, copyrights or processing methods, except to the extent that any such information is used to support or facilitate the committing of a criminal act covered by this **policy**.
- Owed by one named insured to another named insured.
- Incurred after any partner, trustee, senior manager, insurance representative, director, officer or sole proprietor, who was not in collusion with an **employee**, had actual knowledge that such **employee** had committed or was suspected of having committed or been involved in any act falling within the scope of any **crime, client crime** or **funds transfer fraud**.
- Arising from anything known to an **insured**, or which an **insured** should reasonably have known about, before **we** first provided uninterrupted cover to such **insured** for the type of risks covered under this section of this **policy**, whether under this or an earlier **policy**.
- Arising directly or indirectly due to any act, incident or event occurring, or any **loss** suffered, before the **retroactive date**.

Cyber liability

- Arising out of **cyber liability**. For the purposes of this section of the **policy** only, it is agreed and understood that **cyber liability** does not mean or include **funds transfer fraud**.

Extortion

- Arising directly or indirectly due to extortion, but not where a **crime** or **client crime** is committed using actual or threatened physical force or violence against a third party to whom an **insured** has given a contractual indemnity in respect of **loss**; or against an **employee**.

Agents and representatives

- Arising as a result of an **insured** or someone on behalf of an **insured** handing over, entrusting, paying, transferring or delivering any **money, securities, property** or confidential **security information** required to gain access to an **insured's** accounts held with any financial institution to an agent or representative (but not an **employee**) of the **insured** who is not contractually bound to indemnify the **insured** in respect of loss.

Unauthorised trading

- Arising from any unauthorised trading of any **money, securities** or **property**, except that this exclusion does not apply to the amount of any **loss** suffered by an **insured** to the benefit of an **employee** as a result of the trading of any **money, securities** or **property** and which is above any salary, bonus or commission due to that **employee** or to a third party intended by an **employee** to benefit from such a trade;

Client monies

- Arising from the criminal taking or embezzlement of any **money, property** or **securities** of an **insured's** client, including any **money** held in a specified client account. However, this exclusion will not apply to the cover in relation to **client crime**;
- Consisting of indirect financial loss, loss of business, profits or income, staff or management time, professional fees or other business costs or overheads sustained, provided always that this exclusion will not apply to **interest** or **expenses**.

Insolvency and change of ownership

- b) Any loss suffered by:
- An **insured** upon insolvency;
 - An **insured** after 50% or more of its issued share capital, assets or voting rights has been acquired by a third party or third parties; or
 - An employee benefit scheme before it became an employee benefit scheme and, if it ceases to be an employee benefit scheme during the **period of insurance**, after the effective date it ceased to be an employee benefit scheme;
 - An entity before it became a **subsidiary** and, if it ceases to be a **subsidiary** during the **period of insurance**, after the effective date it ceased to be a **subsidiary**.
- c) Funds transfer fraud arising from:
- Methods of User Authentication
An **insured's** failure to implement and apply standards with respect

to user authentication which are comparable to those recommended by the Center for Internet Security from time to time;

- Multi-Factor Authentication (MFA)

An **insured's** failure to implement and apply MFA where that method of authentication is made available by a financial institution to the **insured** before a **funds transfer fraud** involving that financial institution occurs.

4.5 YOUR OBLIGATIONS

4.5.1 RECORDS

Each **insured** must:

- a) Keep the type of records of and relating to all **money, securities or property** to allow us to verify the amount of any **loss** through examination of a proof of **loss**; and
- b) Provide us with a proof of **loss** as soon as reasonably practicable and, in any event, not later than six months after **loss** covered under this section of the **policy** was discovered.
- c) A proof of **loss** will usually include, as a minimum:
 - A chronology of events which led to a **loss** being discovered;
 - Proof that a **loss** has been incurred;
 - Proof that a **loss** is a direct result of a **crime** or a **client crime**;
 - A complete description of how the **crime** or a **client crime** was committed;
 - Complete documentary evidence to support each transaction relied upon to show that a **loss** has been incurred, including but not limited to, account statements, receipts, invoices, cheque requisitions, cheques, **money** orders, cash receipts, wire transfers etc;
 - Any internal investigative reports or documentation;
 - Any signed confession(s);
 - Statements from all witnesses; and
 - All statements made to the police.
- d) The list given above is intended to be descriptive of what **we** expect a proof of **loss** will contain, but is not an exhaustive list.
- e) **We** will not accept, as a part of any proof of loss, any computation or comparison which involves a profit and loss computation or comparison. An **insured** may offer a comparison between its inventory records and actual physical counts of its inventory to prove the amount of **loss** only where the **insured** can establish, without the aid of that comparison, that a **loss** has been incurred

4.5.2 FUNDS TRANSFER FRAUD

Upon discovering a **funds transfer fraud** or anything likely to give rise to a **funds transfer fraud**, an **insured** must take all reasonable steps to prevent the continuation or repeat of the **funds transfer fraud**, including notifying the financial institutions telecommunications provider as soon as reasonably possible. **We** will be entitled to reduce any payment **we** make under this section by an amount equal to the detriment **we** suffer as a result an **insured's** failure to comply with this condition.

5/ SPECIFIC CONDITIONS EMPLOYMENT PRACTICE LIABILITY

5.1 SPECIAL DEFINITIONS IN THIS SECTION

Benefits

Any compensation awarded to an **employee** other than basic remuneration, including but not limited to, fringe benefits, deferred compensation, or payments in connection with an employee benefit plan and any other payment, other than salary or wages, to or for the benefit of an **employee** arising out of the employment relationship.

Claim

Any written demand or civil, criminal, arbitration, administrative or regulatory proceeding first made against an **insured** during the **period of insurance** by any past, present or prospective employee(s), seeking monetary damages or other legal relief alleging an **employment practice wrongful act**.

Employment practice wrongful act

Any act, error, omission, neglect, misstatement, misleading statement, or breach of duty by an **insured** or a third party where individually or otherwise, made, committed, attempted or allegedly made committed or attempted in their capacities as such or by any other person for whom an **insured** are legally responsible, in connection with any actual, alleged or constructive dismissal, discharge or termination of employment, breach of written or implied contract, employment related misrepresentation, wrongful deprivation of a career opportunity, failure to grant tenure, negligent employee evaluation, harassment, unlawful discrimination, failure to provide adequate employee procedures and policies, retaliation, defamation, invasion of privacy arising solely as a result of the employment or non-employment by an **insured** of any current, former or prospective **employee**.

Retaliation

Any **claim** brought against an **employee** relating to any actual or alleged action taken by such **employee** exercising or attempting to exercise their rights under law.

5.2 WHAT IS COVERED

5.2.1 CLAIMS BY EMPLOYEES

We will pay on behalf of an **insured** all **loss** arising from a **claim** by an **employee** for an **employment practice wrongful act**.

5.2.2	CLAIMS BY OTHERS	We will pay on behalf of an insured all loss arising from a claim by anyone other than an employee for an employment practice wrongful act .
5.2.3	OUTSIDE ENTITIES	<p>a) We will pay on behalf of an insured all loss arising from a claim relating to an employment practice wrongful act committed by an insured person in their capacity as an employee of an outside entity, provided that such insured person acted in that capacity at the specific written request of the named insured and that any such claim did not arise from an act committed after such insured person ceased to be authorised to act in that capacity.</p> <p>b) We will only pay in excess of any indemnity provided by the outside entity to its employees and any other insurance available to its employees.</p>
<hr/>		
5.3	PAYMENT OF A LOSS	No excess will apply to any claim made solely against an insured person .
5.3.1	PAYING THE LIMIT OF INDEMNITY	At any stage of a claim we can pay the insured against whom such claim has been made the amount claimed or the amount for which we believe such claim can be settled, up to the limit of indemnity or what remains of the limit of indemnity after taking into account payments we have already made or agreed to make. We will pay defence costs already incurred at the date of payment. We will then have no further liability for such claim or its defence costs .
<hr/>		
5.4	WHAT IS NOT COVERED	a) We will not make any payment for any claim or part of a claim or loss directly or indirectly due to:
	<i>Specific activities</i>	<ul style="list-style-type: none"> • Based upon, arising out of, or attributable to any actual or alleged violation of the responsibilities, obligations, or duties imposed by any statutory or common law that governs the rights of employees to engage in, or to refrain from engaging in, union or other collective activities, or the enforcement of any collective bargaining agreement, including but not limited to grievance and arbitration proceedings. • Based upon, arising out of, or attributable to any responsibility, duty or obligation imposed by law in relation to health and safety, unemployment, social security, retirement or disability benefits or any similar law whether statutory or common law. • The above will not apply to retaliation.
	<i>Prior Claims and circumstances</i>	<ul style="list-style-type: none"> • Based upon, arising out of, or attributable to any claim or circumstance known to an insured person, or that has been reported under any policy existing or expired, prior to the start of the period of insurance.

Prior litigation

- Alleging, arising from, based upon, attributable to or as a consequence of any prior or pending litigation or proceedings (including allegations stemming from the same or fundamentally the same facts) involving an **insured** or an outside entity initiated before the **prior and pending litigation date**.

Deliberate and dishonest acts

- Based upon, arising out of, or attributable to:
 - a dishonest or fraudulent act or omission or any intentional breach of any statute or regulation committed by an **insured**;
 - an act intended to secure or which does secure a personal profit or advantage to which an **insured** is not legally entitled;
 - an act intended to secure or which does secure a profit for any other entity where an **insured person** is a director, officer or **employee** of that entity.This exclusion will only apply after final adjudication or an admission by an **insured** that such a deliberately fraudulent act or omission did occur.

Matters insurable elsewhere

- For bodily injury, sickness, disease or death of any person or the damage, loss or destruction of any property including loss of use thereof, other than for mental anguish or emotional distress directly in connection with any **employment practice wrongful act**.
- Based upon, attributable to or arising out of the use of any mechanically propelled vehicle for which compulsory insurance is required under any legislation.

Takeover and acquisitions

- Based upon, arising out of, or attributable to any **employment practice wrongful act** occurring, with respect to the **named insured** or a **subsidiary**, after the date of:
 - the **named insured** or a **subsidiary** acquires any other entity;
 - the **named insured** or a **subsidiary** merges or consolidates with another entity, with the result that the **named insured** or a **subsidiary** is no longer a distinct or surviving entity;
 - 50% or more of the **named insured's** or a **subsidiary's** share capital is acquired or, in the case of a sole proprietorship, the business or assets of the **named insured** is acquired;unless **we** are given written notice of any of the events listed in this clause 5.4 and **we** have agreed in writing to provide cover for any such **employment practice wrongful act** under this **policy**, subject to any additional premium having been paid and any amendments **we** may require to the terms and conditions of this **policy** having been accepted;
- Based upon, arising out of, or attributable to any **employment practice wrongful act** occurring, with respect to a **subsidiary**, before it became a **subsidiary**.

Specific activities

b) We will not make any payment other than **defence costs**:

- Based upon, arising out of, or attributable to the failure to pay any amount an **insured** is contractually committed to pay to an **employee** including but not limited to any payments for contractual or statutory notice periods or breach of any obligation pursuant to any minimum wage legislation or benefits payable.
- Based upon, arising out of, or attributable to any amount relating to equal pay or redundancy pay.
- Based upon, arising out of, or attributable to the **loss** of any right or benefit under any pension scheme, private health insurance or other employee benefit scheme or the operation or administration of any pension or employee benefit scheme or trust fund, or an **insured**'s breach of any legislation or regulation related to these activities.
- Based upon, arising out of, or attributable to an **insured**'s failure to pay taxes.

Non-compulsory payments

- Based upon, arising out of, or attributable to anyone else's liability which an **insured** is legally obliged to assume under any contract or agreement. This does not apply to any **claim** that would have resulted in the absence of such contract or agreement.
- Based upon, arising out of, or attributable to any non-pecuniary or injunctive relief.
- Based upon, arising out of, or attributable to any amount in respect of the costs of complying or refusing to comply with a court or other order for the reinstatement of an **employee**.

5.5 SPECIAL CONDITIONS

5.5.1 MANAGEMENT BUY-OUTS

If, during the **period of insurance**, an **insured entity**'s existing management conducts a management buy-out, we agree to provide the same level and terms of cover of this **policy** for the new entity for a period of 30 days from the buy-out date for any **employment practice wrongful act** committed by an **insured** subsequent to the buy-out.

This cover will only apply in excess of any other insurance and indemnification available from any other source.

6/ SPECIFIC CONDITIONS LEGAL REPRESENTATION EXPENSES

6.1 SPECIAL DEFINITIONS IN THIS SECTION

Investigation

An official investigation, examination, inquiry or other proceeding ordered or commissioned by an official body or institution empowered by law to specifically investigate the conduct of the **business**, but does not mean or include a routine supervisory visit or inspection, a compliance or similar review conducted by a regulatory, self-regulatory, professional, statutory or official body or institution, or an investigation of industry-wide practices.

Legal Representation Expenses

Reasonable expenses an **insured person** incurs on account of him or her being legally compelled by an official body or institution empowered by law to investigate the conduct of the **business** to attend and/or produce documents at or to an **investigation** and to prepare for that attendance or the production of documents.

6.2 WHAT IS COVERED

- a) We will pay on behalf of an **insured person** all **legal representation expenses** on account of any **investigation** begun during the **period of insurance** and notified in writing to **us**.

7// SPECIFIC CONDITIONS PUBLIC RELATION EXPENSES

7.1 SPECIAL DEFINITIONS IN THIS SECTION

Incident

An event occurring during the **period of insurance** which has adverse implications for the reputation or integrity of an **insured** with respect to the **business**.

Public relation expenses

Reasonable fees, costs and expenses of a public relations consultant retained with our prior written consent (which **we** will not unreasonably withhold or delay), but does not mean or include **loss** (or any item excluded from the definition of "**loss**" in this **policy**) or an **insured's** overheads, staff remuneration or management time or any other payment made to a customer or client.

7.2 WHAT IS COVERED

We will pay an **insured** all **public relations expenses** in connection with an incident to prevent or minimise the risk of a **claim** or **loss** which would, if it materialised, be covered under this **policy**, or in connection with an incident that results in a **claim** or **loss**.

7.3 PAYMENT OF A LOSS

We will pay up to the **limit of indemnity** shown in the **particular conditions**. An **insured** must pay the relevant **excess** shown in the **particular conditions** that will apply to each **incident** under this section of this **policy**.

7.4 WHAT IS NOT COVERED

7.4.1 LATE NOTICE

We will not be liable for **public relations expenses** incurred before or more than 180 days after the occurrence of an **incident** covered by this section of the **policy**.

8/ GENERAL CONDITIONS

8.1 ARBITRATION

Any dispute or controversy arising out of or relating to this **policy**, or the breach, termination or invalidity thereof, must first be the subject of good faith negotiations between senior executives of the parties who have authority to resolve the dispute or controversy.

If the dispute or controversy cannot be resolved through good faith negotiations within one month of the commencement of negotiations, either party is entitled to submit it for mediation at the Hong Kong Mediation Centre (HKMC) in accordance with the HKMC's Mediation Rules ("HKMC Rules") in effect at the time the mediation is initiated in accordance with the HKMC Rules. Every party to the mediation must be represented by senior executive personnel, with authority to negotiate and settle the dispute. The mediation will take place in Hong Kong in the English language and the parties agree to be bound by any settlement agreement reached.

If the dispute or controversy is not resolved through mediation within 180 days of its first submission for mediation, it must be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre ("HKIAC") in accordance with the UNCITRAL Arbitration Rules in force from time to time. The appointing authority will be the HKIAC. The place of arbitration will be in Hong Kong at the HKIAC. There will be only one arbitrator to be jointly appointed by the parties, and if the parties cannot agree on a single arbitrator, the arbitrator will be appointed by the Chairman of the HKIAC. The language to be used in the arbitral proceedings must be English. Each party to the arbitration agrees to bear its own costs in the arbitration.

8.2 ALTERATION TO RISK

Each **insured** must give notice to **us** in writing as soon as reasonably practicable of any material alteration to the risk during the **period of insurance**. A material alteration to the risk includes, but is not limited to:

- activities that are materially different from those declared at the time of quotation;
- activities outside the normal activities of the **business**;
- insolvency;
- any **loss** of or conditions imposed upon any licence or other authority required by the **insured** to practice or operate as normal.

8.3 CANCELLATION

The **named insured** may cancel this **policy** at any time by giving thirty (30) days’ notice in writing. Upon cancellation by the **named insured**, no refund will be given:

- a) Of any addition premium paid under this **policy**;
 - b) Of any premium where an additional premium has been paid under this **policy**;
 - c) Subject to sub-clauses a) and b), of any premium where an **insured** has made a **claim** during the **period of insurance**, or **we** have made or agreed or expect to make any payment under this **policy**;
- Subject to sub-clauses a) and b), if no **claim** has been made by any **insured** during the **period of insurance** and **we** have not made or agreed to make any payment under this **policy**, **we** will refund premium according to the short rate table below.

We have no right to cancel this **policy** other than for a failure to pay the aggregate annual premium stated in the **particular conditions** within ninety 90 days of commencement of the **period of insurance**.

Cancellation	Refund
During the first month of the period of insurance	50% of the aggregate annual premium stated in the particular conditions
During the second and third months of the period of insurance	20% of the aggregate annual premium stated in the particular conditions
After the third month of the period of insurance	No refund

8.4 CONCEALMENT OR FRAUD

The entire **policy** will be void if, whether before or after a **loss**, an **insured** intentionally conceals or misrepresents anything to **us**, engages in fraudulent conduct or makes false statements relating to this **policy** or any **loss**, **claim** or circumstance.

8.5 GOVERNING LAW & JURISDICTION

This **policy** is to be interpreted and governed by the laws of the Hong Kong Special Administrative Region of the People’s Republic of China. .

8.6 CONTRACTS (RIGHTS OF THIRD PARTIES) ORDINANCE

Any person or entity who is not a party to this **policy** has no rights under the Contracts (Rights of Third Parties) Ordinance (Cap 623) to enforce any of its terms.

8.7 EXTENDED REPORTING PERIOD

If this **policy** is terminated or not renewed by the **named insured** for any reason other than non-payment of premium and provided the **named insured** or a **subsidiary** has not merged, consolidated or amalgamated with another entity and has not had its share capital, business or assets acquired by another person or entity, no other insurance providing the same or similar cover to this **policy** has been arranged, the:

- a) Each **insured** will have the right to an extended reporting period for a period of ninety (90) days for no additional premium.
- b) Each **insured** will have the right to an extended reporting period for a period of three hundred and sixty-five (365) days for an additional premium of 50% of the expiring annual premium, if an extended reporting period is requested in writing within 30 days of the expiry of the **period of insurance** and the additional premium is paid to us within 30 days of that request being made to us.
- c) Each **insured** will have the right to an extended reporting period for a period of eighty-four (84) months when requested in writing within 30 days of the expiry of the insurance period, for any additional premium **we** may charge.

Any extended reporting period granted under this clause 8.7 will commence immediately after the **period of insurance** expires.

8.8 OTHER INSURANCE

If a **loss** covered by this **policy** is also covered by other insurance, **we** will pay only the rateable proportion of the **loss** that the **limit of indemnity** bears to the total amount of all insurance cover for that loss.

8.9 DATA PRIVACY

Each **insured** agrees that:

- a) **We** may use the personal data collected during the application process or administration of this **policy** for the purposes of underwriting and administering this **policy** or any renewal thereof, including obtaining reinsurance, underwriting renewals, data matching, claim processing, investigation, payment and subrogation;
- b) **We** may transfer the personal data to the following classes of persons (whether based in Hong Kong or overseas) for the purpose identified:
 - third parties providing services related to the administration of this **policy** including insurers and reinsurers;
 - financial institutions for the purpose of processing this **policy** and obtaining **policy** payments;
 - in the event of a **claim**, loss adjustors, assessors, third party administrators, emergency providers, legal services providers, retailers, medical providers and travel carriers;
 - another member of Circles Group;
- c) An **insured person** may gain access to, or request correction of their personal data by writing to Circle Asia Ltd., Unit 1207, Leighton Centre, 77 Leighton Road, Causeway Bay, Hong Kong SAR or

info@circlesgroup.asia. (Depending on the scope of work required to accommodate a request, **we** may charge a reasonable fee). The same addresses may be used to contact **us** with any comments in relation to **our** services.

8.10 PERIOD OF INSURANCE

The **period of insurance** is stated on the **particular conditions**. All covers in this **policy** apply only to **claims** made (sections 2, 3 and 5), **loss** discovered (section 4), **investigations** begun (section 6) or **incidents** occurring (section 7) during the **period of insurance**.

8.11 RECOVERY

If an **insured** has rights to recover all or part of any payment made under this policy, those rights are transferred to **us**. After a **loss** has occurred, an **insured** must not do anything to reduce our rights of recovery. At **our** request, an **insured** must bring an action or transfer those rights to **us** and help **us** enforce them.

8.12 SUBROGATION

If **we** make, or agree to make, any payment under this **policy**, **we** will be subrogated to an **insured's** rights of recovery.

Each **insured** agrees to co-operate with **us** and provide all information and assistance **we** reasonably request to secure such rights of recovery, including but not limited to the execution and delivery of documents and papers, and to do nothing that may prejudice **our** rights of recovery.

We will not exercise any rights of subrogation against an **insured**, except to the extent that any **loss we** pay has been caused by that **insured's** deliberate, reckless, or dishonest act.

8.13 WHEN AND WHAT DO WE PAY?

Each **insured** agrees that:

Payment of Loss

- a) Once **we** have agreed the amount of any **loss**, **we** will pay it within 15 days.
- b) A payment of **loss** under each section of this **policy** will erode the **limit of indemnity**;
- c) The amount **we** will pay for **loss** under sections 3 (directors & officers) and 5 (employment practice liability) includes any amount **we** pay to an **insured person** as an indemnity in relation to an **outside entity** under clauses 3.3.5 and 5.2.3 and any amount **we** pay to an **insured person's** lawful spouse, civil or unmarried partner.

Payment of Defence Cost

- d) Save for the additional cover provided under clauses 2.4.3 (reinstatement of limit under section 2 (professional indemnity) and 3.4.1 (dedicated additional limit of insured persons under section 3 (directors & officers)) only, the most **we** will pay for all **loss** covered under each section of this policy is the **limit of indemnity** for that section, irrespective of the number of **claims** made or **losses** sustained;

- e) Once **we** have confirmed in writing that a **claim** is covered under sections 2 (professional indemnity), 3 (directors & officers) or 5 (employment practice liability) of this **policy**, **we** will pay **defence costs** as and when they are incurred prior to final resolution.
- f) Each **insured** agrees to repay all **defence costs** paid under this **policy** if and to the extent it is established that a **claim** is not covered by this **policy**.
- g) Where the amount required to settle a **claim** is greater than the **limit of indemnity**, **we** will pay defence costs in the same proportion as the **limit of indemnity** bears to the amount required to settle that **claim**.
- h) **We** will pay **loss** after deducting the **excess**, unless a section of this **policy** or the **particular conditions** states that no excess applies.
- i) **Loss** covered under section 4 (crime) and arising from the same original cause will be aggregated together to attract a single limit of indemnity and a single **excess**.
- j) If an **insured** admits liability or makes any offer, deal or payment in respect of something covered under this policy without our prior written agreement, **we** will be entitled to reduce any subsequent payment of **loss we** make by an amount equivalent to the detriment the **insured's** admission, offer, deal or payment causes us.
- k) The **insured** agrees never to reveal the amount of cover available under this **policy**.

Deduction of Excess

Aggregation of Limits

Admission of Liability

8.14 COLLECTIVE CONTRACT

- a) When more than one insurer participates in the cover provided by this **policy**:
 - The participating insurers' obligations under this **policy** are several and not joint and are limited solely to the extent of their individual subscriptions. The participating insurers are not responsible for the subscription of any other participating insurer who, for any reason, does not satisfy all or part of its obligations;
 - A lead insurer will be appointed in the particular conditions. If a lead insurer is not appointed in the **particular conditions** for any reason, the first insurer listed in the **particular conditions** will be the lead insurer. The lead insurer is deemed to be the agent of all other participating insurers to receive all communications and notices in connection with this **policy**. An **insured** may address to the lead insurer any communication except those related to legal proceedings against the other participating insurers. The lead insurer will inform the other participating insurers of the receipt of any communication or notice received without delay.
- b) Unless otherwise agreed, the lead insurer has claims authority. Whilst the lead insurer will take into consideration the interests of all other participating insurers, as far as is reasonably possible, the actions and decisions of the lead insurer with respect to the handling, management

and ultimate resolution of **claims** will bind all other participating insurers without exception in relation to cancellation of this **policy** and ‘ex gratia’ payments.

- c) All declarations must be made to the lead insurer, all extensions or limitations of risks and conditions, all ratings and all **claims** settlements must be agreed with the lead insurer.

8.15 ASSIGNMENT

No **insured** may assign or transfer any right or interest in this policy without **our** written consent.

8.16 EXCESS

A special **excess** will apply to **loss** in any situation described in the **particular conditions**. The **excess** must remain uninsured.

8.17 RECOVERIES

Any sums recovered following a payment or payments under this **policy** will be distributed in the following order:

- a) The costs incurred in the course of such recovery, whether to the **insured** or to **us**;
- b) To an **insured** in respect of any amount by which the amount of the loss exceeded the **limit of indemnity**;
- c) To **us** to the extent of **loss** paid or payable; and
- d) To the **insured** for the amount of any **excess**.

8.18 VALUATION OF CRIME LOSSES

a) **Securities**

We have no liability under this **policy** for more than the actual cash value of securities at the close of **business** on the business day on which **loss** was discovered.

b) **Books of accounts and records**

In the case of **loss** of or damage to property consisting of books of accounts or other records (which, for the purposes of this clause 8.18, includes data) used by the **insured** in the conduct of the **business**, **we** will be liable under this policy only if such books or records are actually reproduced and then for not more than the cost of blank books, blank pages or other materials plus the cost of labour and computer time for the actual transcription or copying of data which will have been furnished by the **insured** in order to reproduce such books and other records.

c) **Damage to premises**

In the case of damage to the premises, **we** will not be liable for more than the actual diminution in value of the premises.

d) **Foreign currency**

If a foreign currency (being a currency other than the currency in which this policy is written) is involved in a loss sustained by the **insured** under this policy, then for the purpose of any calculation required in the settlement of a **loss**, the rate of exchange will be the published rate in the South China Morning Post on the date of such settlement.

e) **Property**

We are not liable for more than the actual cash value of **property** (not included in the above) at the time of loss or for more than the diminution in value of such **property** or of replacing it with **property** or material of like quality and value, provided however, the actual cash value of such other **property** held by the **insured** as a pledge, or as collateral for an advance or loan, will be deemed not to exceed the value of the **property** as determined and recorded by the **insured** when making the advance or loan, nor, in the absence of such record, the unpaid portion of the advance or loan plus accrued interest thereon at legal rates.

8.19 NOTICE OF CLAIM

An **insured** must notify **us** in writing as soon as reasonably practicable after:

- a) First becoming aware of a **claim** (sections 2, 3 and 5), **investigation** (section 6) or **incident** (section 7);
- b) A **loss** is discovered.

Written notice will be considered effective from the date **we** receive it and must be sent to:

Claims Department
Circle Asia Limited
1207 Leighton Centre
77 Leighton Road
Causeway Bay, Hong Kong

Email: info@circlesgroup.asia

An **insured** must give us such information and co-operation as **we** reasonably require in connection with anything notified to **us**, including but not limited to:

- a) a description of the claim, loss, investigation or incident;
- b) details of any allegation made against an **insured**;
- c) details of any **loss** sustained;
- d) the names of actual or potential claimants; and
- e) the circumstances in which the **claim, investigation** or **incident** came to an **insured**'s attention or a **loss** was discovered.

8.20 SETTLEMENT

- Under sections 2 (professional indemnity) and 3 (directors & officers):
 - a) Each **insured** has the duty to defend any **claim**.
 - b) **We** will have the right to associate with each **insured** and be consulted in advance by an **insured** regarding the investigation, defence and settlement (including the negotiation of any settlement) of any **claim**.
- Under all sections of this **policy**:
 - a) Each **insured** agrees to provide **us** with all information, assistance and co-operation **we** reasonably request;
 - b) **We** may carry out any investigation that **we** deem necessary and may settle any **claim** on terms **we** deem advantageous or pay an **insured** against whom such **claim** has been made the amount claimed or the amount for which **we** believe such **claim** can be settled, up to the **limit of indemnity** or what remains of the **limit of indemnity** after taking into account payments **we** have already made or agreed to make.
 - c) **We** will pay **defence costs** already incurred at the date **we** settle or otherwise pay an **insured** in accordance with sub-clause b), up to the **limit of indemnity** or what remains of the **limit of indemnity** after taking into account payments **we** have already made or agreed to make.
 - d) After the payments referred to in sub-clauses a) and b) have been made, **we** will have no further liability for such **claim** under this **policy**.
 - e) **We** will not be liable to make any payment for any part of a **claim** not covered by a section of this **policy**.

9/ DEFINITIONS

Words with special meanings are defined here or in the section of this **policy** where they are used. Where a word is defined in another section of this **policy**, it will have the specific meaning given to it by that section for the purposes of the cover provided by that section and the General Conditions. Words that use the masculine gender include the feminine and vice versa. Words using the singular include the plural and vice versa.

The following words have the following meaning where used throughout this **policy**:

Advertising

Advertising, publicity or promotion in or of the **business**.

Business

The activities performed by an **insured** in the course of the business or profession shown in the **particular conditions**.

Civil liability

A legally enforceable obligation owed by an **insured** to a third party.

Claim

- a) Under section 2 (professional indemnity):
 - a written demand seeking monetary damages or non-pecuniary relief from an **insured** and alleging a **professional wrongful act** by that **insured**;
 - a crime liability claim.
- b) Under section 3 (directors & officers):
 - a written demand seeking monetary damages or non-pecuniary relief from an **insured person** and alleging a **management wrongful act** by that **insured person**; or
 - an extradition proceeding.
- c) Under section 5 (employment practice liability): a written demand from an **employee** seeking monetary damages or non-pecuniary relief from an **insured** and alleging an **employment practice wrongful act** by that **insured**;
- d) A civil, administrative, regulatory, arbitration, mediation, conciliation or alternative dispute resolution proceeding alleging:
 - a **professional wrongful act** covered under section 2 (professional indemnity) of this **policy**;
 - a **management wrongful act** covered under section 3 (directors & officers) of this **policy**;
 - an **employment wrongful act** covered under section 5 (employment practice liability) of this **policy**.

Client Crime

The criminal taking or misappropriation of money, securities or property of an **insured's** client:

- a) For which an **insured** is legally responsible because the taking or misappropriation is carried out by or in collusion with an **employee**; or

	b) Whilst in the insured's care, custody and control.
<i>Compromised system or network</i>	A computer system or computer network the use or operation of which, intentionally or otherwise, causes loss or damage.
<i>Computer Network</i>	Two or more computer systems having the ability to communicate with each other.
<i>Computer System</i>	Any computer, hardware, software, platform, infrastructure, application, process, code, program, protocol, input or output device or thing, processing or storage or back-up capability and any component of the foregoing or interface between them, owned by, operated by or provided by or to, or made accessible to, any person or entity.
<i>Cyber liability</i>	<p>Any loss, damage, injury, liability, expense, fine, penalty, compensation or other amount directly or indirectly caused by:</p> <p>a) The actual or attempted use or operation of any computer system or computer network affected by a compromised system or network;</p> <p>b) The partial, complete, temporary or permanent loss of the ability to use, operate or access any computer system, computer network or data affected by a compromised system or network;</p> <p>c) A change in the performance of any computer system or computer network or part of a computer system or computer network affected by a compromised system or network;</p> <p>d) The processing, transmission, storage, use of or access to any data affected by a compromised system or network, including the partial or complete loss of the ability to do so;</p> <p>e) Any act, error, omission or accident in any way connected with or affecting a computer system, a computer network or data affected by a compromised system or network;</p> <p>f) Any threat of or relating to, or any hoax relating to, (a) to (e) above.</p>
<i>Data</i>	Information used, accessed, processed, transmitted or stored by a computer system .
<i>Defence Costs</i>	Reasonable costs, not including an insured's own overheads, incurred before final resolution with our prior written agreement, to investigate, settle or defend a claim against an insured , but does not mean or include costs incurred to mitigate the consequences of a criminal offence to which an insured has either pleaded guilty or has no defence, or has admitted.
<i>Discovered</i>	First learnt of or suspected by any principal, partner, senior manager, insurance representative, director or officer of the insured , regardless of whether the amount of any loss , the circumstances of the crime, client crime or funds transfer fraud , or when it occurred, are known.
<i>Employee</i>	<p>Any natural person:</p> <p>a) Who has a written contract of service with the named insured or a subsidiary during the period of insurance;</p> <p>b) Directly engaged by the named insured or a subsidiary (including but not limited to a secondee or consultant), with or without payment,</p>

including any volunteer worker, solely whilst under the **named insured's** or a **subsidiary's** control and supervision;

- c) Employed by an organisation under a written contract with the **named insured** or a **subsidiary** for the provision of services, but only when and to the extent that that person provides services to the **named insured** or a **subsidiary** in connection with the **business**;
- d) Who ceases to satisfy the descriptions in sub-clauses a) to c) during the **period of insurance**, but only where their relationship with the **named insured** or a **subsidiary** was not terminated as a direct result of a **claim** covered under section 2 (professional indemnity); and then only for a 60 day period beginning with the date they no longer satisfy any of the descriptions in sub-clauses a) to c).

Endorsement

A change to the terms of this policy.

Excess

The amount specified in the **particular conditions** an **insured** must bear in respect of each and every:

- a) **claim** under sections 2 (professional indemnity), 3 (directors & officers) and 5 (employment practice liability) ;
- b) instance of **loss** under section 4 (crime) (subject always to the application of clause 8.13i) ;
- c) **investigation** under section 6 (legal representation expenses); and
- d) **incident** under section 7 (public relation expenses).

Final adjudication

In respect of any conviction, judgment, finding, or refusal of relief by a judicial or arbitral tribunal or a governmental, regulatory, self-regulatory, professional, trade, statutory or official body or institution empowered by law to investigate an **insured**:

- a) If not appealed against, when the period in which an appeal must be brought has expired; or
- b) If appealed against, when that appeal has been determined, abandoned or has otherwise come to a procedural end for any reason.

Final resolution

Final adjudication or settlement of a **claim** for the amount claimed or the amount for which **we** believe that **claim** can be settled, up to the limit of indemnity or what remains of the **limit of indemnity** after taking into account payments **we** have already made or agreed to make.

Geographical limits

The geographical area shown in the **particular conditions**.

Insolvency

A named insured or a subsidiary:

- a) Unable to pay its debts as and when they fall due; or
- b) In respect which an application for winding up has been made; or
- c) In respect of which a liquidator, provisional liquidator, receiver, receiver and manager or official manager has been appointed (whether or not by a court); or
- d) That has executed a deed of company arrangement that has not yet terminated; or
- e) That has entered into a compromise or arrangement with another person, the administration of which has not been concluded; or

- f) In respect of which an administrator has been appointed or that is under administration; or
- g) That has made any filing of or for bankruptcy, reorganisation or rehabilitation pursuant to bankruptcy or similar laws of any jurisdiction.

Insured

Each insured entity and each insured person.

Insured entity

The entity named in the particular conditions as the named insured and each subsidiary.

Insured person

Any natural person who:

- a) Is named in the particular conditions as the named insured; or
- b) Was, is or becomes during the **period of insurance**:
- A partner, director, officer or trustee of an **insured entity** or an **employee**;
 - A de facto director of an **insured entity** (but only whilst acting in that capacity);
 - A shadow director of an **insured entity** within the meaning given to that term by section 2(1) of the Companies Ordinance (Cap. 622) or equivalent legislation in any other jurisdiction;
 - A trustee of a superannuation fund, pension fund, retirement fund, employee benefit fund, provident benefit fund or trust fund established for the benefit of **employees**.
- c) The lawful spouse, civil or unmarried partner of any person listed in sub-clause a) and b), but only when and to the extent that their status as the spouse, civil or unmarried partner of that person is the only reason a **claim** is made against them;
- d) The estates, heirs or legal representatives of any person listed in sub-clauses a) and b) who has died or become incapacitated, insolvent or bankrupt, but only in respect of a **claim** against that person.
- e)

Limit of Indemnity

The amount specified in the **particular conditions** as being the limit of indemnity applying to the cover provided by a particular section of this **policy**.

Loss

- a) Under sections 2 (professional indemnity, but not for a **crime liability claim**), 3 (directors & officers), and 5 (employment practice liability) of this **policy**: the amount an **insured** becomes legally obligated to pay on account of any covered **claim**;
- b) Under section 2 (professional indemnity, but only for a **crime liability claim**) of this **policy**: the amount an **insured** becomes legally obligated to pay on account of any covered **crime liability claim**;
- c) Under sections 2, 3 and 5 of this **policy**, **loss** includes:
- Compensatory, punitive, exemplary and multiple damages or awards of reparation;
 - Settlements of legal liability and judgments, including costs and fees awarded pursuant to a covered judgment and pre-judgment and post-judgment interest on that portion of a covered judgment;

- Defence costs;
- Civil and regulatory fines or pecuniary penalties assessed against an **insured person** for unintentional and non-wilful violation of any local, national, federal, state or foreign law to the extent they may be insurable according to the laws of the Hong Kong Special Administrative Region.
- d) Under section 3 (directors and officers) of this **policy**: **bail bond costs**;
- e) Under section 4 (crime) of this **policy**: direct financial loss sustained by an **insured**, **expenses** and **interest**.
- f) Under section 6 (legal representation expenses) of this **policy**: **legal representation expenses**;
- g) Under section 7 (public relations expenses) of this **policy**: **public relations expenses**.

But under all sections of this **policy**, **loss** does not mean or include:

- a) Wages, salary, commission, fees, charges and other form of remuneration or profit to be repaid, lost or foregone by an **insured** as a result of a **claim**;
- b) Any component of an award or settlement which represents the cost of performance by an **insured** of contractual obligations, non-fulfilment or negligent performance of which has given rise to a **claim**;
- c) Any aggravated, punitive or exemplary damages or criminal penalties, fines or the multiplied portion of any damages award unless awarded for defamation, or sanctions;
- d) Any amount which is not insurable according to the laws of the Hong Kong Special Administrative Region;
- e) Taxes, remuneration or employment related benefits.

Named insured

The entity or the natural person named in the **particular conditions** as the named insured.

Outside entity

Any organisation other than the **named insured**:

- a) That is tax exempt and not for profit; or
- b) That is an entity named in the **particular conditions** in which the **named insured** holds during, before or after the **period of insurance**, any issued share and outstanding voting shares;

and which is not a,:

- a) Entity registered in the USA; or
- b) Entity traded on any recognised stock exchange; or
- c) Bank, investment company, investment advisor or manager,
- d) Hedge or mutual fund, private equity or venture capital company,
- e) Stock brokerage, insurer or similar organisation.

Particular conditions

The particular conditions attached to this policy.

Period of insurance

The time for which this **policy** is in force as shown in the **particular conditions**.

Policy

This insurance document and the **particular conditions**, including any **endorsement**.

<i>Pollutant</i>	Any contaminant, irritant or other substance including, but not limited to, asbestos, lead, smoke, vapour, water, oil, oil products, dust, fibres, soot, fumes, acids, alkalis, chemicals, waste (including materials that have been or are intended to be recycled, reconditioned or reclaimed).
<i>Pollution</i>	Actual, alleged or threatened discharge, seepage, treatment, removal, disposal, dispersal, emission, release or escape of any pollutant or any regulatory order, direction or request to test for, monitor, remove, contain, treat, detoxify, or neutralise any pollutant .
<i>Prior and pending litigation date</i>	The date stated as the prior and pending litigation date in the particular conditions .
<i>Property</i>	Tangible property.
<i>Retroactive date</i>	The date specified as the retroactive date in the particular conditions for sections 2 (professional indemnity) and 4 (crime).
<i>Securities</i>	<p>Under sections 2 (professional indemnity) and 3 (directors & officers): any equity or debt instrument issued by the named insured or a subsidiary.</p> <p>Under section 4 (crime): negotiable and non-negotiable instruments or contracts, in physical or electronic form, which represent money or property.</p>
<i>Subsidiary</i>	<p>Any entity in which the entity named in the particular conditions as the named insured:</p> <ol style="list-style-type: none">Holds directly or indirectly more than 50% of the voting rights;Has the power to appoint a majority of the board of directors (or equivalent in any other country); orHas the right, pursuant to a written agreement with other shareholders, to appoint a majority of the board of directors (or equivalent in any other jurisdiction). <p>If an entity ceases to be a subsidiary during the period of insurance, cover will continue but only for a claim against an insured arising from an employment practice wrongful act or a management wrongful act committed before it ceased to be a subsidiary.</p>
<i>Terrorism</i>	<p>An act, or the threat of an act, by any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, that:</p> <ol style="list-style-type: none">Is committed for political, religious, ideological or similar purposes; andIs intended to influence any government or to put the public, or any section of the public, in fear; andInvolves violence against one or more persons; orInvolves damage to property; orEndangers life other than that of the person committing the action; orCreates a risk to health or safety of the public or a section of the public.

War

War, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power.

We

The insurance company named in the **particular conditions** (“us” and “our” also have the same meaning wherever they are used).

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