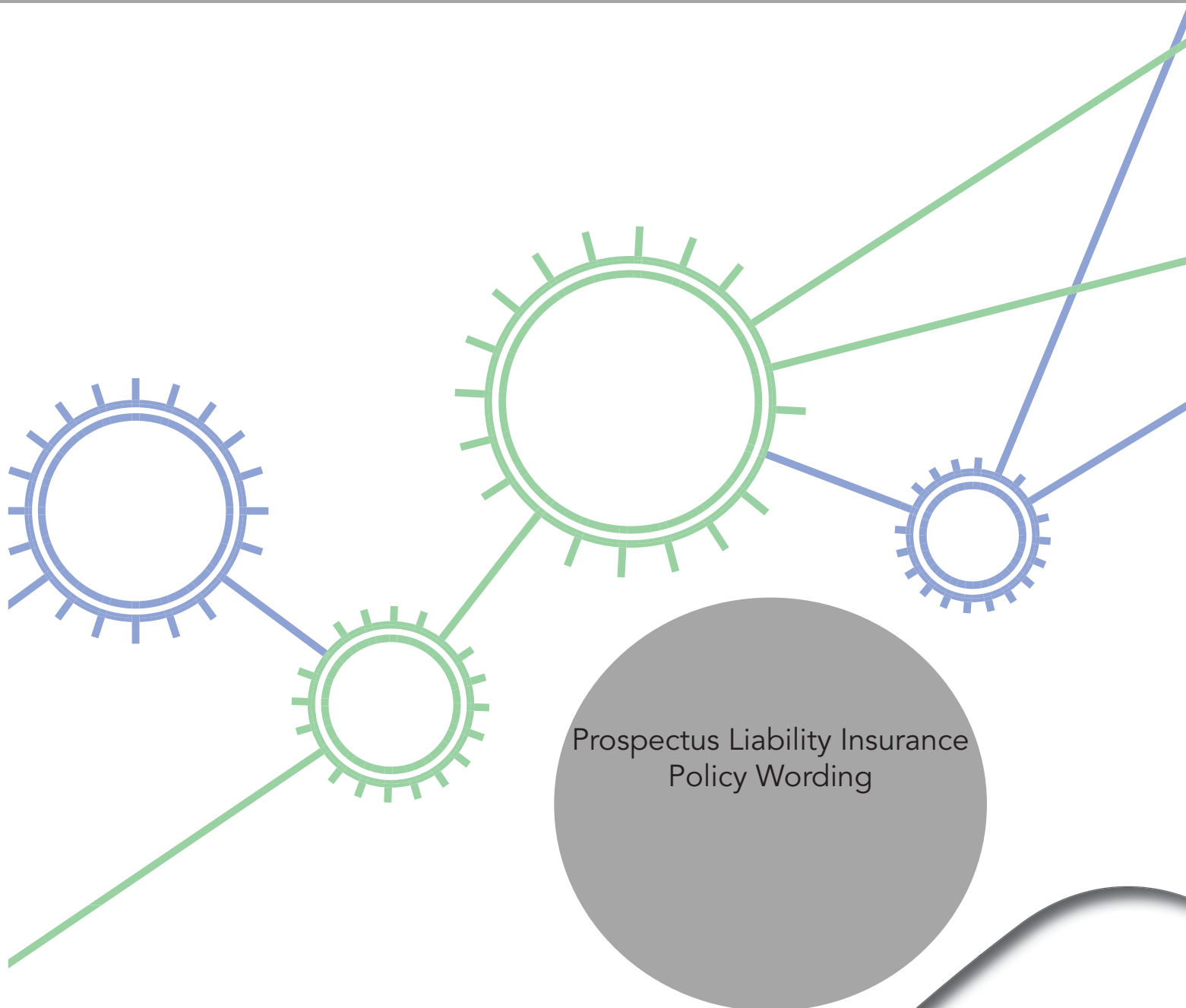




PROSPECTUS LIABILITY POLICY WORDING



Prospectus Liability Insurance
Policy Wording

Insured by



MSIG



DUAL Asia Prospectus Liability Insurance

Policy Wording

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DUAL Asia Prospectus Liability Insurance

Policy Wording

Section 1: PREAMBLE

- 1.1 We will provide the cover described in the **policy**, subject to its terms and conditions, for the **insurance period**.
- 1.2 The cover under the policy commences upon the payment of the premium unless otherwise agreed in writing.
- 1.3 Except as otherwise provided herein, this **policy** only covers **offering claims** first made against the **insured** and reported to **us** in the **insurance period**.

Section 2: INSURING CLAUSES

2.1 Individual

We will pay **loss** incurred by **you** in respect of any **offering claim** first made against **you** during the **insurance period**.

2.2 Company Reimbursement

If the **policyholder** pays **loss** on your behalf in respect of any **offering claim** first made against **you** during the **insurance period** then **we** will pay such **loss** on behalf of the **policyholder**.

2.3 Entity Coverage

We will pay **loss** incurred by the **policyholder** arising from any **offering claim** first made during the **insurance period**.

2.4 Underwriter Reimbursement

If the **policyholder** and/or **you** pays **loss** on behalf of the **underwriter** in respect of any **offering claim** first made during the **insurance period** pursuant to the **policyholder** or **your** obligations assumed within the **underwriting agreement** then **we** will pay such **loss** on behalf of the **policyholder** and/or **you**.

2.5 Controlling Shareholder

We will pay **loss** incurred by a **controlling shareholder** arising from any **offering claim** first made against that **controlling shareholder** during the **insurance period**.

2.6 Selling Shareholder

We will pay **loss** incurred by a **selling shareholder** arising from any **offering claim** first made against that **selling shareholder** during the **insurance period**.

Section 3: EXTENSIONS

These Extensions to coverage apply automatically and are subject to the Insuring Clauses and all other terms and conditions of this **policy**.

The maximum amount payable by **us** under the Extensions below is the applicable sub-limit of liability specified in Item 6 of the **schedule**. This sub-limit is part of and not in addition to the **indemnity limit**.

A separate **deductible** will apply under these Extensions as specified in Item 6 of the **schedule**. The **deductible** is inclusive of **costs**, unless otherwise specified in the **schedule**.

3.1 Advancement of Costs

We agree to pay for **costs** in respect of any **offering 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 **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 **costs** will cease.

However any **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 **costs**.

3.2 Attendance at Investigations

We agree to pay to or on behalf of the **insured** any **legal representation costs** resulting directly from the attendance by the **insured** at any **investigation** in connection with an **offering claim**. This Extension applies only if:

- a) the **insured** is legally compelled to attend the **investigation**;
- b) the notice or process requiring the **insured** to attend or answer questions is first served during the **insurance period**;
- c) the **insured** notifies **us** during the **insurance period** that the **insured** is legally compelled to attend the **investigation**;
- d) **our** consent is obtained before the **legal representation costs** are incurred; and
- e) at **our** option, **we** can nominate the legal advisers to represent the **insured**.

3.3 Bail Bond

We agree to pay in respect of an **offering claim** made against **you** in any other jurisdiction for:

- a) any bail bond premium or civil bond premium in respect of any proceedings to prohibit **you** from holding the office of a director or of proceedings to deport **you** or to restrict **your** liberty to a specified domestic property;
- b) the reasonable fees, **costs** and expenses incurred by **you** in respect of any proceedings to confiscate property or to suspend or freeze **your** rights of property ownership of either real or personal property or to impose a charge over **your** real property or personal property; or
- c) the reasonable fees, **costs** and expenses incurred by **you** in respect of any proceedings to prohibit **you** from holding the office of a director or of proceedings to deport **you** or to restrict **your** liberty to a specified domestic property.

3.4 Breach of Privacy

We agree to pay to or on behalf of the **insured** in respect of an **offering claim** all **loss** arising from 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** in relation to the issuance of the **particulars**.

3.5 Court Attendance Costs

We agree to pay to or on behalf of the **insured** any **court attendance costs** of **yours** where **you** are legally compelled to and does attend Court as a witness in an **offering claim** covered by this **policy**.

3.6 Emergency Costs

Notwithstanding General Condition 6.2(c) (Co-operation) and General Condition 6.4 (Legal Representation and Settlement), if **our** written consent cannot reasonably be obtained before **costs** are incurred by an **insured**, **we** will pay those **costs** if the **insured** obtains **our** consent within 30 days of the date that the first of those **costs** were incurred.

If **we** subsequently determine that there is no entitlement under the **policy** for any **costs** that **we** have paid under this clause, the **insured** must repay those amounts to **us** immediately.

3.7 Fraud and Dishonesty for Innocent Parties

Notwithstanding Exclusion 4.3 (Fraud and Dishonesty), but subject to all other terms and conditions of this **policy**, **we** agree to pay to or on behalf of the **insured** all **loss** resulting from any **offering claim** for a **wrongful act** made against the **insured**, provided that **we** will not provide cover to any **insured** committing or condoning any act, omission or breach.

3.8 Interpretive Counsel

We agree to pay to or on behalf of the **policyholder**:

- a) the reasonable **costs**, fees and expenses incurred by **you** in appointing counsel in the jurisdiction in which **you** are based to interpret any advice received from counsel in a foreign jurisdiction for a **wrongful act** in response to an **offering claim** made in that jurisdiction; and
- b) the reasonable **costs** of any translation needed to obtain such advice.

Provided that **you** must obtain **our** consent before appointing any such counsel.

3.9 Mitigation Costs

You or the **policyholder** may request advice in relation to any **circumstance** notified in accordance with this **policy** as to **your** legal position in relation to the same and in relation to any steps that might be taken or be appropriate to avert or minimise the risk of an **offering claim** arising from such **circumstance**.

We agree to pay the **cost** of obtaining any such advice from a lawyer retained by **you** or the **policyholder** with **our** consent. Any such **cost** will not be regarded as part of the **costs** of any subsequent **offering claim**.

The sub-limit applicable to this cover is in addition to the **indemnity limit** for this **policy**.

3.10 Non Executive Directors Additional Indemnity Limit

In the event that the **indemnity limit** under the **policy** has been exhausted during the **insurance period** by **offering claims** or **loss** for which **we** have agreed to indemnify, the **indemnity limit** will be reinstated in the same amount once only per non executive director.

Cover for this Extension will be conditional upon the following:

- a) this additional cover is only available to a non executive director who has not been involved in any **offering claim** or **offering claims** during the **insurance period**;
- b) the total of **our** aggregate liability for all such additions shall not exceed a further 100% of the aggregate **indemnity limit** under this **policy**;
- c) this additional cover will only operate in excess of the total indemnity available under any other policies in excess of this **policy** or of any other cover available to the individual director for the **offering claim** for which indemnity is sought;
- d) provided that the non executive director by whom the additional **indemnity limit** is sought is not directly or indirectly involved in any **wrongful act** or **offering claim** under this **policy** that was responsible for or contributed to any **offering claim** or **offering claims** which was responsible for the erosion of the **indemnity limit** on an individual or aggregate basis; and
- e) all other terms, conditions, Exclusions and limitations of the **policy** shall continue to apply in the same manner, in respect of any **offering claim** or **loss** to which the reinstated **indemnity limit** applies.

3.11 Public Relations

We agree to pay to or on behalf of the **policyholder** all **public relations expenses** incurred by the **policyholder** with **our** prior written consent in connection with an **incident** in order to prevent or minimise the risk of an **offering claim** which would be covered under the **policy**, or in connection with an **incident** that results in an **offering claim** covered under the **policy**.

Cover under this Extension is conditional upon the **insured** providing us with full written details of the **incident** no later than 30 days after the **insured** first becomes aware of the **incident**. The **incident** must occur and be reported during the **insurance period**.

The **incident** must occur outside of the USA/Canada.

Section 4: EXCLUSIONS

We will not cover the **insured** for **loss, costs, legal representation costs** or other amounts, in respect of:

4.1 Asbestos

any **offering claim** or **investigation** arising from or directly or indirectly attributable to or in consequence of:

- 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.

4.2 Deliberate Acts

any **offering claim** or **investigation** arising from or directly or indirectly attributable to or in consequence of any act or failure to act:

- a) intended by the **insured**; or
- b) that would be expected from the standpoint of a reasonable person in the circumstances of the **insured**;

to cause injury or damage, even if the actual injury or damage is of a different degree or type than intended or expected.

4.3 Fraud and Dishonesty

any **loss** on account of any **offering claim** arising from or directly or indirectly attributable to or in consequence of:

- 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.

4.4 Pollution

any **offering claim** or **investigation** arising from or directly or indirectly attributable to or in consequence of the actual, alleged or threatened discharge of **pollutants**.

4.5 Prior Known Facts

any **offering claim** or **investigation** arising from or directly or indirectly attributable to or in consequence of:

- 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 **offering claim**;
- b) actual or alleged facts which could have been, or which can be notified under any similar insurance policy existing prior to the commencement of the **insurance period**;

- c) pending or prior litigation, or 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**; or
- 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**.

4.6 Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic weapons

any **offering claim** or **investigation** arising from or directly or indirectly attributable to or in consequence of any:

- 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; or
- e) any chemical, biological, bio-chemical or electromagnetic weapon.

4.7 Sanctions Limitation

any **offering claim** or **investigation** or provision of any benefit hereunder to the extent that the provision of such cover, payment of such **offering 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.

4.8 SEC

any **offering 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.

4.9 Underwriter Professional Indemnity

any **offering claim** or **investigation** based upon, arising from or attributable to:

- a) an **underwriter** carrying out, or failing to carry out a professional service; or
- b) any actual or alleged breach of duty owed in connection with professional service.

4.10 War and Terrorism

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**.

Section 5: DEFINITIONS

In the **policy**:

- 5.1** **Circumstance** means a specific situation, the details of which should be provided to **us** where there is:
- an intimation of an **offering claim** against any **insured**;
 - any known direct or indirect criticism or dispute whether expressed or implied relating to **your** performance (whether justified or not) which may give rise to an **offering claim** against any **insured**;
 - any awareness that **you** have or should reasonably be expected to have of a failing of **your** performance or of any act which may give rise to an **offering claim** against any **insured**.
- 5.2** **Controlling shareholder** means the persons or entities named in Item 7 of the **schedule**.
- 5.3** **Costs** means all reasonable fees, including disbursements, incurred by **you** or on **your** behalf in the **investigation**, mitigation, defence, adjustment and appeals of any **offering claim** or in the mitigation or **investigation** of any **circumstance** provided that **we** have consented in writing to **you** incurring such **costs** before they are incurred. **We** will not unreasonably withhold that consent.
- Costs** does not include overhead or benefit expenses associated with **your** salary, wages or fees.
- 5.4** **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 **you** are legally obliged to attend such Court or Tribunal.
- 5.5** **Data** means:
- information such as text, numbers, sounds and images that can be processed by any form of electronic device; or
 - 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**.
- 5.6** **Deductible** means the amount specified in Item 5 of the **schedule** or otherwise specified in any Extension to this **policy**.
- 5.7** **Employee** means any person employed by the **policyholder** under a contract of service or apprenticeship during or prior to the commencement of the **insurance period**.
- 5.8** **Incident** means an event in the **insurance period** which causes the **insured's** reputation and skill to be brought into question.
- 5.9** **Indemnity limit** means the amounts specified in Item 4 of the **schedule**.
- 5.10** **Insurance period** means the period specified in Item 3 of the **schedule**.
- 5.11** **Insured** means:
- the **policyholder**;
 - you**;
 - any **controlling shareholder**; or
 - any **selling shareholder**.
- 5.12** **Investigation** means any official investigation, examination, inquiry or other proceedings ordered or commissioned by any **official body** or institution empowered by law to investigate the affairs of the **policyholder**.

5.13 **Legal representation costs** means reasonable legal fees, **costs** and expenses incurred with **our** prior written consent (which will not be unreasonably withheld or delayed) by or on behalf of an **insured** in:

- a) preparing for, attending or producing documents to an **investigation**; or
- b) responding to a raid on, or on-site visit to, any **insured** by an **official body** that involves the actual or possible production, review copying or confiscation of files or interviews of any **insured**.

Legal representation costs does not include the remuneration of any **insured**, the cost of their time or overheads of any **insured**.

5.14 **Loss** means:

- (a) damages, judgement awards, settlement awards and costs;
- (b) punitive or exemplary damages or civil fines or penalties but only where these are legally insurable in the jurisdiction in which an **offering claim** is made.

Loss does not include any of the following:

- (i) criminal fines or penalties;
- (ii) taxes; or
- (iii) matters which are uninsurable in the jurisdiction where an **offering claim** is made.

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

5.16 **Notification** means written notice of any **offering claim** given to **us** by any **insured** within the **insurance period**.

5.17 **Offering** means the offering of **securities** as detailed within the **particulars**.

5.18 **Offering claim** means:

- a) any written demands made against any **insured** for monetary damages or other relief, including non-pecuniary relief arising from a **wrongful act**;
- b) any allegation of a **wrongful act** communicated to any **insured**;
- c) any criminal, civil or arbitration proceedings (including extradition proceedings) against any **insured** relating to a **wrongful act**; or
- d) any regulatory or administrative proceedings or any other **investigation** with regard to any allegation of a **wrongful act** committed by any **insured**.

Any number of **offering claims** which arise out of or are attributable to or are in any way connected with a single **wrongful act** shall constitute a single **offering claim** for the purposes of this **policy**.

5.19 **Officer** means any past, present or future:

- a) partner, principal, director or secretary of the **policyholder**; or
- b) person who makes or participates in making decisions that affect the whole, or a substantial part, of the business of the **policyholder**.

5.20 **Official body** means any regulator, government or administrative body or agency, official trade body or self regulatory body legally empowered to investigate the affairs of the **policyholder** or the conduct of an **insured** in their **insured** capacity.

5.21 **Particulars** means:

- a) the documents specified in Item 9 of the **schedule**, submitted with and forming part of the **proposal** (including any offering or placement memoranda, prospectuses, circulars, offering statements or documents of similar character or use and any supplements or amendments to such documents), which have been duly filed with the appropriate regulatory and/or stock exchange authorities; or

- b) any draft or preliminary prospectus (or any equivalent document in any jurisdiction) to the disclosure documents specified in Item 9 of the **schedule**; and
- c) the statements made by any **insured** in any **road show**.

5.22 Policy means this **policy** wording, the **schedule**, the **proposal** and any Endorsement attaching to and forming part of the **policy** either at commencement or during the **insurance period**.

5.23 Policyholder means the organisation specified in Item 2 of the **schedule**.

5.24 Pollutants means any contaminant whether solid, liquid or gas including but not limited to chemicals, smoke, vapours and fumes.

5.25 Proposal means the **proposal** form, submission and all other supporting documentation and attachments provided to **us** in the application for this **policy**.

5.26 Public relations expenses means any reasonable fees, costs and expenses of a public relations consultant retained with **our** prior written consent (which shall not be unreasonably delayed or withheld). It does not include overheads, staff remuneration or management time of any **insured** or compensation or other payments made to customers, clients or potential claims or any fines and penalties.

5.27 Road show means the formal presentation given by an **insured** to investors or potential investors or analysts of the **securities** of the issuer, prior to the offering, intended to create interest in the securities of the issuer.

5.28 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**.

5.29 Securities means any security representing debt of or equity interests in the **policyholder**.

5.30 Selling shareholder means the persons or entities named in Item 8 of the **schedule**.

5.31 Underwriter means each underwriter or sponsor designated in the **particulars** that is a party to the **underwriting agreement**, and the directors, **officers** or **employees** (or equivalent positions) of such underwriter or sponsor in their capacities as such.

5.32 Underwriting agreement means the specific agreement referenced in Item 10 of the **schedule**.

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

5.34 Wrongful act means any actual or alleged error, misstatement, misleading statement, misrepresentation, omission, neglect, breach of duty, breach of warranty of authority or other act attempted or committed by any **insured** in connection with an **offering**.

5.35 You/Your means any natural person who is, was prior to or becomes during the **insurance period**:

- a) a director, **officer**, manager or trustee of the **policyholder** or the equivalent in any other jurisdiction;
- b) a shadow director of the **policyholder**, as defined in the *Companies Ordinance (Cap. 622) (HK)* (or the equivalent legislation in any other jurisdiction);
- c) an **employee** of the **policyholder**;
- d) the legal representatives, heirs, assigns or estate of a person defined in another sub-paragraph of this Definition 5.35 (**You/Your**) in the event of that person's death, incapacity, insolvency or bankruptcy;
- e) the lawful spouse or domestic partner of a person defined in another sub-paragraph of this Definition 5.35 (**You/Your**) where recovery is sought solely because joint property is held or owned by or on behalf of the spouse or domestic partner (the spouse or domestic partner, however, is not insured under this **policy** in his or her own right); or
- f) a de facto director named in the **particulars**.

You/Your does not include external auditors of the **policyholder**.

Section 6: CLAIM CONDITIONS

6.1 Notification

It is a condition precedent to cover under this **policy** that the **policyholder** and/or any **insured** must notify **us** in writing of any **offering claim** or **investigation**, or other relevant **circumstance** which may trigger this **policy** as soon as is reasonably practicable after they first become aware of such circumstance and within the **insurance period**.

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

- a) the identity of the claimant if relevant; and
- 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**.

6.2 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 **offering 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 **offering claim** or potential **offering 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 **offering claim** or incur any **costs** or assume any contractual obligation or admit any liability with respect to any **offering claim** without **our** written consent.

6.3 Allocation

Our liability under this **policy** is limited to the proportion of **loss, costs and legal representation costs**, 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, costs and legal representation costs** 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 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, costs** and **legal representations costs** on an interim basis at the percentage at which **we** contend they 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**.

6.4

Legal Representation and Settlement

Unless otherwise specified in a **policy**, it will be **our** duty and not the duty of the **insured** to defend **offering claims** and arrange for legal representation at **investigations**.

The **insured** will not admit liability, settle any **offering claim**, make any admission, offer any payment or assume any obligation in connection with any **offering claim** or investigation, incur any **costs, legal representation 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, **costs** or other form of **loss**, admission, offer, payment or assumed obligation to which **we** have not given **our** prior written consent.

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

With respect to any **offering 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.

6.5

Order of Payments

If the payment of **loss, costs** and **legal representation costs** in respect of a covered **offering 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 **policyholder** does not indemnify an **insured**; then
- b) to the extent of any remaining amount of the **indemnity limit** available after payment under 6.5(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.

6.6

Subrogation & Recoveries

Where **we** have paid any amount of **loss, costs** and **legal representation costs** 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** must 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, costs** and **legal representation costs** 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**.

Section 7: GENERAL CONDITIONS

The following General Conditions apply to all **policies** purchased and shown as having been purchased in the **schedule**.

Each **policy** purchased is to be read and interpreted as a separate contract of insurance with its own separate **indemnity limit**, unless specified otherwise in the **schedule**.

7.1 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.

7.2 Assignment

The **insured** must not assign the **policy** or any rights under the **policy** without **our** prior written consent by way of Endorsement to the **policy**.

7.3 Cancellation

We have the right to cancel the **policy** if the premium has not been paid within 60 days.

The **policyholder** does not have the right to cancel the **policy** except in the event of non payment of premium.

7.4 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.

7.5 Territorial Scope

Unless otherwise stated in the **schedule** and subject to General Condition 7.6 (Jurisdictional Limitation), cover provided under this **policy** extends to anywhere in the world.

7.6 Jurisdictional Limitation

Unless otherwise stated in the **schedule**, cover provided under this **policy** extends to **loss** with respect to a **offering 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.

7.7 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.

7.8 Indemnity Limit

- a) Subject to any Extension of coverage which states otherwise, **our** total liability under the **policy** in respect of any one **offering claim** or **investigation**, and in the aggregate for all **offering claims** and **investigations** for all **insureds**, will not exceed the **indemnity limit** inclusive of all **loss**.
- b) The **schedule** will indicate the **indemnity limit** applicable to each **policy**. If more than one **policy** has been purchased, the **schedule** will also indicate the aggregate **indemnity limit** for all policies which have been purchased by the **policyholder**.
- c) **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 **policy** sections, which respond to the **offering claim** or **investigation**. In such circumstances, **we** will apply the higher of the sub-limits or **indemnity limit** available.
- d) For the purposes of determining the **indemnity limit** available for each **offering claim** covered by the **policy**, all **offering claims** arising from the same act, error or omission, or related acts, errors or omissions, shall be regarded as one **offering claim**.

7.9 Deductible

- a) **Our** liability under this **policy** for **loss** will only apply to that part of each **loss**, **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 **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 **offering claim(s)** covered by the **policy**, all **offering claims** arising from the same act, error or omission, or related acts, errors or omissions, shall be regarded as one **offering claim**.

7.10 Severability, Non-Imputation and Non-Avoidance

No state of mind or knowledge possessed by any one **insured** will be imputed to any other **insured** 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** 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.

7.11 Preservation of Right to Indemnity

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

7.12 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 **offering claim** under the **policy** and provide **us** with details of other insurance.

7.13

Currency

Any reference to premium, **indemnity limits, deductibles, loss, 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.

7.15

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) (HK)* to enforce any of its terms.

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**.