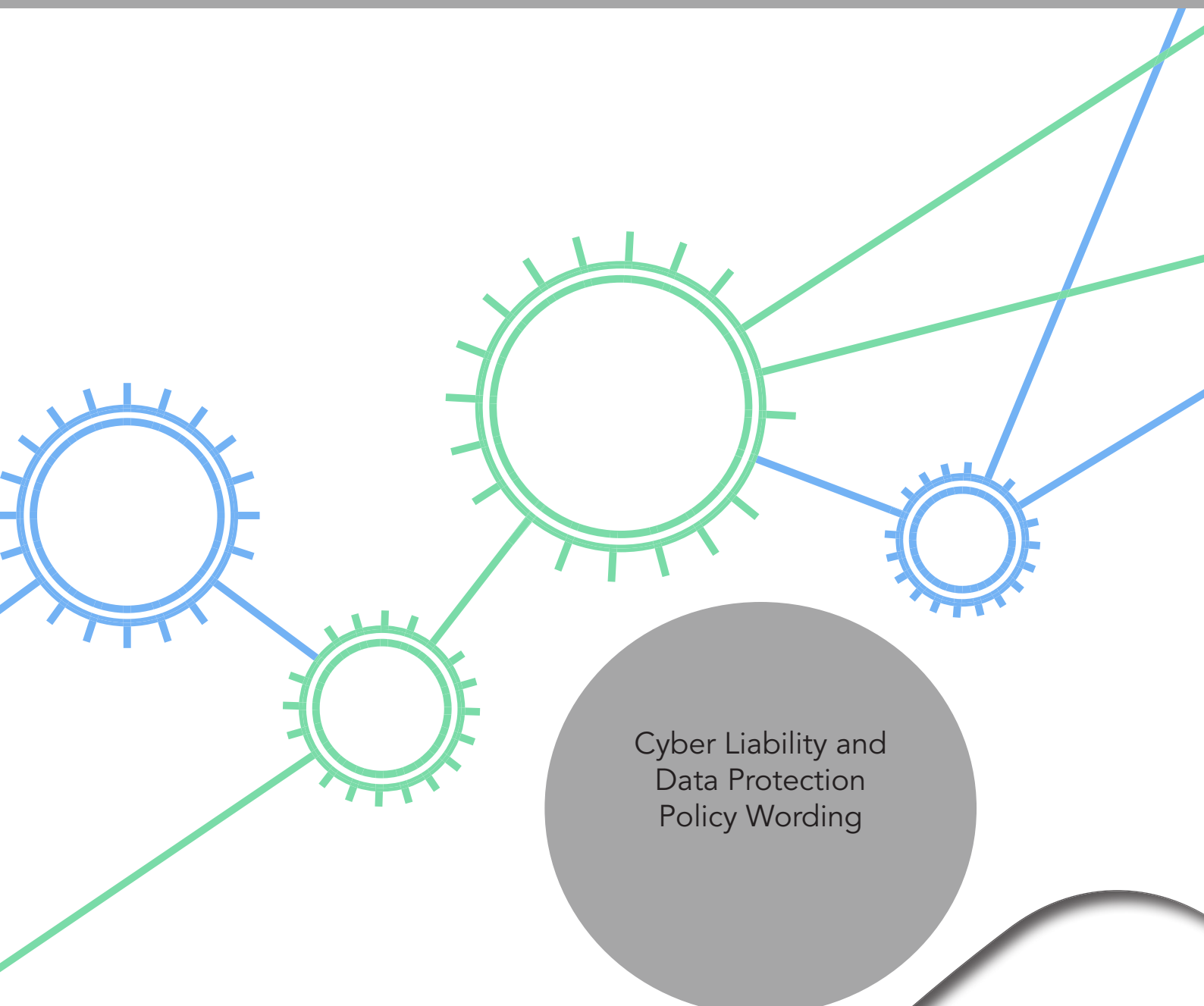




making relationships count

# CYBER LIABILITY & DATA PROTECTION WORDING



Cyber Liability and  
Data Protection  
Policy Wording

Insured by



**MSIG**



**DUAL Asia Cyber Liability and Data  
Protection Insurance Policy Wording**

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# DUAL Asia Cyber Liability and Data Protection 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 **loss** in respect of **claims** first made against the **insured** and reported to **us** in the **insurance period**.

### Section 2: INSURING CLAUSES

- 2.1 We agree to pay to or on behalf of the **insured** in excess of the applicable **deductible** or **waiting period** and subject to the **retroactive date** the following:
- a) **loss** in respect of any **claim** first made against the **insured** and reported to **us** during the **insurance period**;
  - b) **business interruption loss** resulting from a **business interruption event** first occurring during the **insurance period**;
  - c) **remediation costs** incurred by the **insured** following an actual or threatened **data liability event**, **media liability event** or **network security event** discovered and reported to **us** during the **insurance period**;
  - d) **loss** in respect of any **claim** first made against the **insured** resulting from a **media liability event** and reported to **us** 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**.

#### 3.1 Continuous Cover

Notwithstanding Exclusion 4.10 (Prior Known Facts), **we** agree to provide cover in respect of any **claim** made against the **insured** in the **insurance period**, where the **insured**:

- a) first became aware, prior to the **insurance period**, that a **claim** might or could arise from facts or circumstances known to it; and
- b) had not notified **us** of such facts or circumstances prior to the **insurance period**

Provided that

- i) **we** were the Cyber Liability and Data Protection insurer of the **policyholder** when the **insured** first became aware of such facts or circumstances and have continued, without interruption to be the **policyholder's** Cyber Liability and Data Protection insurer until this **policy** came into effect; and
- ii) there has not been any fraudulent non-disclosure or fraudulent misrepresentation by an **insured** in respect of such facts or circumstances; and

- iii) **we** have the 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**.

## Section 4: EXCLUSIONS

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

### 4.1 Asbestos

Any **claim** 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 Associates

- a) any **claim** by, on behalf of or for the benefit of any **insured**; or
- b) any **claim** by, on behalf of or for the benefit of any **subsidiary**; or
- c) any **claim** by, on behalf of or for the benefit of any **family member** of the **insured**, unless the **family member** is acting without any prior direct or indirect solicitation or co-operation from the **insured**;

irrespective of the capacity in which the claim is brought.

### 4.3 Bodily Injury

Any **claim** arising from or directly or indirectly attributable to or in consequence of the death of, or bodily injury or illness to, any person, however this Exclusion shall not apply to mental anguish or mental injury as a result of a **data liability event**, **media liability event** or **network security event**. For the avoidance of doubt, **data** in any electronic format is not tangible property.

### 4.4 Deliberate Acts

Any **claim** or **loss** 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; however this Exclusion does not apply in respect of **unauthorised access** by employees.

### 4.5 Directors and Officers

Any **claim** arising from or directly or indirectly attributable to or in consequence of an actual or alleged breach by the **insured** acting in the capacity of a director, secretary or officer of a body corporate.

### 4.6 Electromagnetic

Any **claim** or **loss** arising from or directly or indirectly attributable to or in consequence of any **electromagnetic field**, **electromagnetic radiation** or **electromagnetism**.

### 4.7 Employment Practices Liability

Any **claim** arising from or directly or indirectly attributable to or in consequence of any employment or prospective employment of any past, present, future or prospective **employee** of the **insured**.

#### 4.8 Financial

Any **claim** or **loss** arising from or directly or indirectly attributable to or in consequence of:

- a) the insolvency, bankruptcy, receivership, administration or financial failure of any **insured** or the subcontractors or agents of the **policyholder**; or
- b) the failure to provide, effect or maintain any bond or any form of insurance.

#### 4.9 Fraud and Dishonesty

Any **claim** or **loss** arising from or directly or indirectly attributable to or in consequence of:

- a) any actual or alleged act or omission by an **insured** or any of their consultants, sub-contractors or agents which was reckless, fraudulent, dishonest, malicious or criminal.
- b) any wilful breach of any statute, regulation, contract or duty by an **insured** or any of their consultants, sub-contractors or agents.

This Exclusion will only apply where it is established by an admission of such **insured**, consultant, sub-contractor or agent or by a judgment, award, finding or other adjudication of a court, tribunal, commission, or arbitrator that such conduct did in fact occur.

#### 4.10 Prior Known Facts

Any **claim** or **loss** 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 **claim**; or
- 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**; or
- 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**.

#### 4.11 Property Damage

Any **claim** arising from or directly or indirectly attributable to or in consequence of the loss or destruction of, or damage to, any tangible property. For the avoidance of doubt, **data** in any electronic format is not tangible property.

#### 4.12 Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons

Any **claim** or **loss** arising from or directly or indirectly attributable to or in consequence of:

- a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or
- b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or
- c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
- 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.

#### 4.13 Sanctions Limitation

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

#### 4.14 Upgrading

Any costs arising from or directly or indirectly attributable to or in consequence of the upgrading or betterment of any application, system or network of the **insured**.

#### 4.15 Utility

Any **claim** or **loss** arising from or directly or indirectly attributable to or in consequence of any failure or outage in, or disruption of power, utility services, satellites, or telecommunications external services not under the direct operational control of the **insured**.

#### 4.16 War and Terrorism

Any **claim** or **loss** or **business interruption loss** arising from or directly or indirectly attributable to:

- 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.

For the purposes of this Exclusion, terrorism does not include cyber extortion (including ransomware), any generic, non-targeted-virus or any distributed denial of service (DDOS).

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 **Business interruption event** means:

- a) **unauthorised access**; or
- b) any damage to or unavailability of the **insured's data** and/or programs, or any system outage, network interruption or degradation of the **insured's network** caused by a **network security event** or **unauthorised access**.

### 5.2 **Business interruption loss** means the **insured's** loss of net income (net profit or loss before income taxes) plus the expenses necessary to maintain the operation, including payroll; functionality or service of the **insured's business**, as the result of a **business interruption event**:

- a) after the **waiting period**;
- b) during the system outage, network interruption or degradation of the network;
- c) until the date on which the **insured's** network is restored to the same or equivalent condition, functionality and service that existed prior to the **loss**, however not exceeding 4 months from the date on which the outage, interruption or degradation first occurred, such period not to be limited by the expiration of the **insurance period**.

**Business interruption loss** shall also include **remediation costs** and costs to avoid or mitigate the effects of a system outage or network interruption, discover and minimise such interruption or degradation of the network, preserve evidence and substantiate the **insured's** loss.

**5.3 Claim** means:

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

first made against the **insured** during the **insurance period** in relation to a **data liability event**, **media liability event** or a **network security event**.

**5.4 Credit monitoring costs** means reasonable fees, costs and expenses for the monitoring services of identity or credit theft including the purchase of identity theft insurance for a period of 12 months from the date of any **data liability event**, **network security event**, or **business interruption event** or as required by any legislation.

**5.5 Cyber extortion costs** means reasonable fees, costs and expenses and monies paid with **our** prior consent to meet, terminate or mitigate any credible threat of a **business interruption event**, **data liability event** or **network security event** resulting from an actual or attempted extortion by a third party.

**5.6 Data** means any electronic or non-electronic forms of **data** held by the **insured**, or **data** held on behalf of the **insured** by either an outsourcer, or cloud service provider for which the **insured** is legally liable.

**5.7 Data liability event** means:

- a) the loss or suspected loss of any third party non-public **data** or information for which the **insured** is legally responsible, on a network owned or operated by an **insured**; or the network of an outsourcer or cloud service; or
- b) the breach of any privacy legislation worldwide by the **insured** or person or entity, for whom the **insured** is legally responsible.

**5.8 Data restoration costs** means reasonable fees, costs and expenses for the restoration and/or replacement of **data** and/or programs that have been lost or damaged, and costs to prevent, minimise, or mitigate any further damage and preserve critical evidence of criminal or malicious wrongdoings. These costs include the cost of purchasing replacement licenses for programs where necessary.

**5.9 Deductible** means the amount stated in Item 6 of the **schedule**.

**5.10 Defence costs** means all necessary and reasonable fees, expenses, costs and disbursements incurred in investigating or defending a **claim** covered by the **policy**.

**5.11 Electromagnetic field** means any field of force that is made up of associated electric and magnetic components.

**5.12 Electromagnetic radiation** means any succession of electromagnetic waves.

**5.13 Electromagnetism** means magnetism that is developed by a current of electricity.

**5.14 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**.

**5.15 Family member** means an **insured's**:

- a) legal or de facto spouse, domestic partner or companion; or
- b) parent, or the parent of the **insured's** legal or de facto spouse, domestic partner or companion; or
- c) children and children of (a) and (b) above; or
- d) siblings.

**5.16 Forensic costs** means reasonable fees, costs and expenses to investigate the cause, scope and extent of any **data liability event**, **business interruption event** or **network security event**.

**5.17 Indemnity limit** means the amount specified in Item 5 of the **schedule**.

- 5.18** **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 conduct of the **insured's business**.
- 5.19** **Insurance period** means the period specified in Item 4 of the **schedule**.
- 5.20** **Insured** means:
- a) the **policyholder**; and
  - b) any **subsidiary** if the **policyholder** is incorporated; and
  - c) any **insured person**.
- 5.21** **Insured business** mean the activity(ies) specified in Item 3 of the **schedule**.
- 5.22** **Insured person** means any former, present or future principal, partner, director or **employee** of the person, partnership, company, **subsidiary** or other entity specified as the **policyholder** in Item 2 of the **schedule**, but only while acting in the conduct of the **insured's business**.
- 5.23** **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** or **insured person** in obtaining legal advice or representation to protect the **insured's** interests.
- Legal representation costs** shall also include the costs associated with the **investigation**, adjustment and defence of regulatory proceedings.
- Legal representation costs** does not include the remuneration of any **insured**, the cost of their time or overheads of any **insured**.
- 5.24** **Loss** means judgments, settlements, awards, and costs, including, without limitation, damages, consumer redress funds, fines, penalties and punitive and exemplary damages in respect of a **claim**.
- Loss** shall also include **defence costs**, **legal representation costs**, **business interruption loss** and **remediation costs**.
- Notwithstanding the above, **loss** shall not include any amount which is uninsurable according to the law applicable to the **claim**. Enforceability of this paragraph shall be governed by such applicable law that most favours coverage.
- 5.25** **Malware** means any code designed to:
- a) erase or corrupt **data**; or
  - b) damage or disrupt any network or system; or
  - c) circumvent any network security product or service.
- 5.26** **Material** means media content, advertising and written, printed, video, electronic, digital, or digitalised content of:
- a) broadcasts, including broadcasts via television, motion picture, cable, satellite television, radio, wireless devices or the internet; or
  - b) publications, including publications via newspaper, newsletter, magazine, book and other literary, monograph, brochure, directory, music, directories, electronic, screen play, film script, playwright and video publications publishing including the researching, preparation, serialisation, exhibition or distribution of publishing materials; or
  - c) advertising, graphic design, design of logos or trademarks, purchasing of advertising time and space, market research, public relations, direct mailing, design of games, competitions or special offers.
- 5.27** **Media liability event** shall include the costs associated with a **loss** arising out of an actual or alleged act, error, misstatement, misleading statement or omission by an **insured** in connection with the collection, creation, release, printing, broadcasting, or distribution of **material** that results in:
- a) an infringement of copyright, title, slogan, trademark, trade name, infringement of domain name; or
  - b) plagiarism, piracy or misappropriation or theft of ideas; or



- c) any false light, public disclosure of private facts, defamation committed without malice by reason of words written, spoken or broadcasted, including without limitation, emotional distress or mental anguish in connection with such conduct; or
- d) an intrusion, invasion of privacy, wrongful entry or eviction, trespassing or eavesdropping.

**5.28 Network Security Event** means:

- a) the negligent or inadvertent transmission or receipt of any **malware**; or
- b) negligent or inadvertent failure to secure the **insured's** computer system or network that results in **unauthorised access**; or
- c) the hacking of the **insured's** telephone system by a third party; or
- d) fraudulent electronic communications or websites by a third party intended to impersonate the **insured** and/or the **insured's** product.

**5.29 Notification costs** means reasonable fees, costs and expenses in respect of notifying any natural person or legal entity whose **data** or information has been or may have been lost.

**5.30 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**.

**5.31 Policyholder** means the organisation or natural person specified in Item 2 of the **schedule**, and any **subsidiary**.

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

**5.33 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.

**5.34 Remediation costs** means any of the following:

- a) **credit monitoring costs**;
- b) **cyber extortion costs**;
- c) **data restoration costs**;
- d) **forensic costs**;
- e) **legal representation costs**;
- f) **notification costs**;
- g) **public relations expenses**

incurred by the **insured**.

**5.35 Retroactive date** means the date specified in Item 7 of the **schedule** but no earlier than the commencement of the **insured's business** specified in the **schedule**.

**5.36 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**.

**5.37 Subsidiary** means any entity which by virtue of any applicable legislation or law is deemed to be a **subsidiary** of the **policyholder** or in which the **policyholder** owns or controls, directly or indirectly greater than 50% of the issued voting shares of such entity.

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

- a) the **policyholder** consolidates with or merges into or sells all or a controlling interest in its assets to any other person or entity or group of persons and/or entities acting in concert;

- 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 **policyholder** or control the appointment of directors who are able to exercise a majority of votes at Board Meetings of the **policyholder**;
- c) the insolvency of the **policyholder**;
- d) the appointment of an administrator, liquidator, receiver, receiver and manager or court appointed manager to the **policyholder**.

**5.39** **Unauthorised access** means use of the **insured's** computer system or network infrastructure by any person or persons not authorised to do so, including **employees**. **Unauthorised access** shall also include loss associated with the unauthorised acquisition, access, use or disclosure of the **insured's data**.

**5.40** **Waiting period** means the number of hours stated in Item 8 of the **schedule**.

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

## Section 6: CLAIMS CONDITIONS

### 6.1 Notification

All notifications of a **claim** or **loss** shall be made to Charles Taylor Adjusting as soon as reasonably practicable after the **insured** has become aware of such **claim** or **loss**. The **insured** shall provide such information and documentation relating to a **claim** or **loss** to **us** or Charles Taylor Adjusting as may be reasonably required.

If **we** do not renew or replace this **policy**, other than for non-payment of premium or any other breach of the terms of this **policy** by an **insured**, the **policyholder** shall have the right to a period of 90 days following the date of cancellation or expiry in which to give notice of any covered **claim** first made against the **insured**. This shall not apply if this **policy** or its cover has been replaced.

All notifications of a **claim** or **loss** made by the **insured** to Charles Taylor Adjusting shall also be deemed a notification of a **claim** or **loss** to **us**. For the purposes of this **policy**, Charles Taylor Adjusting has been appointed as the Cyber & Privacy Incident Response Manager, in the event that a **claim** or **loss** is notified under this **policy**.

In the event of a **claim** or **loss**, please phone Charles Taylor Adjusting in the first instance on:

+852 5808 2380

Or at [cyber@ctplc.com](mailto:cyber@ctplc.com)

Charles Taylor Adjusting  
17/F OTB Building  
160 Gloucester Road  
Wanchai Hong Kong

### 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 **claim** or **loss**.
- 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 **loss** or potential **claim** or **loss**, each **insured** agrees that they will not do anything that could potentially prejudice **our** position.
- 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** prior written consent.

### 6.3

#### Allocation

**Our** liability under this **policy** is limited to the proportion of **loss, defence 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, defence 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, defence costs** and **legal representation 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 **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, 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, **defence 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 **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.

### 6.5

#### Subrogation & Recoveries

Where **we** have paid any amount of **loss, defence 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, defence 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**.

## 6.6 Business Interruption Loss Calculations

In respect of Insuring Clause 2.1b) only, in determining the amount of net profit (or net loss) and expenses covered under this **policy** for the purpose of ascertaining the amount of **business interruption loss** (and otherwise); due consideration shall be given to the prior experience of an **insured's business** before the beginning of a **business interruption event**, and to the probable business an **insured** could have performed, had no **business interruption event** occurred. Due consideration shall be taken of net profit earned arising from continuance of business activities of the **insured** at any alternative location or through any of its **subsidiary** companies. All such net profit (or net loss) and expenses shall be calculated on an hourly basis and based on such an **insured's** actual net profit (or net loss) and expenses.

## 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 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; or
- b) the **insured** failing to pay debts as and when those debts become due; or
- c) the **insured** breaching any other obligation giving rise to the appointment of a receiver or the commencement of bankruptcy or winding up proceedings; or
- d) any material change in the nature of the **insured's business**.

**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 provided by this **policy** shall be restricted so as to apply only to **claims** in respect of **business interruption events, data liability events, media liability events** or **network security events** 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.

### 7.3 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**.

#### 7.4 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 the 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.

#### 7.5 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.

#### 7.6 Territorial Scope

Unless otherwise stated in the **schedule** and subject to General Condition 7.7 (Jurisdictional Limitation), cover provided under this **policy** extends to the conduct of the **insured's business** anywhere in the world.

#### 7.7 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.

#### 7.8 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.

#### 7.9 Indemnity Limit

- a) Subject to any Extension of coverage which states otherwise, **our** total liability under the **policy** in respect of any one **claim** or **investigation**, and in the aggregate for all **claims** and **investigations** for all **insureds**, will not exceed the **indemnity limit** inclusive of all **loss**.
- b) **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 **claim** or **investigation**. In such circumstances, **we** will apply the higher of the sub-limits or **indemnity limit** available.
- c) For the purposes of determining the **indemnity limit** available for each **claim** 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**.

#### 7.10 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**.

#### 7.11 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.

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

#### 7.13 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.

#### 7.14 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.

## 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](http://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.**

<b>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.</b>	
<b>Full Name:</b>	
<b>Contact Number:</b>	
<b>HKID Number:</b>	<i>(for identification purpose)</i>
<b>Policy / Certificate / Acknowledgement Number (if you have one):</b>	
<b>NOTE: This instruction will override all previous instructions relating to direct marketing that have been given to MSIG.</b>	

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**.