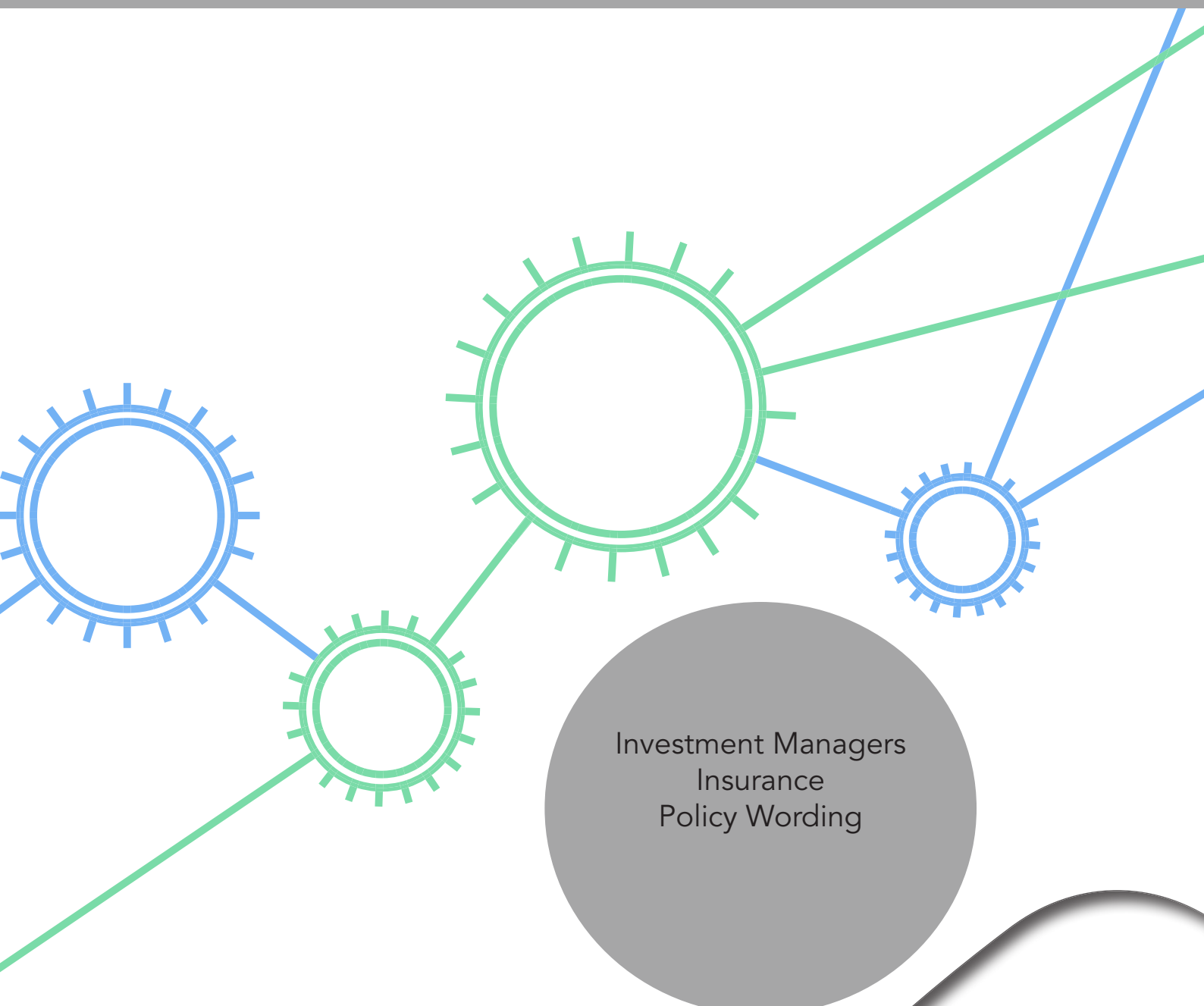




making relationships count

INVESTMENT MANAGERS POLICY WORDING



Investment Managers
Insurance
Policy Wording

Insured by



MSIG



**DUAL Asia Investment Managers Insurance
Policy Wording**

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DUAL Asia Investment Managers Insurance

Policy Wording

PART A: PREAMBLE

We will provide the cover described in the **policy**, subject to its terms and conditions, for the **insurance period**.

The cover under the **policy** commences upon the payment of the premium unless otherwise agreed in writing.

PART B: INSURING CLAUSES

INSURING CLAUSE 1: PROFESSIONAL INDEMNITY

1.1 Cover for Claims

We agree to pay to or on behalf of the **insured** all **loss** arising from any **claim** for **civil liability** first made against an **insured** during the **insurance period** in relation to the provision of **investment services**.

1.2 Cover for Investigations

We agree to pay to or on behalf of the **insured** all **loss** arising from an **investigation** commenced by an **official body** during the **insurance period** in relation to the provision of **investment services**.

INSURING CLAUSE 2: DIRECTORS' & OFFICERS' LIABILITY

2.1 Insured Person Liability Cover

We agree to pay to or on behalf of each **insured person** all **loss** arising from a **claim** alleging a **wrongful act** first made against an **insured person** during the **insurance period**, for which the **policyholder** has not indemnified the **insured person**.

2.2 Insured Person Investigation Cover

We agree to pay to or on behalf of each **insured person** all **loss** arising from an **investigation** commenced by an **official body** during the **insurance period**, for which the **policyholder** has not indemnified the **insured person**.

2.3 Company Reimbursement - Insured Person Liability

We agree to pay to or on behalf of the **policyholder** an **insured person's loss** arising from a **claim** alleging a **wrongful act** first made against an **insured person** during the **insurance period**, for which the **policyholder** has indemnified the **insured person**.

2.4 Company Reimbursement - Investigations

We agree to pay to or on behalf of the **policyholder** an **insured person's loss** arising from an **investigation** commenced by an **official body** during the **insurance period**, for which the **policyholder** has indemnified the **insured person**.

2.5 Entity Securities Cover

We agree to pay to or on behalf of the **policyholder** all **loss** arising from a **securities claim** first made against the **policyholder** during the **insurance period**.

INSURING CLAUSE 3: EMPLOYMENT PRACTICES LIABILITY

3.1 Entity Employment Practices Liability Cover

We agree to pay to or on behalf of the **policyholder** all **loss** on account of a **claim** brought by an **employee** alleging an **employment practices breach** first made against the **policyholder** during the **insurance period**.

3.2 Entity Employment Practices Investigation Cover

We agree to pay to or on behalf of the **policyholder** all **loss** arising from an **investigation** into an **employment practices breach** commenced by an **official body** during the **insurance period**.

INSURING CLAUSE 4: CRIME PROTECTION

4.1 Internal Crime Cover

We agree to pay to the **policyholder** all **direct financial loss** arising from an **internal crime** which is first **discovered** and reported to **us** during the **insurance period**.

4.2 External Crime Cover

We agree to pay to the **policyholder** all **direct financial loss** arising from an **external crime** which is first **discovered** and reported to **us** during the **insurance period**.

INSURING CLAUSE 5: STATUTORY LIABILITY and SUPPLEMENTARY LEGAL COSTS

5.1 Cover for Claims

We agree to pay to or on behalf of the **insured** all **loss** on account of any **claim** brought by an **official body** alleging a **wrongful act** first made against the **insured** during the **insurance period**.

5.2 Cover for Investigations

We agree to pay to or on behalf of the **insured** all **loss** arising from an **investigation** commenced by an **official body** during the **insurance period**.

PART C: EXTENSIONS

Extensions are subject to the **insuring clauses** and all other terms and conditions of this **policy**.

Coverage under each Extension is only available if the corresponding **insuring clause** has been purchased as specified in the **schedule**.

EXTENSIONS APPLICABLE TO ALL INSURING CLAUSES

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

6.1 Discovery Period (Run Off)

In the event of non-renewal of this **policy** or in the event that a **transaction** occurs, the **policyholder** may request a **discovery period** of:

- a) 60 days granted automatically with no additional premium payable for all **insuring clauses**; or
- b) 12 months, if the **policyholder** requests such period in writing within 30 days after the end of the **insurance period** and tenders an additional premium of 100% of the expiring annual premium,

commencing immediately after the end of the **insurance period**, such premium is payable within 30 days of the receipt by **us** of such written request; or

- c) 84 months, if a **transaction** takes place and the **policyholder** requests such period in writing within 30 days following the end of the **insurance period**, on such terms and conditions, if any, and for such additional premium as **we** may reasonably require.

During the **discovery period**, the **insured** may:

- a) give notice of any **claim** or **investigation**, arising from any actual or alleged **wrongful act**, or other acts, errors or omissions, or conduct, which occurred during the **insurance period** or prior to the date of a **transaction**, with respect to **insuring clauses** 1, 2, 3 and 5;
- b) give written notice to **us** of any **direct financial loss** arising from an **internal crime** or **external crime** which was **discovered** during the **insurance period** or the **discovery period**, with respect to **insuring clause** 4.

This Extension is not available if this **policy** is:

- i) renewed or replaced with any similar or like insurance; or
- ii) cancelled or avoided.

Any **discovery period** purchased under this Extension is non-cancellable and the premium paid for the **discovery period** is fully earned by **us** and is non-refundable.

6.2 New Funds

We will pay:

- a) all **loss** arising from a **claim** or **investigation** first made during the **insurance period** involving a **new fund**; and
- b) all **direct financial loss** of a **new fund** resulting from an **internal crime** or **external crime** which is **discovered** within the **insurance period**.

No cover is provided before the date at which they become a **new fund**.

6.3 New Subsidiaries

We will pay:

- a) all **loss** arising from a **claim** or **investigation** first made during the **insurance period** involving a **new subsidiary**; and
- b) all **direct financial loss** of a **new subsidiary** resulting from an **internal crime** or **external crime** which is **discovered** within the **insurance period**.

No cover is provided before the date at which they become a **new subsidiary**.

ADDITIONAL EXTENSIONS APPLICABLE TO INSURING CLAUSES 1, 2, 3 AND 5

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

7.1 Advancement of Defence Costs or Investigation Costs

We agree to pay for **defence costs** in respect of any **claim** or **investigation costs** covered under this **policy** as and when they are incurred prior to final resolution of the **claim**, and within 30 days of receipt by **us** of sufficiently detailed invoices for those costs.

The maximum amount of **defence costs** or **investigation costs** and other costs and expenses **we** will advance is the amount of any applicable sub-limit or the **indemnity limit**. Upon exhaustion of the applicable sub-limit or the **indemnity limit** our obligation to advance **defence costs** will cease.

However any **defence costs** that are paid will be repayable to **us** by the **insured** in the event and to the extent that it is determined under the **policy** that the **insured** was not entitled to the payment of the **defence costs**.

7.2 Automatic Run-off Cover for Retired Insured Persons

If an **insured person** retires from all employment or office with the **policyholder** prior to the expiry of the **insurance period** and the **policyholder** does not renew this **policy** and no **discovery period** is operable, then that **insured person** will automatically be entitled to an 84 month **discovery period** at no additional premium commencing on the date which they retire from office with the **policyholder**.

7.3 Continuous Cover

Notwithstanding Exclusion Clause 13.5 (a) and (b) (Prior Known Facts), **we** agree to provide cover in respect of any **claim** or **investigation** in the **insurance period** where the **insured**:

- a) first became aware, prior to the **insurance period** and after the **continuity date** that a **claim** or **investigation** might or could arise from facts or circumstances known to the **insured**; and
- b) through error or oversight failed to notify the previous insurer or insurers on risk of such facts or circumstances, under any similar policy existing prior to the **insurance period**.

We have the absolute discretion to apply either the terms and conditions of the previous policy when the **insured** first became aware of the facts and circumstances, including but not limited to the **indemnity limit** and **deductible**, or the terms and conditions of this **policy**.

7.4 Court Attendance Costs

We will pay to or on behalf of the **policyholder** the **court attendance costs** of an **insured person** who is legally compelled to attend Court as a witness in connection with a **claim** or **investigation** notified under and covered by this **policy**.

7.5 Estates, Heirs, Legal Representatives and Spousal Cover

We will pay the **loss** of:

- a) the estate, heirs, legal representatives or assigns of any deceased or mentally incompetent or bankrupt **insured person**; or
- b) a legal or de facto spouse of an **insured person**;

but only in respect of:

- i) a **wrongful act** committed or allegedly committed by an **insured person**; or
- ii) a **claim** for **civil liability** in relation to acts committed or allegedly committed by an **insured person** while acting in their insured capacity.

ADDITIONAL EXTENSIONS APPLICABLE TO INSURING CLAUSE 1: PROFESSIONAL INDEMNITY

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

8.1 Authorised Representatives and Agents

We will pay to or on behalf of the **insured** all **loss** resulting from any **claim** for **civil liability** arising from the conduct of any authorised representatives or agents of the **policyholder** in the conduct of the **investment services** and for whose acts, errors or omissions the **policyholder** is liable. Cover under this Extension is not available to authorised representatives or agents in respect of their own liability.

8.2 Breach of Privacy

We will pay to or on behalf of the **insured** all **loss** on account of a **claim** for **civil liability** which alleges the loss or misuse of confidential or personal information, material or **data**, or invasion or breach of privacy of any client of the **policyholder** or the breach of any law or regulation regulating the collection, management, confidentiality or disclosure of personal or confidential information of any client of the **policyholder** or **fund**.

8.3 Defamation

We will pay to or on behalf of the **insured** all **loss** resulting from any **claim** for **civil liability** for defamation committed in the conduct of the **investment services**.

8.4 Former Subsidiaries and Funds

We will pay to or on behalf of the **policyholder** all **loss** resulting from any **claim** for **civil liability** in relation to the conduct of the **investment services** by a **subsidiary** or **fund** that ceased or ceases to be a **subsidiary** either before or during the **insurance period**.

8.5 Key Man Loss

We will pay to or on behalf of the **policyholder** or **fund** all **key man loss** sustained during the **insurance period**.

8.6 Intellectual Property

We will pay to or on behalf of the **insured** all **loss** resulting from any **claim** for **civil liability** made against the **insured** arising from infringement or alleged infringement of any intellectual property right in the conduct of the **investment services**.

8.7 Lost Data

We will pay to or on behalf of the **insured** all **loss** resulting from any **claim** for **civil liability** for the unintentional destruction, misplacement, damage, deletion, corruption or loss of **data** while in the physical custody or control of the **insured**, provided that the discovery of the loss of **data** occurred during the **insurance period**.

8.8 Lost Documents

We will pay to or on behalf of the **insured** all **loss** arising from a **claim** for **civil liability** resulting from the loss of **documents**, which are in the care, custody or control of the **insured** and for which the **insured** is legally liable, which after diligent search cannot be found.

8.9 Mitigation Costs

We will reimburse the **policyholder** for their **mitigation costs** incurred in taking action to limit or mitigate the **policyholder's** exposure to any actual covered **claim** or potential **claim**, for **civil liability**, which would otherwise be covered under this **policy**. The **policyholder** bears the burden of proving that the **claim** would otherwise have been covered.

8.10 Public Relations Cover

We will pay the **public relations expenses** of an **insured**.

8.11 Unfair Competition Legislation

We will pay to or on behalf of the **insured** all **loss** resulting from any **claim** for **civil liability** made against the **insured** for unintentional contraventions of the *Competition Ordinance (Cap. 619)* or any or similar or equivalent legislation enacted by the Government of the Hong Kong Special Administrative Region and where all **loss** is insurable to the extent permissible under the laws of the Hong Kong Special Administrative Region.

ADDITIONAL EXTENSIONS APPLICABLE TO INSURING CLAUSE 2: DIRECTORS' & OFFICERS' LIABILITY

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

9.1 Additional Limit for Non-Executive Directors

If the **indemnity limit** is exhausted by the payment by **us** of **loss**, **we** agree to pay the amount specified in the **schedule**, in addition to the **indemnity limit**, on the following terms:

- a) this Extension is only available to **non-executive directors** of the **policyholder**;
- b) the **indemnity limit** and any other available insurance or source of indemnity available to the **non-executive director** has first been exhausted;
- c) the maximum amount of **loss** paid by **us** under this Extension in respect of all **claims** and **investigations** for all **non-executive directors** will not exceed the amount specified in the **schedule**;
- d) this Extension does not provide any cover to the **policyholder** or any **fund**.

9.2 Bail Bond Expenses

We will pay the **bail bond expenses** of an **insured person**.

9.3 Deprivation of Asset Expenses

We will pay the **deprivation of asset expenses** of an **insured person** in the event that an interim or interlocutory court order is made against an **insured person** which seeks to confiscate, control, suspend or freeze rights of ownership of real property or personal assets of an **insured person** or creates a charge or security interest over real property or personal assets of an **insured person**.

9.4 Extradition Costs

We will pay the **extradition costs** of an **insured person**.

9.5 Former Subsidiaries

We will pay to or on behalf of the **policyholder** all **loss** resulting from any **claim** for any **wrongful act** or **employment practice breach** by a **subsidiary** that ceased or ceases to be a **subsidiary** either before or during the **insurance period**.

9.6 Outside Entity Executive Cover

We will pay the **loss** of an **outside entity executive** in the event that a **claim** is made against such **outside entity executive** or an **outside entity executive** is required to attend an **investigation** during the **insurance period** or any **discovery period**, in relation to the performance of their duties for an **outside entity**, in their capacity as an **outside entity executive**.

9.7 Pollution Loss

Notwithstanding Exclusion Clause 13.2 (Bodily Injury and Property Damage) or Exclusion Clause 13.7(f) (Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons) **we** will pay the **defence costs** of an **insured person** in relation to the actual, alleged or threatened discharge of **pollution**, provided always that Exclusions 13.7(a) to (e) (Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons) will always apply.

9.8 Prosecution Costs

We will pay the **prosecution costs** of an **insured person**.

9.9 Public Relations Expenses

We will pay the **public relations expenses** of an **insured**.

9.10 Shareholder Costs

We will pay the **loss** of any adverse costs orders awarded against the **insured** in favour of a shareholder or group of shareholders of the **policyholder**.

9.11 Unincorporated Joint Venture Cover

We will pay the **loss** of an **insured person**, where the **insured person** was performing duties for or on behalf of an unincorporated joint venture of the **policyholder** and at the direction of the **policyholder**.

9.12 Work Health and Safety Costs

Notwithstanding Exclusion 13.2 (Bodily Injury / Property Damage) we will pay the **loss** of an **insured person** resulting from any **claim** or **investigation** in relation to an occupational safety and health or work health and safety allegation.

ADDITIONAL EXTENSIONS APPLICABLE TO INSURING CLAUSE 3: EMPLOYMENT PRACTICES LIABILITY

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

10.1 Public Relations Expenses

We will pay the **public relations expenses** of the **policyholder**.

ADDITIONAL EXTENSIONS APPLICABLE TO INSURING CLAUSE 4: CRIME PROTECTION

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

11.1 Care, Custody and Control

We will pay the **direct financial loss** of a client or customer of the **policyholder** in circumstances where the **policyholder** or the **policyholder's** authorised representatives and agents, had the care, custody or control of the **money, securities or property**, which is the subject of an **internal crime** or **external crime**.

11.2 Computer Crime Costs

We will pay the **computer crime costs** of the **policyholder** following an **internal crime** or **external crime** which is covered under this **policy**.

For the purpose of this Extension only, Exclusion 17.1 (Confidential Information) does not apply.

11.3 Contractual Penalties

We will pay to or on behalf of the **policyholder** for any contractual penalty assumed by and enforced against the **policyholder** under a written contract between the **policyholder** and a **third party**, which is payable as a direct consequence of an **internal crime** or **external crime** covered under this **policy**.

11.4 Credit Card Fraud

We will pay the **direct financial loss** of the **policyholder** caused as a result of a **credit card fraud discovered** during the **insurance period**.

11.5 Destruction or Disappearance of Money or Securities

We will pay the **direct financial loss** of the **policyholder** caused by the destruction or disappearance of **money** or **securities** in the course of an **internal crime** or **external crime**, which is discovered during the **insurance period**.

11.6 Erroneous Transfer of Money or Securities Cover

We will pay the **direct financial loss** of the **policyholder** caused by the wrongful retention by a **third party** of **money** or **securities** erroneously transferred to that **third party** which is **discovered** during the **insurance period**.

Our liability under this Extension is only payable once the **policyholder** has taken all reasonable steps to recover the erroneously transferred **money** or **securities** from the **third party**.

11.7 Extortion

We will pay the **extortion costs** of the **policyholder** caused by **extortion** committed by a **third party** during the **insurance period**.

11.8 Future Loss Prevention Costs

We will pay the **future loss prevention costs** of the **policyholder**.

11.9 Identity Theft Expenses

We will pay the **identity theft expenses** of the **policyholder** following an **identity theft**.

11.10 Interest

We will pay the **policyholder** or **fund** any **interest** which otherwise would have been payable on **money** which has been misappropriated as a result of an **internal crime** or **external crime**.

11.11 Loss Investigation Costs

We agree to reimburse the **policyholder** for their **loss investigation costs** which they incur in order to provide a **proof of loss** to us, following the **discovery** of an **internal crime** or an **external crime** during the **insurance period**.

If the **policyholder** elects not to use their own **loss investigator**, we agree to pay **loss investigation costs** directly to a **loss investigator** selected by us, in order to assist the **policyholder** to provide us with their **proof of loss**.

11.12 Public Relations Expenses

We will pay the **public relations expenses** of the **policyholder** following an **internal crime** or **external crime** covered under this **policy**.

11.13 Unincorporated Joint Venture Cover

We will pay the **direct financial loss** of the **policyholder** sustained as a result of an **internal crime** or **external crime** perpetrated against an unincorporated joint venture, in which the **policyholder** owns at least a 50% proprietary share, which is discovered within the **insurance period**.

ADDITIONAL EXTENSIONS APPLICABLE TO INSURING CLAUSE 5: STATUTORY LIABILITY & SUPPLEMENTARY LEGAL COSTS

The maximum amount payable by us under the Extensions below is the applicable sub-limit of liability specified in the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under the Extensions as specified in the **schedule**. The **deductible** is inclusive of **defence costs**, unless otherwise specified in the **schedule**.

12.1 Crisis Costs

We will pay the **crisis loss** of the **insured** following a **crisis**.

12.2 Pollution Loss

Notwithstanding Exclusion Clause 13.2 (Bodily Injury and Property Damage) or Exclusion Clause 13.7(f) (Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons) we will pay the

defence costs of an **insured** in relation to the actual, alleged or threatened discharge of **pollution** provided always, that Exclusions 13.7(a) to (e) (Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons) will always apply.

12.3 Prosecution Costs

We will pay the **prosecution costs** of an **insured**.

12.4 Public Relations Expenses

We will pay the **public relations expenses** of an **insured**.

12.5 Transport to and from Work Costs

We will pay the reasonable transport costs up to a maximum of HKD\$500 or currency equivalent per day for a maximum of 12 weeks for an **insured person** who requires transportation assistance in order to get to and from his or her usual place of employment due to his or her disablement as a result of a workplace accident which is also the subject of a covered **claim** under this **policy**.

12.6 Unincorporated Joint Venture Cover

We will pay the **loss** of an **insured person**, where the **insured person** was performing duties for or on behalf of an unincorporated joint venture of the **policyholder** and at the direction of the **policyholder**.

12.7 Work Health and Safety Costs

Notwithstanding Exclusion 13.2 (Bodily Injury / Property Damage) we will pay the **loss** of an **insured** resulting from any **claim** or **investigation** in relation to an occupational health and safety or work health and safety allegation.

PART D: EXCLUSIONS

EXCLUSIONS APPLICABLE TO ALL INSURING CLAUSES

It is agreed that the following Exclusions will apply to all **insuring clauses**, which have been purchased.

13.1 Asbestos

We will not cover the **insured** for any **loss** resulting from any **claim** or **investigation** based upon, arising from or attributable to:

- a) asbestos; or
- b) any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure or potential exposure to asbestos.

13.2 Bodily Injury / Property Damage

We will not cover the **policyholder**, any **fund** or an **insured person** for any form of **loss**, including **defence costs**, in respect of any **claim** or **investigation** for bodily injury or damage to or destruction of any tangible property, including loss of use of such tangible property. However, this Exclusion will not apply to:

- a) a **claim** or **investigation** for mental anguish, anxiety and stress resulting from an **employment practices breach**; or
- b) a **claim** or **investigation** covered under Extension 9.7 (Pollution Loss) or Extension 9.12 (Work Health and Safety Costs).

13.3 Employee-Related Benefits

We will not cover the **policyholder** for any form of **loss** in respect of any **claim** or **investigation** directly or indirectly based upon or attributable to any:

- a) obligation, or actual or alleged breach of an obligation, under any law, regulation or **industrial instrument** providing for paid or unpaid leave of any kind;
- b) obligation, pursuant to any law, regulation, or **industrial instrument** providing for the payment of workers' compensation entitlements, disability benefits, unemployment benefits, unemployment insurance, retirement benefits, social security benefits;
- c) **employment related benefits** or amounts calculated by reference to any **employment related benefits**;
- d) costs incurred by the **policyholder** to modify any building or property, or to provide any service, in order to make such building or property, more accessible for accommodating a disabled person;
- e) costs incurred by the **policyholder** in connection with any educational or corrective measures undertaken under order of a Court or Tribunal of competent jurisdiction, arising from an **employment practices breach**;
- f) specified sums payable by the **policyholder** to an **employee** pursuant to a contract of employment or **industrial instrument**; or
- g) **benefits**.

13.4 Fraudulent, Dishonest & Wilful Conduct

We will not cover any **loss** on account of any **claim** directly or indirectly arising from or attributable to:

- a) gaining any personal profit or advantage to which the **insured** was not legally entitled;
- b) having improperly benefited from any **securities** transaction as a result of information that is/was not available to other sellers or purchasers of such **securities**;
- c) committing any dishonest, fraudulent, criminal or malicious act; or
- d) committing any wilful violation or wilful breach of any statute, law or regulation.

This Exclusion will only apply if it is established through a judgment or any other final adjudication adverse to the insured, or any admission by an **insured** that the relevant conduct did in fact occur.

13.5 Prior Known Facts

We will not cover any **loss** or **direct financial loss**, arising from or in any way connected with any:

- a) actual or alleged facts or circumstances that the **insured** knew or ought reasonably to have known prior to the **insurance period** might or could give rise to a **claim** or **investigation**;
- b) actual or alleged facts which could have been, or which can be notified under any previous insurance policy existing prior to the commencement of the **insurance period**;
- c) pending or prior **litigation** derived from the same or essentially the same facts as are or might be alleged in such pending or prior **litigation**, as at the commencement of the **insurance period**;
- d) any fact or matter referred to in the **proposal**, or notified under any previous like policy existing prior to the commencement of the **insurance period**; or
- e) any **director** or **officer** (who is not in collusion with such **employee**) having actual knowledge of any actual or alleged **internal crime** or **external crime** prior to the **continuity date**.

13.6 Reinstatement of Employees

We will not cover the **policyholder**, **fund** or any **insured** for any costs directly or indirectly arising from an order to reinstate an **employee**.

13.7 Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons

We will not cover the **insured** for **loss** or **direct financial loss** directly or indirectly caused by or contributed to by or arising from:

- a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The Exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes;
- e) any chemical, biological, bio-chemical or electromagnetic weapon; or
- f) the actual, alleged or threatened discharge of **pollution**.

13.8 Sanctions Limitation

We will not cover the **insured** for **loss** or **direct financial loss** to the extent that the provision of such cover, payment of such **claim** or provision of such benefit would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

13.9 SEC

We will not cover the **insured** for any **loss** resulting from any **claim** or **investigation** based upon, arising from or attributable to the filing of, or omission to file, a registration statement with the United States Securities and Exchange Commission.

13.10 War and Terrorism

We will not cover the **insured** for any **loss** resulting from any **claim** or **investigation** based upon, arising from or attributable to death, disability, loss, damage, destruction, any legal liabilities, cost or expense including consequential loss of whatsoever nature, directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

- a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, or civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b) any act of terrorism including but not limited to:
 - i) the use or threat of force, violence and/or
 - ii) harm or damage to life or to property (or the threat of such harm or damage) including, but not limited to, nuclear radiation and/or contamination by chemical and/or biological agents,

by any person(s) or group(s) of persons, committed for political, religious, ideological or similar purposes, express or otherwise, and/or to put the public or any section of the public in fear; or

- c) any action taken in controlling, preventing, suppressing or in any way relating to (a) or (b) above.

If **we** allege that by reason of this Exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the **insured**.

ADDITIONAL EXCLUSIONS APPLYING TO INSURING CLAUSE 1: PROFESSIONAL INDEMNITY

14.1 Assumed Liability

We will not cover any **loss** directly or indirectly caused by, arising out of or in any way connected with any **claim** made against an **insured** for any breach of guarantee, warranty, agreement, contract or assumed liability which would not have otherwise attached to the **insured** in the absence of such guarantee, warranty, agreement, contract or assumed liability.

14.2 Insured vs Insured

We will not cover any **loss** in respect of any **claim** or **investigation** brought by or on behalf of any **insured** or **fund**, or successors or assigns of any **insured** or **fund**, unless such **claim** or **investigation** is brought by or on behalf of:

- a) an **employee** as a customer or client of the **policyholder** or **fund** and is not solicited by or brought with the voluntary (instead of legally required) intervention, assistance or participation of any **insured** or **fund** against whom it is brought; or
- b) a **fund**, on advice from independent legal counsel selected by and at the expense of the **fund** (selection of such counsel being subject to the prior written approval of **us**) that, on the balance of probabilities, the failure to make such **claim** would be a breach of duty owed by the **directors** or **officers** of such **fund**.

14.3 Proprietary Trading Loss

We will not cover any **loss** resulting from any **claim** or **investigation**:

- a) where the **policyholder** or **fund** is acting on its own behalf or as principal; or
- b) which arises from any underwriting agreement for the offer or sale of any **securities**.

ADDITIONAL EXCLUSION APPLYING TO INSURING CLAUSE 2: DIRECTORS' & OFFICERS' LIABILITY

15.1 Investment Services

We will not cover the **insured** for any form of **loss** resulting from a **claim** or **investigation** arising out of or in any way connected with the **insured** or any **fund** in respect of the provision of **investment services**.

ADDITIONAL EXCLUSION APPLYING TO INSURING CLAUSE 2.5 ENTITY SECURITIES COVER ONLY

16.1 Securities Claim

We will not cover the **policyholder** for **loss** in connection with a **securities claim** directly or indirectly based upon or attributable to any:

- a) express representations, contracts, agreements, warranties or guarantees made by the **policyholder**, provided, however, that this Exclusion will not apply if the **policyholder** would have had such liability in the absence of such representations, contracts, agreements, warranties or guarantees; or
- b) allegation that the consideration for the acquisition or completion of the acquisition of all or substantially all the ownership, interest or assets of a **subsidiary**, business or other enterprise is inadequate. **Loss** does not include any amount of any judgement or settlement representing the amount by which such price or consideration is effectively increased or decreased nor any amount for the claimant's costs and expenses, which relate to such allegations.

ADDITIONAL EXCLUSIONS APPLYING TO INSURING CLAUSE 4: CRIME PROTECTION

17.1 Confidential Information

We will not cover any **direct financial loss** in any way connected with the accessing, use or dissemination of any confidential information including, but not limited to, trade secrets, computer programs, customer information, and intellectual property or processing methods.

17.2 Consequential Loss

We will not cover any indirect or consequential loss except where expressly provided for in the Extensions under the **policy**.

This Exclusion does not apply to losses arising from business disruption, system failures, failure of transaction processing or process management with respect to an **AIF** only, in accordance with Article 12(2) in Section 3 of the Commission Delegated Regulation (EU) No 231/2013 dated 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council dated 8 June 2011 (including any amendments).

17.3 Fraudulent Computer Program Features

We will not cover any **direct financial loss** in any way connected with, or resulting from, fraudulent features contained in computer programs developed for sale to, or were sold to, multiple customers at the time of their acquisition from a vendor or consultant, unless:

- a) the features were inserted after the date of acquisition; or
- b) at the time of **discovery** the fraudulent features were contained solely on the computer programs of the **policyholder** and not on those sold to any other customer.

17.4 Plastic Cards

We will not cover any **direct financial loss** in any way connected with the fraudulent alteration of any written instrument required in connection with a debit, credit, bank, VISA, MasterCard, American Express, UnionPay or other like credit card, except for **direct financial loss**, which is covered under Extension 11.4 (Credit Card Fraud).

17.5 Profit Loss and Inventory Computation

We will not cover any **direct financial loss** in any way connected with a profit and loss computation or comparison of inventory records, which is the sole means of proving that a **direct financial loss** has been sustained.

17.6 Voluntary Surrender

We will not cover any **direct financial loss** in any way connected with the voluntary giving or surrendering of **money, securities** or other tangible property in any exchange or purchase except where Additional Benefit 11.6 (Erroneous Transfer of Funds or Securities Cover) applies.

EXCLUSIONS APPLYING TO INSURING CLAUSE 5: STATUTORY LIABILITY & SUPPLEMENTARY LEGAL COSTS

18.1 Certain Ordinance

We will not cover the **insured** for any form of **loss** resulting from any **claim** or **investigation** arising out of or in any way connected with any actual or alleged breach or contravention of the responsibilities, obligations or duties of **directors** and **officers**; or any anti-cartel or anti-competitive criminal acts imposed by:

- a) *Companies Ordinance (Cap. 622)* or *Securities and Futures Ordinance (Cap. 571)* or any similar law, and any amendments, consolidations or enactments to same; or
- b) *Competition Ordinance (Cap. 619)* or similar or equivalent legislation.

18.2 Insured Conduct

We will not cover the **insured** for any form of **loss** resulting from any **claim** or **investigation** arising out of or in any way connected with any actual or alleged activities outside the **policyholder's investment services**.

18.3 Territorial Limits

We will not cover the insured for any form of **loss** resulting from any **claim** or **investigation** first made outside of the **territorial limits**.

PART E: DEFINITIONS

In the **policy**:

- 19.1** **AIF** means an alternative investment fund to which the Directive 2011/61/EU of the European Parliament and of the Council (dated 8 June 2011) and Commission Delegated Regulation (EU) No 231/2013 (dated 19 December 2012) apply.

- 19.2** **Bail bond expenses** means the reasonable premium (but not collateral) for a bond or other financial instrument to guarantee an **insured person's** contingent obligation for bail required by a court hearing a **claim** in relation to a **wrongful act** committed or allegedly committed by such **insured person**.
- 19.3** **Benefits** means any amount payable to a beneficiary of a superannuation fund, pension fund or endowment fund.
- 19.4** **Bill of exchange** means an unconditional order in writing, addressed by one person to another, signed by the addresser, requiring the addressee to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer.
- 19.5** **Certificate of deposit** means a written acknowledgement by a financial institution of a deposit with a promise to pay such deposit to any person or to his order.
- 19.6** **Civil liability** means a legally enforceable obligation to a **third party**.
- With respect to an **AIF**, **civil liability** includes any damages, compensation or penalties payable or allegedly payable as a result of any actual or alleged misstatement, misleading statement, act, error, omission, neglect, breach of trust, breach of fiduciary duty or breach of regulations committed or attempted or allegedly committed or attempted as defined in Article 12(1) and 12(2) in Section 3 of the Commission Delegated Regulation (EU) No 231/2013 dated 19 December 2012 supplementing Directive 2011/61/EU of the European parliament and of the Council dated 8 June 2011 (including any amendments), whether by conduct or omission described in Article 12(2) or otherwise.
- 19.7** **Claim** means:
- a) a written demand for monetary damages or non-pecuniary relief;
 - b) a civil proceeding or counter-claim commenced by the service of a writ, complaint, summons, statement of claim, or similar originating process;
 - c) an alternative dispute resolution proceeding, a formal administrative or regulatory proceeding including any arbitration, mediation, conciliation or other alternative dispute resolution proceeding commenced in writing; or
 - d) a criminal proceeding commenced in writing.
- 19.8** **Computer crime costs** means reasonable fees, costs and expenses incurred by the **policyholder** with **our** prior written consent to retain a suitably qualified consultant to assist the **policyholder** with:
- a) the identification, verification and removal of fraudulent, maliciously introduced or altered computer programs which erase, corrupt, destroy or modify **data** or deny access to the **policyholder's** computer network; and
 - b) the reproduction or duplication of damaged or destroyed electronic computer programs;
- as a result of an **internal crime** or **external crime** covered under this **policy**.
- 19.9** **Continuity date** means the date specified in Item 6 of the **schedule**.
- 19.10** **Counterfeiting** means any act, which causes the **policyholder** to act upon or give value for a negotiable instrument that is an imitation of an authentic negotiable instrument and which deceives the **policyholder** into believing that the imitation is an authentic negotiable instrument.
- 19.11** **Court attendance costs** means the travel costs to and from a witness' usual place of residence to the location of a Court or Tribunal to give evidence up to a maximum of HKD\$500 per day while the **insured person** is legally obliged to attend such Court or Tribunal.
- 19.12** **Credit card fraud** means the fraudulent alteration of any written instrument required in connection with a credit card or debit card issued to any **employee** or **director** or **officer** or the **policyholder**.
- 19.13** **Crisis** means any of the following unforeseen specific events where, in the reasonable opinion of the chief executive officer (or equivalent) of the **principal organisation**, the event has the potential to cause an impending decrease in excess of 25% of the combined annual revenue of the **principal organisation** if left unmanaged;
- a) the sudden, unexpected death or disability of a **director** or **officer**;

- b) the discharge or enforced resignation (other than in accordance with planned retirement) of a key investment manager;
- c) loss of a major customer, investment mandate or credit facility;
- d) **employee** workplace violence;
- e) the first apparent unauthorised intrusion into any **policyholder's** computer system or network;
- f) a man made disaster; or
- g) any criminal investigation in respect of an **insured person**.

Crisis is specific and does not include an event which affects the **policyholder's** industry in general.

19.14 **Crisis loss** means the reasonable and necessary fees, costs and expenses for external crisis management services provided in response to a **crisis** within the first 30 days after the **crisis**.

19.15 **Data** means:

- a) information such as text, numbers, sounds and images that can be processed by any form of electronic device; or
- b) deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method but will not include **money** or **securities**.

19.16 **Deductible** means the amounts specified in Items 5 and 11 of the **schedule** in respect of each **insuring clause** and Extension.

19.17 **Defence costs** means that part of **loss** consisting of the reasonable costs, charges, fees (including but not limited to legal fees) and expenses reasonably incurred by an **insured**, with **our** prior written consent in investigating or defending a **claim** but does not include regular or overtime wages, salaries or fees of the directors, **officers** or **employees** of the **policyholder** incurred in attending, defending, investigating or monitoring **claims**.

19.18 **Deprivation of asset expenses** means the payment of the following services directly to the provider of such services:

- a) schooling;
- b) housing;
- c) utilities; or
- d) personal Insurance.

Such expenses will only be payable after the exhaustion of any personal allowance which has been directed by a Court to meet such payments. Expenses will be payable 30 days after the triggering of Extension 9.3 (Deprivation of Assets Expenses) and for a period of up to 12 months.

19.19 **Director** means any natural person who was, now is or during the **insurance period**, becomes:

- a) any director or **non-executive director**, alternate director, shadow director or de-facto director of the **policyholder**;
- b) any member of a compliance committee, investment committee or investment advisory committee member of the **policyholder** or **fund**;
- c) a trustee of a **fund** established as a trust; or
- d) a general partner of a **fund** established as a limited partnership.

19.20 **Direct financial loss** means the direct financial loss of the **policyholder** resulting directly from an **internal crime** or **external crime**. **Direct financial loss** also includes:

- a) contractual penalties;
- b) **computer crime costs**;
- c) **future loss prevention costs**;
- d) **interest**;
- e) **loss investigation costs**;
- f) **public relations expenses**; or
- g) **extortion costs**

as covered under the applicable Extension and subject to any sub-limits that may be applicable.

Direct financial loss does not include:

- i) salaries, commissions, fees, bonuses, promotions, awards, profit sharing, superannuation or other employment benefits paid or payable by the **policyholder** or earned in the normal course of employment;
- ii) fines or penalties (whether civil or criminal) imposed by law, punitive, aggravated, exemplary or multiple damages, or matters uninsurable under the laws governing this **policy**;
- iii) any loss of income (such as interest and dividends) or profit, other than that covered under Extension 11.10 (Interest); or
- iv) any costs, fees or other expenses incurred by the **policyholder** in establishing a right under this **policy** (except where provided for under Extension 11.11 (Loss Investigation Costs)).

19.21 **Discovered** or **discovery** means when any **director** or **officer** (who is not in collusion with an **employee** or **third party** who has committed or is attempting to commit an **internal crime** or **external crime**) becomes aware of any facts, which would cause a reasonable person to believe that a **direct financial loss** which may be covered by this **policy** has been or may be incurred, even though the exact amount or details of the **loss** are not known at that time. Such awareness constitutes **discovery** by the **policyholder**.

19.22 **Discovery period** means the period of time purchased under Extension 6.1 (Discovery Period). The **discovery period** will be applied to the **policy** by way of Endorsement.

19.23 **Document** means any cheque, **bill of exchange**, **draft**, **certificate of deposit**, **letter of credit**, **promissory note**, withdrawal order, or receipt for the withdrawal of funds or **property**, money order, orders upon public treasuries, bonds, or any similar instruments of value serving the same purpose.

19.24 **Draft** means a **bill of exchange** payable on demand drawn by or on behalf of a financial institution upon itself.

19.25 **Employee** means any:

- a) natural person under contract of employment with or under the direct control and supervision of the **policyholder**;
- b) **director** or **officer** when performing acts within the scope of the usual duties of an employee as described in (a) above;
- c) natural person assigned to perform duties within the scope of the usual duties of an employee as described in (a) above, within the **premises** for the **policyholder** by any agency supplying temporary personnel on a contingent or part time basis;
- d) guest student pursuing studies or duties with the **policyholder** at their **premises**;
- e) employee of a parent or related company of the **policyholder** solely whilst performing duties on behalf of the **policyholder**; or
- f) in respect of **insuring clause 4** (Crime Protection) only, **employee** is extended to also include:

- i) a solicitor retained by the **policyholder** whilst they are performing legal services for the **policyholder** pursuant to a written contract;
- ii) consultant retained by the **policyholder** whilst they are performing consulting services for the **policyholder** pursuant to a written contract.

Employee does not include any independent broker, independent financial adviser or similar agent or representative, remunerated on sales or commission basis unless specifically agreed by **us** and endorsed to the **policy**.

19.26

Employment practices breach means any of the following employment-related matters:

- a) actual or alleged unfair or wrongful dismissal;
- b) termination or discharge of employment (either actual or constructive, including breach of an implied contract);
- c) wrongful failure to employ or promote;
- d) wrongful deprivation of career opportunity or demotion;
- e) negligent **employee** evaluation (including the provision of negative or defamatory statements in connection with an **employee** reference);
- f) failure to grant tenure; or
- g) misrepresentation, discrimination, harassment, retaliation (including lockouts), humiliation, defamation or invasion of privacy

which relate solely to the **policyholder** and its past, present or prospective **employees** or an **insured**.

19.27

Employment related benefits includes but is not limited to:

- a) non-monetary benefits including but not limited to the allocation of a company car, travel allowance, mobile or landline telephone, medical or life insurance expenses, education and training allowances, and equipment allowances;
- b) shares, share options or any entitlement or right under any employee plan of any description;
- c) participation in any share option or share option plan, or participation in any employee plan of any description;
- d) severance or redundancy payments or entitlements;
- e) any benefit, payment or entitlement of any kind in respect of paid or unpaid leave;
- f) bonus or incentive payments, or any entitlement or right under a bonus or incentive plan (which, for the avoidance of doubt, does not include any payments, entitlement or right under any commission scheme);
- g) payments or contributions in respect of any provident, benefit, superannuation, pension or retirement fund, or any other account, fund, scheme or plan intended to provide benefits, in whole or in part, at retirement or a particular age, or on the happening of a particular event;
- h) any paid or unpaid entitlements in relation to a notice period; or
- i) remuneration for services rendered.

19.28

External crime means:

- a) **counterfeiting**;
- b) **forgery**; or
- c) **theft**

by a **third party**.

19.29 **Extortion** means a written or verbal threat by a **third party** to physically injure **employees** or **insured persons**, or to damage or destroy tangible property (including computer systems, **data** and software) owned by the **policyholder** or for which the **policyholder** is legally liable.

19.30 **Extortion costs** mean the reasonable:

- a) fees and expenses of an independent negotiator or crisis consultant; and/or
- b) travel and accommodation expenses incurred by an **insured** in dealing with a case of **extortion**.

19.31 **Extradition costs** means:

- a) the reasonable fees, costs and expenses (except remuneration of any **insured**, costs of their time or overheads of any **policyholder**) incurred by or on behalf of an **insured person** in challenging, resisting and/or defending a **claim** seeking the extradition of such **insured person**, including any appeal from such **claim**; and/or
- b) the reasonable fees, costs and expenses of any accredited:
 - i) counsellor; or
 - ii) accountant

retained by an **insured person** in connection with an extradition proceeding, during the **insurance period**, with **our** prior written consent (which will not be unreasonably withheld or delayed).

19.32 **Forgery** means the signing or endorsing or copying of the signature in the name of another genuine person without authority and with the intent to deceive, which causes the **policyholder** a **direct financial loss**. It does not include signing or endorsing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose.

19.33 **Fund** means any trust, investment trust, investment management company, managed investment scheme, mandate, partnership, fund (including any sub-fund or subsidiary), **AIF** or other similar entity specifically listed in the **proposal** or listed by Endorsement to the **policy**, provided any such **fund** is managed by the **policyholder** at the time that:

- a) for the purposes of **insuring clause 1** (Professional Indemnity), the facts leading to the **civil liability** occurred;
- b) for the purposes of **insuring clauses 2** (Directors' & Officers' Liability) and 5 (Statutory Liability and Supplementary Legal Costs), the **wrongful act** on which a **claim** is based occurs;
- c) for the purposes of **insuring clause 4** (Crime Protection) an **internal crime** or **external crime** is **discovered**.

19.34 **Future loss prevention costs** means the reasonable costs of the **policyholder** engaging an external consultant to investigate the cause of a **direct financial loss** covered under this **policy**, and to provide a report detailing to the **policyholder** ways in which the **policyholder** can prevent future potential **internal crime** or **external crime** from occurring. **Future loss prevention costs** are only payable once indemnity has been granted under this **policy** and any **direct financial loss** has been paid by **us**.

19.35 **Indemnity limit** means the amounts specified in Item 5 of the **schedule**.

19.36 **Identity theft** means the theft, duplication of or fraudulent use of **data**, which belongs to an **insured person**, in order to create a false identity.

19.37 **Identity theft expenses** means the reasonable legal fees, costs and expenses incurred and paid by the **policyholder**, with **our** prior written consent (which will not be unreasonably withheld or delayed):

- a) when applying for civil or criminal proceedings to be dismissed or withdrawn on the basis that the alleged liability resides with a third party perpetrator of an **identity theft** fraud and not the **fund**, **insured**, or its **directors** or **officers**;
- b) to correct or reinstate public records after an **identity theft** has occurred;

- c) for **public relations expenses** to address the adverse publicity or reputational injury due to an **identity theft**.

19.38 Industrial instrument means:

- a) an award, modern award, enterprise agreement, collective or individual agreement, minimum wage order or any other industrial instrument;
- b) any other collective agreement; or
- c) a verbal or written contract of employment

which regulates the terms and conditions of employment.

19.39 Insurance period means the period of insurance specified in Item 4 of the **schedule**.

19.40 Insured means the **policyholder**, a **fund** or any **insured person**.

19.41 Insured person means:

- a) any past, present or future **director** or **officer** of the **policyholder** or **fund**;
- b) the estate, heirs, legal representatives or assigns of any deceased or mentally incompetent, bankrupt or insolvent **insured person** in (a) above, but only in respect of a **wrongful act** committed by an **insured person**;
- c) a legal or de facto spouse, domestic partner of an **insured person** in (a) above, but only in respect of a **wrongful act** committed by an **insured person**;
- d) an **outside entity executive**;
- e) an **employee** of the **policyholder** but only whilst acting in the capacity as a member of a committee convened by the **policyholder** and at the **policyholder's** specific request, and only in relation to **wrongful acts** committed in the course of the **employee's** performance of their duties on behalf of the committee, where the committee has the specific purpose of advising the board of directors of the **policyholder**;
- f) an **employee** of the **policyholder** who is concerned in or takes part in the management of the **policyholder**;
- g) with respect to an **employment practices breach** only, an **employee**;
- h) a co-defendant with a **director** or **officer** of the **policyholder** or **fund** in a **claim**, but only to the extent that the co-defendant was acting for or on behalf of a **policyholder**; or
- i) an **employee** of the **policyholder**, but only with respect to **insuring clause 5** (Statutory Liability and Supplementary Legal Costs).

Insured person does not include:

- i) a receiver, receiver and manager, official manager, liquidator, administrator, trustee or other person administering a compromise or scheme of arrangement made for **policyholder**; or
- ii) a company or other body corporate.

19.42 Insuring clause means the sections contained in paragraphs 1.1 to 5.2 of this **policy** and any Extension applying to same as purchased and outlined in the **schedule**.

19.43 Interest means the actual bank interest rate which would have been paid on **money** which has been lost as a result of an **internal crime** or **external crime**. Interest is calculated from the date of the **internal crime** or **external crime** and will run until indemnity is granted under this **policy**. The bank interest rate which is to be used is the interest rate of the **policyholder's** bank account, which the **money** would have been held in, but for the **internal crime** or **external crime** at the time of **discovery**.

- 19.44** **Internal crime** means any fraudulent or dishonest act committed by an **employee** (acting alone or in collusion with others), which results in:
- a) the **employee** making an improper financial gain for themselves or for a **third party**; or
 - b) the **policyholder** suffering a **direct financial loss**.
- 19.45** **Investigation** means any official investigation, inquiry or examination by an **official body** concerning either:
- a) the affairs of an **insured** or a **fund** or possible misconduct by any **insured person** in the performance of or failure to perform **investment services**, which is commenced in writing;
 - b) the affairs of the **policyholder** or conduct of an **insured person**, which is commenced in writing;
 - c) an onsite attendance regarding a work health and safety matter; or
 - d) a raid or onsite visit to the **premises** or an **insured person's** place of residence that involves the production, review, copying or confiscation of **property** or **data**, or interviews of any **insured person** or **employees**.
- An **investigation** does not include:
- i) a routine regulatory supervision, inspection, compliance review; or
 - ii) investigation examination or inquiry which focuses on an industry rather than the **policyholder**.
- 19.46** **Investigation costs** means reasonable fees costs and expenses (except remuneration of any **insured**, cost of their time or costs or overheads of the **insured**) incurred with **our** prior written consent (which will not be unreasonably withheld or delayed) by or on behalf of an **insured** in preparing for, attending or producing documents or responding to an **investigation**.
- 19.47** **Investment services** means:
- a) services rendered in the capacity of a responsible entity;
 - b) services rendered in the capacity as a trustee;
 - c) asset management services;
 - d) fund management services;
 - e) financial, economic or investment advisory services; or
 - f) those services declared to **us** in the **proposal** or specified in Item 3 of the **schedule**
- for or on behalf of the **policyholder** or a **fund**.
- 19.48** **Key man loss** means reasonable costs and expenses incurred by the **policyholder** or a **fund** with **our** prior written consent (and which will not be delayed or unreasonably withheld) in order to procure public relations services and/or executive search services and in order to manage the public communication of, and limit the disruption to the **investment services** that is directly caused by the permanent disability or death of any principal, partner or director of the **policyholder** or **fund**, which takes place during the **insurance period**.
- 19.49** **Letter of credit** means an agreement in writing by a financial institution made at the request of a customer that the issuer will honour **drafts** or other demands for payment upon compliance with the conditions specified in the letter of credit.
- 19.50** **Litigation** includes, but is not limited to, any civil, criminal, administrative or regulatory proceeding as well as any official investigation, examination, enquiry, arbitration or adjudication.
- 19.51** **Loan** means:
- a) any loan or transaction in the nature of, or amounting to, a loan or extension of credit, including a lease, made by or obtained by or from a **policyholder** or **fund**;

- b) any note, account, invoice, agreement or other evidence of debt, assigned or sold by or to, or discounted or otherwise acquired by a **policyholder** or **fund**; or
- c) any payments made or withdrawals from a **policyholder** or **fund** customer's account involving an uncollected item and any other similar transaction.

19.52

Loss means the total amount which an **insured** becomes legally obligated to pay on account of a **claim** or **investigation**. **Loss** includes, but is not limited to:

- a) damages, judgments, settlements and adverse costs orders;
- b) **defence costs**;
- c) **extortion costs**
- d) **extradition costs**;
- e) **public relations expenses**;
- f) **bail bond expenses**;
- g) **deprivation of assets expenses**;
- h) **prosecution costs**;
- i) **investigation costs**;
- j) **court attendance costs**; or
- k) pecuniary penalties awarded against an **insured person** in and under the laws of the jurisdiction of Hong Kong, provided that **we** are not legally prohibited from paying such pecuniary penalties.

Loss does not include:

- i) fines or penalties (whether civil or criminal) which are uninsurable at law in the jurisdiction in which the **claim** was brought or the laws which govern this **policy**;
- ii) any amount which **we** are legally prohibited from paying;
- iii) taxes, except those payable under the Insured Person Tax Liability Endorsement (if applicable);
- iv) the past and future economic loss of an **employee**;
- v) any costs of reinstating an **employee**;
- vi) any **employee related benefits** or **benefits**;
- vii) the remuneration of any **insured**, the cost of their time or costs or overheads of any **policyholder**; or
- viii) any costs and expenses of any kind associated with i)-vii) above.

19.53

Loss investigation costs means the reasonable fees, costs and charges of an accountant or **loss investigator** retained to assist the **policyholder** in providing **us** with a **proof of loss** under this **policy**. **Loss investigation costs** do not include any internal overheads, time costs, profit margins, internal staff costs, wages or salaries or the **policyholder** incurred in order to provide a **proof of loss**.

19.54

Loss investigator means a suitably qualified external consultant, who is not an **insured** and who is retained to assist the **policyholder** in providing **us** with a **proof of loss**.

19.55

Mitigation costs means the reasonable and necessary costs and expenses incurred by the **policyholder** in taking such action to mitigate an **insured's** exposure to any actual covered **claim** or potential **claim** which would otherwise be covered under **insuring clause 1** (Professional Indemnity).

Mitigation costs does not include:

- a) internal and overhead expenses of the **policyholder** or a **fund**, including wages and time costs;
- b) **employment related benefits**;
- c) an increase in liability against an **insured**, which is caused as a direct result of an **insured** attempting to mitigate a **claim** or potential **claim**; or
- d) any costs not authorised by **us**.

19.56 **Money** means either local or foreign currency, coins, bank notes, cheques, traveller's cheques, registered cheques, postal orders, money orders or bullion.

Money includes crypto-currencies (including Bitcoin) but does not include crypto-currencies (including Bitcoin) where it is legally prohibited.

19.57 **New fund** means any **fund** (including sub-funds and **subsidiaries** of sub-funds) sponsored or established by the **policyholder** during the **insurance period**, provided that:

- a) the **new fund** is not regulated by the United States of America's Securities and Exchange Commission or a **fund** offered for the benefit of residents of the United States of America, or a partnership or corporation organised under the laws of the United States of America;
- b) the **new fund's** investment strategies are not materially different in nature to those of the existing **fund's** investment strategies as provided in the **proposal**; and
- c) the **new fund's** total gross assets are less than 25% of the total funds under management of the **policyholder**.

We may, at **our** discretion, agree to provide coverage where the **new fund** fails to meet any one of the above conditions if:

- i) the **policyholder** has notified **us** of the acquisition or creation of the **new fund** and has provided all information requested by **us**; and
- ii) any terms imposed by **us**, including the charging of any additional premium considered appropriate, have been agreed by the **policyholder**.

19.58 **New subsidiary** means a subsidiary (including subsidiaries of subsidiaries), which becomes a **subsidiary** during the **insurance period**, provided that such entity, at the date of acquisition or creation:

- a) has total gross assets of less than 25% of the consolidated total gross assets of the **principal organisation** at the inception date of this **policy**; or
- b) has total gross assets under management of less than 25% of the consolidated total gross assets under management of all **insured entities** at the inception date of this **policy**; or
- c) is not incorporated, domiciled in or providing **investment services** in the United States of America and is not registered as an investment advisor with the United States Securities and Exchange Commission; or
- d) the new **subsidiary's** business activities are not materially different in their nature to those of the **insured entities** as provided in the **proposal**.

We may, at **our** discretion, agree to provide coverage where the **new subsidiary** fails to meet any one of the above conditions if:

- i) the **policyholder** has notified **us** of the acquisition or creation of the entity or **new subsidiary** and has provided all information requested by **us**; and
- ii) any terms imposed by **us**, including the charging of any additional premium considered appropriate, have been agreed by the **policyholder**.

19.59 **Non-executive director** means a **director** who serves on behalf of the **policyholder**, **fund** or **outside entity** in a non-executive capacity and is not engaged in the day to day affairs of the **policyholder**, **fund** or **outside entity**.

- 19.60** **Not for profit organisation** means any entity which has a written constitution which prohibits the distribution of profits or assets amongst its members during the lifetime of the entity or upon its winding up.
- 19.61** **Ordinance** means any:
- a) any Ordinance enacted by the Legislative Council;
 - b) any Ordinance adopted by virtue of Article 160 of the Basic Law of as a law of the Hong Kong Special Administrative Region;
 - c) any subsidiary legislation made under such Ordinance except any such subsidiary legislation which has pursuant to Article 160 of the Basic Law been declared to be in contravention of the Basic Law; and
 - d) any provision or provisions of any such Ordinance or subsidiary legislation
- in the Hong Kong Special Administrative Region other than those excluded under Exclusion 18.1 (Certain Ordinance) and subject to the definition of **loss**.
- 19.62** **Officer** means any chief executive officer, chief operations officer, chief financial officer, company secretary, general counsel, responsible officer or an **employee** who is concerned in, or takes part in, the management of the **policyholder** regardless of the name that is given to their position.
- 19.63** **Official body** means any regulator, government or administrative body or agency, official trade body, professional body or self regulatory body legally empowered to investigate the affairs of the **policyholder**, **fund**, **outside entity**, unincorporated joint venture or the conduct of an **insured person** in their insured capacity.
- 19.64** **Official detention** means the confinement of an **insured person** in secure custodial premises, operated by or on behalf of a government or judicial agency in connection with a **claim** against such **insured person** where final adjudication of the **claim** has not yet been determined.
- 19.65** **Outside entity** means:
- a) any **not for profit organisation**;
 - b) any entity named in the **proposal** in which the **principal organisation** or **fund** owns on, before or after the inception of the **insurance period**, up to 50% of issued and outstanding voting shares; or
 - c) any entity which has been listed by Endorsement to this **policy**.
- 19.66** **Outside entity executive** means a natural person who is an **employee**, **director** or **officer** of the **policyholder**, who serves at the specific request of the **policyholder** as a **director**, **officer**, trustee, governor or equivalent of an **outside entity**.
- 19.67** **Policy** means this policy wording, the **schedule**, the **proposal** and any Endorsement(s) attaching to and forming part of the **policy** either at commencement or during the **insurance period**.
- 19.68** **Policyholder** means the entity or entities specified in Item 2 of the **schedule** and any **subsidiaries**.
- 19.69** **Pollution** means any substance, solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance or contaminant including, but not limited to asbestos, lead, smoke, vapours, dust, vapour, fibre, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste materials. Waste materials include, but are not limited to, recycled, reconditioned or reclaimed materials.
- 19.70** **Premises** means the interior of any building or buildings occupied by the **policyholder** in conducting its **investment services**.
- 19.71** **Principal organisation** means the entity or entities specified in Item 2 of the **schedule**. **Principal organisation** does not include any **subsidiaries** or **outside entities**.
- 19.72** **Proof of loss** means documented evidence that the **policyholder** has sustained a **direct financial loss**. A **proof of loss** can include the following; however these items should not be seen as limiting the information which could form part of the **proof of loss**:
- a) the name of the entity claiming under the **policy**, and details of their relationship to the **policyholder**;
 - b) the policy number of the **policy**;

- c) the name of the alleged **employee** or **third party** (if known);
- d) a description of the events which led to the **discovery** of the **direct financial loss**;
- e) a chronology of all relevant facts known;
- f) a description of the alleged **employee** or **third party's** modus operandi;
- g) statutory declarations from witnesses to the **internal crime** or **external crime**;
- h) documentary evidence to support that the **policyholder** has sustained a **direct financial loss**, including but not limited to: receipts, bank statements, requisitions, invoices, cash receipts, cheques or cheque butts;
- i) photographs, video or closed circuit television footage of the **internal crime** or **external crime** occurring;
- j) any internal investigation reports;
- k) police report(s) and/or any statement(s) made to the police;
- l) a signed confession;
- m) any other document or other form of evidence which may be relevant to the proof of a **direct financial loss** or quantification of a **direct financial loss**.

19.73 **Promissory note** means an unconditional promise in writing by one person to another signed by the maker agreeing to pay, on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person or to the bearer.

19.74 **Property** means:

- a) **money**;
- b) any **document**;
- c) any **securities**;
- d) all other negotiable and non negotiable instruments or contracts representing money or other property (real or personal); or
- e) physical media upon which electronic **data** are stored and recorded.

19.75 **Proposal** means each and every signed proposal form; including the declarations, statements and representations therein, its attachments and all other information which is either submitted to **us** in hard copy or electronic format or incorporated in the proposal form by reference.

19.76 **Prosecution costs** means any reasonable fees, costs and expenses incurred by an **insured person** with our prior written consent (which will not be unreasonably withheld or delayed), to bring legal proceedings:

- a) in respect of a **claim**, to obtain the discharge or revocation of:
 - i) a temporary or permanent disqualification of such **insured person** from managing a corporation (including as a senior manager or responsible officer) during the **insurance period**; or
 - ii) a judicial order entered during the **insurance period** imposing:
 - (a) confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of such **insured person**;
 - (b) a charge or security interest over real property or personal assets of such **insured person**;
 - (c) restriction of such **insured person's** liberty to a specified domestic residence or **official detention**; or

- (d) deportation of an **insured person** following revocation of otherwise current and valid immigration status for any reason other than such **insured person's** conviction of a crime.
- b) in respect of an **investigation**, to obtain injunctive relief where an **insured person** alleges an **official body** is acting or proposes to act beyond power or in breach of the rules of natural justice during the course of an **investigation**.

19.77 **Public relations expenses** means the reasonable fees, costs and expenses of a public relations firm or consultant, or crisis management firm, or law firm retained by an **insured** with **our** prior written consent (which will not be unreasonably withheld or delayed) to prevent or limit adverse effects or negative publicity in respect of:

- a) a **claim**;
- b) an **investigation**;
- c) a **crisis**;
- d) an **internal crime**; or
- e) an **external crime**;

covered by this **policy**.

19.78 **Retired insured person** means any **director** or **officer** who ceases to hold such office prior to the expiry of the **insurance period**, other than by reason of a **transaction** or the insolvency, liquidation, receivership or administration of the **policyholder**.

19.79 **Schedule** means the schedule attached to this **policy** or any **schedule** subsequently substituted for it during the **insurance period** and duly signed, stamped and dated by an authorised representative of **us**.

19.80 **Securities** means a bond, debenture, note, share, preference share, warrant, option, **promissory note** or other equity, debt or hybrid security.

19.81 **Securities claim** means:

- a) a written demand for monetary damages or non-pecuniary relief;
- b) a civil proceeding or counter-claim commenced by the service of a writ, complaint, summons, statement of claim, or similar originating process;
- c) an alternative dispute resolution proceeding, a formal administrative or regulatory proceeding including any arbitration, mediation, conciliation or other alternative dispute resolution proceeding commenced in writing; or
- d) a criminal proceeding commenced in writing;

alleging a **wrongful act** in connection with the purchase or sale of, or offer to purchase or sell **securities** of the **principal organisation**.

19.82 **Single employer fund** means any single employer superannuation fund established for the benefit of **employees**. **Single employer fund** does not include any self-managed, industry or master superannuation funds.

19.83 **Subsidiary** means:

- a) any legal entity in which the **principal organisation** owns or controls, directly or indirectly, more than 50% of the outstanding **securities** or voting rights of the **principal organisation** representing the present right to vote for election of directors; or any entity which is deemed to be the **principal organisation's** subsidiary under any applicable legislation, law or International Accounting Standard.
- b) any legal entity that ceases to be a **subsidiary** of the **principal organisation** during the **insurance period** or prior to commencement of the **insurance period**, provided that the cover will only apply in respect of a **wrongful act** that occurred whilst the entity was a **subsidiary** of the **principal organisation**, or a **direct financial loss** which is **discovered** whilst the entity was a **subsidiary** of the **principal organisation**.

- c) any legal entity which is created or acquired by the **policyholder** during the **insurance period**, provided that the legal entity:
 - i) has total gross assets which are less than 25% of the total gross assets of the **policyholder**; or
 - ii) has gross annual turnover of less than 25% of the total gross annual turnover of the **policyholder**; or
 - iii) has total gross assets which are less than 25% of the total gross assets of the **policyholder** in the United States of America or Canada.

The cover provided in this **policy** will only apply in respect of a **wrongful act** occurring after the date of creation or acquisition, or a **direct financial loss** which is **discovered** after the date of creation or acquisition of such **subsidiary**.

19.84 **Territorial limits** means anywhere in Hong Kong unless otherwise agreed by us.

19.85 **Theft** means the unlawful taking by a person of the **policyholder's property, money or securities**.

19.86 **Third party** means any legal or natural person other than:

- a) an **insured person or employee**; or
- b) a person acting in collusion with an **employee**; or
- c) a person who has a proprietary interest in the **policyholder**.

19.87 **Trading** means trading or other dealings in **securities**, contracts for difference, commodities, futures, options, swaps, foreign or federal funds, currencies, foreign exchange and the like.

19.88 **Transaction** means any one of the following events:

- a) the **principal organisation** consolidates with or merges into or sells all or substantially all of its assets to any other person or entity or group of persons and/or entities acting in concert other than another **policyholder** or **fund**;
- b) any person or entity, whether individually or together with any other person or persons, entity or entities becomes entitled to exercise more than 50% of the rights to vote at general meetings of the **principal organisation** or control the appointment of directors who are able to exercise a majority of votes at Board meetings of the **principal organisation**;
- c) the merger, consolidation or other combination of any **fund** with any other unrelated fund not currently covered under this **policy** but only in relation to such **fund**;
- d) the investment advisor and/or the **policyholder** ceasing to provide **investment services** to a **fund** but only in relation to such **fund** and only to the extent that such **investment services** relate to such fund;
- e) the appointment of an administrator, receiver, receiver and manager or liquidator to the **policyholder**;
- f) the voluntary winding up and deregistration of the **principal organisation**.

19.89 **Trustee** means an **insured** if validly appointed to act, and while acting in the capacity, as a trustee of a **single employer fund**.

19.90 **Trustee breach** means a **wrongful act** committed or allegedly committed:

- a) by an **insured person** in their capacity as a **trustee**, or as a **director** or **officer** of the **policyholder** acting as corporate **trustee**; or
- b) by any other person for which an **insured person** referred to in (a) above is legally liable;

but only in respect of the administration of a **single employer fund**.

19.91 **We/Us/Our** means DUAL Underwriting Agency (Hong Kong) Limited as agent of the Insurer MSIG Insurance (Hong Kong) Limited.

19.92

Wrongful act means any actual or alleged breach of an **ordinance**, duty, breach of trust, breach of fiduciary duty, neglect, error, omission, misstatement, misleading statement, or other act, error or omission, committed or attempted by:

- a) for the purposes of Insuring Clauses 2.1 to 2.4 an **insured person**, individually or otherwise, in their insured capacity as an **insured person** and includes an **employment practices breach** or a **trustee breach**; or
- b) for the purposes of Insuring Clause 2.5 only, a **policyholder**, in connection with the purchase or sale of, or offer to purchase or sell, **securities** of the **policyholder**; or
- c) for the purposes of Insuring Clauses 3.1 and 3.2 only, a **policyholder** in connection with an **employment practices breach**; or
- d) for the purposes of Insuring Clauses 5.1 and 5.2 only, an **insured** in their capacity.

PART F: CLAIMS CONDITIONS

CLAIMS CONDITIONS APPLYING TO ALL INSURING CLAUSES

20.1 Notification – Claims Made and Notified (All Insuring Clauses except Insuring Clause 4 Crime)

To the extent that the **policy** is a claims made and notified **policy**, the **policyholder** and/or any **insured** will notify **us** in writing of any **claim** or **investigation** or other relevant circumstance, which may trigger this **policy** as soon as is reasonably practicable after they first became aware of such circumstance and within the **insurance period**.

The written notice should include the following, so far as is reasonably practicable and so far as the relevant **insured** is aware:

- a) the identity of the claimant if relevant;
- b) an outline of the factual matrix; and
- c) an estimate of the likely quantum of any **loss**.

The notice must be delivered to:

Claims Department
DUAL Underwriting Agency (Hong Kong) Limited
Suite 2103, 21/F
Fu Fai Commercial Centre
27 Hillier Street
Sheung Wan, Hong Kong

Any written notice will be considered effective from the date such notice is first received by **us**.

20.2 Notification – Discovery (Insuring Clause 4 Crime)

To the extent that a **policy** is **discovery** based, the **policyholder** must give written notice to **us** of any **direct financial loss** it suspects was caused by an **internal crime** or **external crime** as soon as practicable within the **insurance period** or **discovery period** (if a **discovery period** is operable and has been purchased) but in any event not later than 60 days after any **loss** is first discovered.

The written notice should include the following, so far as is reasonably practicable and so far as the relevant **insured** is aware:

- a) the identity of the defalcator, if known;
- b) an outline of the factual matrix; and
- c) an estimate of the likely quantum of any **loss**.

The notice must be delivered to:

Claims Department
DUAL Underwriting Agency (Hong Kong) Limited
7/F, Grand Millennium Plaza,
181 Queen's Road
Central, Hong Kong

Any written notice will be considered effective from the date such notice is first received by **us**.

20.3 Co-operation

- a) The **insured** must, at the **insured's** own cost, frankly and honestly provide **us** with all information, documentation, evidence and assistance reasonably required by **us** and/or any lawyers, investigators or other professionals, who may be appointed by **us**.
- b) The **insured** must, at their own cost, do all things reasonably practicable to minimise any **loss**, including but not limited to the **insured's** liability in respect of any **claim**.
- c) Each **insured** must provide **us**, at their own cost, with all information, assistance and co-operation which **we** reasonably require, and in the event of a **claim** or potential **claim**, each **insured** agrees that they will not do anything that could potentially prejudice **our** position or **our** potential or actual rights of recovery.
- d) No **insured** may settle any **claim** or incur any **defence costs** or assume any contractual obligation or admit any liability with respect to any **claim** without **our** written consent.

20.4 Allocation

Our liability under this **policy** is limited to the proportion of **loss**, which is a fair and equitable allocation as between:

- a) covered and uncovered parties; and/or
- b) covered and uncovered matters;

having regard to the relative legal and financial exposures attributed to the covered and uncovered matters and/or parties. Only **loss** incurred by covered parties in relation to covered matters will be covered by this **policy**, and is subject always to the terms and conditions of this **policy**.

We will use **our** best endeavours to agree with the **insured** upon a fair and equitable allocation of the proportion covered under this **policy**, having regard to the relative legal and financial exposures attributable to covered and uncovered matters and/or parties.

If an allocation cannot be agreed then it will be determined by a suitably qualified Senior Counsel to be mutually agreed upon or, in default of agreement, to be nominated by the then President of the Bar Association of the jurisdiction in which the **policy** was underwritten. The Senior Counsel will make a determination as an expert based on the relative legal and financial exposures attributable to covered and uncovered matters and/or parties. Submissions made to the Senior Counsel will be in writing.

Pending Senior Counsel's determination **we** will meet the **loss** on an interim basis at the percentage, which **we** contend should be fairly and equitably allocated. After the allocation has been determined or agreed, such allocation will be applied retrospectively. The parties agree to be bound by the Senior Counsel's determination. The costs of any referral for determination to a Senior Counsel under this clause will be borne by **us**.

20.5 Legal Representation and Settlement

With respect to **insuring clause 2** (Directors' & Officers' Liability), it will be the duty of the **insured** to defend **claims** and arrange for legal representation at **investigations**.

With respect to **insuring clause 1** (Professional Indemnity), **insuring clause 3** (Employment Practices Liability) and **insuring clause 5** (Statutory Liability and Supplementary Legal Expenses), it will be **our** duty and not the duty of the **insured** to defend **claims** and arrange for legal representation at **investigations**.

The **insured** will not admit liability, settle any **claim**, make any admission, offer any payment or assume any obligation in connection with any **claim** or **investigation**, incur any **defence costs**, **investigation costs** or other **loss** covered by this **policy**, without **our** prior written consent, which will not be unreasonably withheld or delayed.

We will not be liable for any settlement, **defence costs** or other form of **loss**, admission, offer, payment or assumed obligation to which **we** have not given **our** prior written consent. However, where an **insured** has a statutory obligation to notify an **official body** of facts or circumstances, this clause will not apply.

We will have the right and will be given the opportunity to associate with each **insured** and participate in the defence of any **claim** or **investigation** including the negotiation and settlement of a covered **claim**.

With respect to any **claim** or **investigation** involving more than one **insured**, the **insureds** agree that **we** have the right to require such **insureds** to retain separate legal representation.

If **we** are of the view that a **claim** or **investigation** may not exceed the deductible, **we** may require the **insured** to conduct the defence of the **claim** or **investigation**.

20.6 Presumptive Indemnification

Where the **principal organisation** is not prohibited by law from indemnifying an **insured person** and is not insolvent, then it is agreed that the **principal organisation** will indemnify the **insured person** for all **loss**. In the event that a **deductible** applies, the **principal organisation** will pay the **deductible** directly to **us** and **we** will pay the **insured person's loss** on their behalf.

20.7 Order of Payments

If the payment of **loss** in respect of a covered **claim** under a **policy** where such **loss** in the aggregate exceeds the remaining available **indemnity limit**, **we** will:

- a) first pay such **loss** for which the **principal organisation** does not indemnify an **insured person**; then
- b) to the extent of any remaining amount of the **indemnity limit** available after payment under 20.7 (a) above, pay such **loss** for which coverage is provided under any other provision of this **policy**.

We will otherwise pay **loss** covered under this **policy** in the order in which such **loss** is presented to **us** for payment.

If a **loss** or **direct financial loss** can be covered under more than one **insuring clause**, then **we** will assess coverage in the following order of priority:

1. firstly, **insuring clause 1** (Professional Indemnity);
2. secondly, **insuring clause 2** (Directors' & Officers' Liability);
3. thirdly, **insuring clause 3** (Employment Practices Liability);
4. fourthly, **insuring clause 4** (Crime Protection); then
5. finally, **insuring clause 5** (Statutory Liability & Supplementary Legal Expenses).

20.8 Subrogation & Recoveries

Where **we** have paid any amount of **loss** or **direct financial loss** under the **policy**, **we** become entitled to assume any rights available to the **insured** against any party to the extent of **our** payment. On **our** request, the **insured** will assign all rights of recovery against any person or entity, but only to the extent that payment has been made under the **policy**.

The **insured** must, at its own cost, assist **us** and provide information as **we** may reasonably require, to exercise **our** rights of recovery and/or subrogation. This may include providing and signing statements and other documents and the giving of evidence.

Where a recovery is made, the proceeds of such a recovery will be applied as follows:

- a) firstly, to the satisfaction of all costs incurred in effecting the recovery;
- b) secondly, to the **insured** for the amount of **loss** in excess of the **indemnity limit** specified in the **schedule** which is also in excess of any excess insurance purchased over this **policy**;
- c) thirdly, to **us** and any excess insurers amounts paid under the **policy** and such excess policies;

- d) finally, to the **insured** for the amount paid in respect of the **deductible**.

PART G: GENERAL CONDITIONS

GENERAL CONDITIONS APPLYING TO ALL INSURING CLAUSES

21.1 Interpretation

Words and phrases appearing in bold text and where used in a **policy**, have the meaning defined in that **policy** or **policies** purchased by the **policyholder** as shown in the **schedule**.

To the extent that there are any inconsistencies between the **policy** and this General Conditions Section, the terms and conditions contained in the **policy** will prevail.

In the **policy**:

- a) the singular includes the plural and the masculine includes the feminine; and
- b) the headings are for descriptive purposes only; and
- c) in the event that any portion of the **policy** is found to be invalid or unenforceable, the remainder will remain in full force and effect.

21.2 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, administration or liquidation;
- b) the **insured** failing to pay debts as and when those debts become due;
- 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 **investment services**.

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.

If during the **insurance period** a **transaction** occurs then the cover under the **policy** will only apply to **wrongful acts, internal crime** or **external crime** committed prior to the effective date of the **transaction**.

If, during the **insurance period**, the **policyholder** decides to make a public offering of its securities in any jurisdiction the **policyholder** must provide **us** with any prospectus or offering statement for **our** review and assessment. **We** will be entitled to amend the terms and conditions of any **policy** and/or charge an additional premium reflecting any potential increase in exposure, which **we** deem reasonable.

If a **fund** raises additional capital above 25% of the **fund's** total funds under management at the time of the commencement of the **insurance period**, **we** reserve the right to charge such additional premium as we deem necessary and alter the terms of this **policy** as **we** see fit.

21.3 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**.

21.4 Cancellation

The **policyholder** 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**.

If a **claim** and/or circumstance has been notified to **us** under this **policy**, **we** will be entitled to the entire

premium and no refund of premium will be made. If the **policyholder** withdraws such **claim** and/or circumstance then the **policy** may be cancelled and **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 within 60 days.

21.5 Several Liability

The subscribing Insurers' obligations under Contracts of Insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

21.6 Territorial Scope

Unless otherwise stated in the **schedule** and subject to General Condition 21.7 (Jurisdictional Limitation), the cover provided under this **policy** will extend to **loss** with respect to a **claim** or **investigation** brought and maintained anywhere in the world and any **direct financial loss** which is **discovered** anywhere in the world.

21.7 Jurisdictional Limitation

Unless otherwise stated in the **schedule**, cover provided under this **policy** extends to **loss** with respect to a **claim** or **investigation** brought and maintained anywhere in the world, except within the territorial limits of the United States of America or Canada or their respective territories or protectorates or to enforce any judgment, order or award obtained in or determined under the laws of the United States of America or the Canada or their territories or protectorates.

21.8 Governing Law

The **policy** is governed by the laws of the Hong Kong Special Administrative Region where the **policy** was issued.

Any dispute or difference arising out of this policy shall first be referred to mediation at the Hong Kong International Arbitration Centre (HKIAC) and dealt with in accordance with HKIAC Mediation Rules. If the mediation is abandoned by the mediator or is otherwise concluded without the dispute or difference being resolved, then such dispute or difference shall be referred to arbitration at HKIAC and in accordance with HKIAC Domestic Arbitration Rules. Each party shall bear its own costs regardless of the outcome of the mediation. All other costs and expenses shall be borne equally by the parties and the parties shall be jointly and severally liable to pay to the mediator such costs.

Any dispute or difference arising out of this policy which is referred to arbitration at the HKIAC will be dealt with in accordance with HKIAC Domestic Arbitration Rules in force when the Notice of Arbitration is submitted. The parties shall jointly designate one arbitrator and the arbitration proceedings shall be conducted in English. All costs and expenses shall be borne equally by the parties and the parties shall be jointly and severally liable to pay to the arbitrator such costs.

21.9 Indemnity Limit

The **schedule** will indicate the **indemnity limit** applicable to each **insuring clause**. **We** will have no liability in excess of the sub-limits specified in the **schedule** in the aggregate for the applicable Extension of cover, irrespective of the number of **insuring clauses**, which respond to the **claim** or **investigation**, **internal crime** or **external crime**.

Where more than one Extension applies, **we** will apply the higher of the sub-limits or **indemnity limit** available.

21.10 Deductible

- a) **Our** liability under this **policy** for **loss** will only apply to that part of each **loss**, **defence costs** and **legal representation costs** which is in excess of the **deductible** specified in the **schedule**. Such **deductible** will be borne by the **insured**, except where otherwise provided.
- b) Unless otherwise expressed in the **schedule**, all **deductibles** are inclusive of **defence costs** and/or **investigation costs** and/or **loss** to the amount of the **deductible**.
- c) Except as otherwise stated in the **policy**, costs and expenses incurred by **us** in determining whether **we** are liable to indemnify the **insured** under the **policy** will not erode the **indemnity limit** and will be met by **us**.

- d) For the purposes of determining the **deductible(s)** applicable to any **claim(s)** covered by the **policy**, all **claims** arising from the same act, error or omission, or related acts, errors or omissions, shall be regarded as one **claim**.

21.11 Severability, Non-Imputation and Non-Avoidance

No state of mind or knowledge possessed by any one **insured person** will be imputed to any other **insured person** for the purpose of determining whether any provision in this **policy** applies. However, any state of mind or knowledge possessed by any past or present chairman of the board, chief executive officer, chief operating officer or chief financial officer of the **policyholder** or any **subsidiary** will be imputed to the **policyholder**.

We agree not to rescind or avoid this **policy** in whole or in part, for any misrepresentation in the **proposal** or for any non disclosure (whether such misrepresentation is innocent, negligent, fraudulent or otherwise).

In the event of fraudulent misrepresentation or fraudulent non disclosure which would otherwise entitle **us** to avoid or rescind the **policy**, **we** will only reduce **our** liability under the **policy** in respect of such **insureds** who were involved in or were aware of the fraudulent non disclosure or fraudulent misrepresentation.

21.12 Preservation of Right to Indemnity

In the event and to the extent that the **policyholder** has not indemnified an **insured person** but is legally permitted or required to do so in respect of a **claim** or **investigation**, but for whatever reason, refuses to do so, then **we** will pay on behalf of the **insured person** any **loss** arising from the **claim** or **investigation** within the **deductible** and the applicable **deductible** will be paid by the **policyholder** to **us**.

21.13 Other Insurance

This **policy** will only cover **loss** to the extent that the amount of such **loss** is in excess of any indemnity or cover available to the **insured** in respect of that **loss** under any other insurance policy/policies. The **insured** must advise **us** of the other insurance policy/policies at the time of making a **claim** under the **policy** and provide **us** with details of other insurance.

21.14 Currency

Any reference to premium, **indemnity limits**, **deductibles**, **loss**, **defence costs**, **legal representation costs** or any other amounts payable by **us** under this **policy** are expressed and are payable in the currency as referenced in the **schedule** of the **policy**. Where any payment is to be made into an admitted foreign jurisdiction, such payment is to be made and denominated in the currency referenced in the **schedule** of the **policy** at the cash rate for the purchase of the currency referenced in the **schedule** of the **policy** set by the currency conversion website, Oanda.com or if it has ceased to be current, a currency conversion website selected by **us** as at 4.00 pm on the date which the foreign payment becomes due.

21.15 Confidentiality

The **insured** must not disclose, either personally or through any person or entity acting on the **insured's** behalf or at the **insured's** direction, to any **third party**:

- a) the existence of this **policy**;
- b) the nature of the indemnity provided;
- c) the **indemnity limit** or any sub-limit; or
- d) the amount of premium paid for the **policy**.

However, the **insured** may disclose the above matters to the extent that:

- i) the **insured** is required to do so by law; or
- ii) **we** consent to the disclosure in writing.

21.16 Rights of Third Parties

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

GENERAL CONDITIONS APPLYING ONLY TO INSURING CLAUSE 4: CRIME PROTECTION

22.1 Proof of Loss

Following **discovery** and subsequent notification of a **direct financial loss** to **us**, the **policyholder** must:

- a) provide **us** with affirmative **proof of loss** with full particulars within 6 months of the **direct financial loss** being first **discovered**; and
- b) provide **us** with all requested information and documents and co-operate with **us** in all matters pertaining to the **direct financial loss**.

20.2 Valuation of Loss

With respect to any **direct financial loss** covered under this **policy**, **we** are not liable for more than:

- a) the actual market value of **securities, money** or **property** at the close of business on the day the **direct financial loss** was first **discovered** (determined by the Securities and Future Commission (SFC)), or the actual cost of replacing the **securities, money** or **property**, whichever is less.
- b) the actual cash value of other tangible property (not referred to in (a) above) at the close of business on the day the **direct financial loss** was first **discovered**, or the actual cost of replacing the property with property of like quality or value, whichever is less.
- c) 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** furnished by the **policyholder** in order to reproduce books of account and other records for any **direct financial loss** covered under Extension 11.2 (Computer Crime Costs).
- d) the cost of labour for the actual transcription or copying of electronic **data** furnished by the **policyholder** in order to reproduce such electronic **data**.
- e) with respect to Artwork, the average valuation of 2 licensed independent artwork valuers, selected by **us**.

Appendix: Notice to customers relating to the Personal Data (Privacy) Ordinance ("the Ordinance")

MSIG Insurance (Hong Kong) Limited ("MSIG", "we" or "us") would ask that you take the time to read this privacy policy carefully. In case of discrepancies between the English and Chinese versions of this statement, the English version shall prevail.

PRIVACY POLICY

MSIG takes your privacy very seriously. To ensure your personal information is secure, we communicate and enforce our privacy and security guidelines according to the relevant laws and regulations. MSIG takes precautions to safeguard your personal information against loss, theft, and misuse, as well as against unauthorised access, disclosure, alteration, and destruction. Furthermore, we will not sell your personal information to anyone for any purposes. MSIG imposes very strict sanction control and only authorised staff on a need-to-know basis are given access to or will handle your personal data, and we provide regular training to our staff to keep them abreast of any new developments in privacy laws and regulations.

We will only retain your personal data in our business records for as long as it is necessary for business and tax purposes as permitted by the laws. We will require our agent, contractor or third party who provides administrative or other services on our behalf to protect personal data they may receive in a manner consistent with this policy. We do not allow them to use such information for any other purposes. If you have any questions or inquiries regarding our privacy policy, please feel free to contact us.

We may amend this Privacy Policy at any time and for any reason. The updated version will be available by following the 'Privacy Policy' link on our website homepage at www.msig.com.hk. You should check the Privacy Policy regularly for changes.

Personal Information Collection Statement

Personal information is data that can be used to uniquely identify or contact a single person. As our customers, it is necessary from time to time for you to supply us with your personal data in relation to the general insurance services and products ("the Product") that we provide to you and in order for us to deliver and improve the customer service. This includes but not limited to the personal data contained in the proposal form or in any documents in relation to the Product or any claim made under the Product.

Your personal data may be used for **obligatory purpose** or **voluntary purpose**. If personal data are to be used for an obligatory purpose, you MUST provide your personal data to MSIG if you want MSIG to provide the Product. Failure to supply such data for obligatory purpose may result in MSIG being unable to provide the Product.

The **obligatory purposes** for which your personal data may be used are as follows:-

- processing and evaluating your insurance application and any future insurance application you may make;
- our daily operation and administration of the services and facilities in relation to the Product provided to you;
- variation, cancellation or renewal of the Product;
- invoicing and collecting premiums and outstanding amounts from you;
- assessing and processing claims in relation to the Product and any subsequent legal proceedings;
- exercising any right of subrogation by us;
- contacting you for any of the above purposes;
- other ancillary purposes which are directly related to the above purposes;
- complying with applicable laws, regulations or any industry codes or guidelines; and
- detecting and preventing fraud (whether or not relating to the policy issued in respect of this application).

The **voluntary purposes** for which your personal data may be used are any sales, marketing, promotion of other general insurance services and products provided by MSIG. The personal data we intend to use for voluntary purposes are your name, your address, your phone number and email address.

If you do not wish MSIG to use your personal data for the voluntary purposes listed above, you should tick the box on the right and send us a copy of this Notice at the address listed below together with the required information which are necessary for us to process your opt-out request. You may also notify us by sending an email to 'dpo@hk.msig-asia.com'.

In your notification, you must supply the same required information as listed below.

To enable us to process your opt-out request, please provide us below information and send to: The Data Protection Officer at 9/F, Cityplaza One, 1111 King's Road, Taikoo Shing, Hong Kong.	
Full Name:	
Contact Number:	
HKID Number:	<i>(for identification purpose)</i>
Policy / Certificate / Acknowledgement Number (if you have one):	
NOTE: This instruction will override all previous instructions relating to direct marketing that have been given to MSIG.	

In connection with any of the above purposes, the personal data that we have collected might be transferred to:

- third party agents, contractors and advisors who provide administrative, communications, computer, payment, security or other services which assist us to carry out the above purposes (including medical service providers, emergency assistance service providers, telemarketers, mailing houses, IT service providers and data processors);
- in the event of a claim, loss adjudicators, claims investigators and medical advisors;
- reinsurers and reinsurance brokers;

- your insurance broker;
- our legal and professional advisors;
- our related companies as defined in the Companies Ordinance;
- the Hong Kong Federation of Insurers (or any similar association of insurance companies) and its members;
- the Insurance Complaints Bureau and similar industry bodies; and
- government agencies and authorities as required or permitted by law;
- fraud prevention organizations;
- other insurance companies (whether directly or through fraud prevention organization or other persons named in this paragraph);
- the police; and
- databases or registers (and their operators) used by the insurance industry to analyse and check information provided against existing information.

In order to confirm the accuracy of your personal data, you agree to provide us with authorisation to access to and to verify any of your personal data with the information collected by any federation of insurance companies from the insurance industry.

Under the relevant laws and regulations, you have the right to request access to and to request correction of your personal data held by us. If you wish to exercise these rights, please write to our Data Protection Officer at 9/F Cityplaza One, 1111 King's Road, Taikoo Shing, Hong Kong.

If you have any enquiries or require assistance with this **Personal Information Collection Statement**, please call **MSIG at (852) 3122 6922**.