



PROFESSIONAL INDEMNITY INSURANCE

For Construction Project

In consideration of payment of the premium by the **Insured** and subject to all the terms, conditions and exclusions, including all definitions, all cover under this policy is afforded solely with respect to **Claims** first made against the **Insured** during the **Policy Period** and reported to the **Insurer** as required by this policy.

1. INSURING CLAUSES

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| 1.1 | Professional Liability | The Insurer will pay on behalf of an Insured all Loss resulting from any Claim against an Insured for a civil liability arising from an Insured's Professional Services in respect of the Project . |
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2. EXTENSIONS

All cover under Defamation, Fraud/Dishonesty, and Vicarious Liability clauses is afforded solely with respect to **Claim** first made against an **Insured** during the **Policy Period** and notified to the **Insurer** as required by this policy.

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| 2.1 | Defamation | The Insurer will pay on behalf of an Insured all Loss resulting from any Claim alleging any libel, slander or defamation or injurious falsehood by the Insured in the performance of Professional Services in respect of the Project . No cover is provided under this extension where it is established by a judgment, award, finding or other final adjudication of a court, tribunal, commission or arbitrator that such Claim is arising from any intentional libel, slander defamation or injurious falsehood. |
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| 2.2 | Fraud and Dishonesty | The Insurer will pay on behalf of any Insured , who is not the actual perpetrator, all Loss resulting from any Claim for Fraud/Dishonesty of any Employee(s) of the Policyholder provided that the relevant fraudulent or dishonest conduct occurred before the date of discovery by any principal, partner or director of a Policyholder of reasonable cause of suspicion of Fraud/ Dishonesty on the part of the Employee(s) , whether or not it is possible at that date to identify the Employee(s) involved in the Fraud/Dishonesty . |
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| 2.3 | Loss of Documents | The Insurer will pay on behalf of the Insured the costs the Insured incurs with the prior written consent of the Insurer for replacing or restoring any Documents which are destroyed, damaged or after diligent search cannot be found. |
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Such destruction, damage or loss must result solely from the performance of **Professional Services** in respect of the **Project** by the **Insured** and be discovered for the first time and reported to the **Insurer** during the **Policy Period**.

The **Insurer** will not pay for any destruction, damage or loss resulting from;

- (a) Wear and tear or gradual deterioration;
- (b) Any computer virus; or
- (c) An act, error or omission committed or allegedly committed by any person who is not a director, partner or employee of the **Insured** at the time the destruction, damage or loss of such **Documents** first discovered.

This cover will be subject to a Sub-limit specified in Item 5(i) of the schedule in the aggregate during the **Policy Period**. A **Retention** specified in Item 6 (i) shall apply to this cover.

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| 2.4 | Mitigation | Where the Insured first makes a determination during the Policy Period that it has committed a Wrongful Act requiring remediation or mitigation, the Insurer will pay the reasonable and direct cost of any remediation or mitigation, provided that: |
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- (a) the **Insurer** shall during the **Policy Period** have been informed in writing of the **Wrongful Act** and the work that is required to rectify it or mitigate its consequences;

- (b) the **Insurer** shall be reasonably satisfied that an **Insured** has committed a **Wrongful Act** requiring remediation or mitigation and that such costs are necessary to prevent or reduce the amount of a **Claim** covered under the Professional Liability Cover, and that the amount of **Damages** prevented or reduced would be greater than the cost of the work;
 - (c) such costs are supported by evidence of expenditure which shall be subject to approval by a competent person to be nominated by the **Policyholder** with the consent of the **Insurer**;
 - (d) such costs shall not include any element of profit or loss of profit, nor any element of overheads, staff remuneration, standing idle time or management time of an **Insured**;
 - (e) this extension shall only apply to the extent that such mitigation costs (or part thereof) exceed the cost that the **Insured** would have incurred in carrying out the works without the relevant **Wrongful Act**; and
 - (f) the **Insurer** has consented in writing to the payment of such costs before work is carried out, such consent not to be unreasonably withheld.
- 2.5 Principal's Indemnity The **Insurer** will pay on behalf of the principal the Loss which it is legally liable to pay in respect of a **Claim** made against the principal by the **Third Party** which results directly from the **Wrongful Act** of the **Insured** in the performance of **Professional Services** in respect of the **Project**.
- For the purposes of this extension, the principal shall be deemed to be an **Insured** in the definition of **Claim**, Loss, **Damage** and **Defence Costs**.
- 2.6 Professional Inquiry The **Insurer** will pay on behalf of the **Insured** the reasonable and necessary fees, costs and expenses incurred by the **Insured** (but excluding the **Insured**'s salaries, wages, fees, commissions, awards, bonuses, travel and accommodation expenses) in preparing for and attending at any **Professional Inquiry**, provided always that;
- (a) such costs and expenses were incurred by the prior written consent of the **Insurer** which consent will not be unreasonably withheld; and
 - (b) the notice requiring the **Insured** to attend the **Professional Inquiry** is first served upon the **Insured** and reported to the **Insurer** during the **Policy Period**.
- This cover will be subject to a Sub-limit specified in Item 5(ii) the schedule in the aggregate during the **Policy Period**. No **Retention** shall apply to this clause.
- 2.7 Vicarious Liability The **Insurer** will pay on behalf of an **Insured** all **Loss** resulting from any **Claim** for any **Wrongful Act** of **Agent** who are engaged in the performance of **Professional Services** in respect of the Project.
- The **Insurer** will only pay **Loss** to the extent that an **Insured** has not waived or otherwise impaired any rights of recourse against such **Agent**.

3. DEFINITIONS

- 3.1 Agent means a natural person, or company or other entity who has or had a written contract with the **Policyholder** under which the **Policyholder** engages the natural person or company or other entity to act for or on behalf of the **Policyholder** in the performance of **Professional Services** in respect of the **Project** provided that any appointment of this Agent is subject to prior consent (if so required) of and/or prior notice to the Project Owner.
- 3.2 Bodily Injury means physical injury, sickness, disease or death of a natural person; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.
- 3.3 Claim means any:
- (a) written demand for compensation in respect of a **Wrongful Act** of an **Insured**; or
 - (b) civil, regulatory or administrative proceedings whereby a **Wrongful Act** of an **Insured** is alleged.
- 3.4 Damages means any amount that an **Insured** shall be legally liable to pay to a **Third Party** for a **Claim** in respect of judgments or arbitral awards rendered against an **Insured**, or for settlements negotiated by the **Insurer** with the consent of the **Policyholder**.

3.5	Defence Costs	means reasonable fees, costs and expenses incurred by or on behalf of an Insured , with the prior written consent of the Insurer , in the investigation, defence, adjustment, settlement or appeal of any Claim . It shall not include any element of an Insured's own time costs or lost profits incurred in dealing with a Claim .
3.6	Documents	means all documents of any nature whatsoever including computer records and electronic or digitised data in the possession or control of the Insured or the property of the Insured but does not include any currency, negotiable instruments or records thereof.
3.7	Employee	means any natural person who was, now is, or during the Policy Period becomes expressly engaged under a contract of employment with the Policyholder .
3.8	Fraud / Dishonesty	means fraudulent or dishonest conduct: <ul style="list-style-type: none"> (a) not condoned, expressly or implicitly by any principal, partner or director of the Policyholder; and (b) that results in liability of the Policyholder to any Third Party.
3.9	Insured	means the Policyholder or any Insured Person .
3.10	Insured Person	means: <ul style="list-style-type: none"> (a) any natural person, who was, now is or during the Policy Period becomes a principal, partner or director of the Policyholder in their capacity as such; (b) any Employee; (c) any spouse, civil partner, estate or legal representative of any Insured Person for Loss arising from a Claim for a Wrongful Act of such an Insured Person listed in (a), (b) above. (d) the administrator, heirs, legal representatives or executor of a deceased, incompetent, insolvent or bankrupt Insured Person's estate for Loss arising from a Claim for a Wrongful Act of such Insured Person listed in (a), (b) above.
3.11	Insurer	means the Insurer stated in the schedule.
3.12	Jurisdiction	means the territory stated in the schedule.
3.13	Legal Panel	means the firms of solicitors/lawyers appointed from time to time by the Insurer to provide representation on behalf of an Insured under this policy.
3.14	Limit of Liability	means the amount specified as such in the schedule.
3.15	Loss	means Damages or Defence Costs , however Loss shall not include and this policy shall not cover any: <ul style="list-style-type: none"> (a) taxes; (b) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages; (c) fines or penalties unless insurable by law; (d) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; (e) benefits or overheads of, or charges or expenses incurred by any Insured including but not limited to the cost of any Insured's time; (f) fees or commissions, for any Professional Services rendered or required to be rendered by an Insured or that portion of any settlement or award in an amount equal to such fees, commissions, or other compensation; or (g) any matters which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a Claim is brought.
3.16	Policy Period	means the period of time specified in the schedule.
3.17	Policyholder	means the entity specified as such in the schedule.
3.18	Pollutants	means any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including but not limited to, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste.

Such waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

3.19 Professional Inquiry means any administrative or regulatory proceeding, official investigation, inquiry or hearing into the performance of **Professional Services** in respect of the **Project** by the **Insured** which an **Insured** is legally required to attend if findings from such proceeding, investigation, inquiry or hearing could lead to a **Claim** being made against the **Insured** which may be covered under the policy.

3.20 Professional Services means one or more of the following services but only in respect of the **Project**;

- (a) design, including advice in relation to design;
- (b) drafting;
- (c) technical calculation;
- (d) technical specification;
- (e) project management;
- (f) construction management;
- (g) feasibility studies;
- (h) programming and time flow management;
- (i) quantity surveying;
- (j) surveying;
- (k) technical advice;
- (l) inspection; and
- (m) training in respect of (a) to (l) above,

provided always that it is performed only by, or under the direct supervision of, a **Properly Qualified Person** providing a professional service of a skillful character according to an established discipline appropriate to the **Professional Services** being performed or supervised.

Professional Services shall not include supervision by an Insured of its own or its subcontractors' workmanship where such supervision is no different from that which would be expected of an **Insured** if it only had a workmanship and/or a management obligation.

Professional Services shall also include the duty to warn of defects in the professional activities of others.

3.21 Project means the project specified as such in the schedule.

3.22 Properly Qualified Person means any **Insured Person** recognised and properly registered with their appropriate professional body in the territory where Project is located in as an architect, engineer, surveyor, quantity surveyor or other person having equivalent professional qualifications more appropriate to the work undertaken.

3.23 Property Damage means damage to or loss of or destruction of tangible property or loss of use thereof.

3.24 Related Claim means any **Claims** alleging, arising out of, based upon or attributable to the same facts or alleged facts, or circumstances or the same **Wrongful Act**, or a continuous repeated or related **Wrongful Act**.

3.25 Retention means the amount specified as such in the schedule.

3.26 Retroactive Date means the date specified as such in the schedule.

3.27 Settlement Value means in respect of any **Claim** covered under this policy:

- (a) the full amount claimed; or
- (b) any settlement offer from the claimant(s) which is capable of acceptance.

Where the claimant(s)' costs, if applicable, are not quantified by the claimant, the **Insurer** will also pay a reasonable sum to an **Insured** to represent these costs.

- 3.28 Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purpose including the intention to influence any government and/or to put the public or any section of the public in fear.
- 3.29 Third Party means any entity or natural person except (i) any **Insured**; or (ii) any other entity or natural person having a financial interests or executive role in the **Policyholder**.
- 3.30 Trade Secret means information that derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable through proper means by other persons who can obtain economic advantage from its disclosure or use.
- 3.31 Transaction means any one of the following events;
- (a) the **Policyholder** consolidates with or merges into or sells all or a majority of its assets to any other person or entity or group of persons and/or entities acting in concert;
 - (b) an administrator, liquidator or receiver is appointed to the **Policyholder**.
- 3.32 Wrongful Act means
- (a) any actual or alleged act, error or omission committed solely in the performance of **Professional Services**; or
 - (b) failure to perform **Professional Services** in respect of the **Project**.

4. EXCLUSIONS

The **Insurer** shall not cover **Loss** in connection with any **Claim** under this policy, including any endorsements:

- 4.1 Asbestos arising out of, based upon or attributable to the presence or release or possible release of asbestos or asbestos containing materials in whatever form or quantity.
- 4.2 Bodily Injury / Property Damage arising out of, based upon or attributable to **Bodily Injury** or **Property Damage** unless arising from an actual or alleged failure to achieve the legally required standard of care, diligence and expertise in performing **Professional Services**.
- 4.3 Fraud and Dishonesty Conduct arising out of, based upon or attributable to any:
- (a) dishonest, malicious, fraudulent, willfully reckless or criminal conduct committed or allegedly committed by the **Insured**;
 - (b) any actual or alleged payments, commissions, gratuities, bribes, political contributions, benefits or any other favours to or for the benefits of any domestic or foreign governments, government officials or agents
- This exclusion shall not apply to Fraud and Dishonesty cover.
- This exclusion will only apply where it is established by an admission of such **Insured** or by a judgment, award, finding or other adjudication of a court, tribunal, commission or arbitrator that such conduct did in fact occur.
- 4.4 Contractual Liability arising out of, based upon or attributable to any:
- (a) liability assumed or accepted by an **Insured** under any contract or agreement; or
 - (b) guarantee or warranty;
- except to the extent such liability would have attached to an **Insured** in the absence of such contractual duty, term or agreement.
- 4.5 Costs Assessment arising out of, based upon or attributable to any failure by any **Insured** or other party acting for an **Insured** to make an accurate pre-assessment of the cost of performing **Professional Services**.
- 4.6 Director's and Officer's Liability arising out of, based upon or attributable to any **Claim** made against an **Insured** in their capacity as a director, officer, trustee or partner of the **Policyholder** in respect of the performance or non-performance of their duties as a director, officer, trustee or partner of the **Policyholder**.

4.7	Employer's Liability	by any person for bodily injury, sickness, disease or death incurred, contracted or occurring whilst under a contract of service or apprenticeship with an Insured or for any breach of any obligation owed by an Insured as an employer.
4.8	Employment Practice Violation	arising out of, based upon or attributable to any act, error or omission with respect to any employment or prospective employment of any past, present, future or prospective Employee or Insured Person of any Policyholder .
4.9	Infrastructure	arising out of, based upon or attributable to: <ul style="list-style-type: none"> (a) software or mechanical failure; (b) electrical failure, including any electrical power interruption, surge, brown out or black out; or (c) telecommunications or satellite systems failure; outside the direct control of an Insured .
4.10	Insolvency	arising out of, based upon or attributable to the insolvency, liquidation, administration or receivership of the Policyholder in accordance with laws of jurisdiction where the Policyholder is registered.
4.11	Jurisdiction	arising out of, based upon or attributable to: <ul style="list-style-type: none"> (a) Legal or regulatory proceedings brought outside of the Jurisdiction; (b) The enforcement of any judgment, award or regulatory order obtained within or determined pursuant to the laws of any country or jurisdiction outside of the Jurisdiction; or (c) legal or regulatory proceedings in which the laws of any country or jurisdiction outside of the Jurisdiction are applicable even if only to a limited extent.
4.13	Manufacturing Liability	arising out of, based upon or attributable to any manufacturing defect in any product.
4.14	Patent & Trade Secret	arising out of, based upon or attributable to the breach of licences concerning infringement of or misappropriation of patents or trade secrets.
4.15	Pollution	arising out of, based upon or attributable to any direction, request or effort to: (a) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants , or (b) respond to or assess the effects of Pollutants .
4.16	Prior Claims/ Circumstances /Professional Inquiry	arising out of, based upon or attributable to: <ul style="list-style-type: none"> (a) any Claim, Professional Inquiry, criminal, regulatory or administrative proceedings, official investigation, or hearing into the performance of the Professional Services of the Insured, first made or commenced prior to the inception of this policy; or (b) circumstances of which the Insured was aware prior to the inception of this policy which may give rise to a Claim; or (c) circumstances which have been notified under any other policy or certificate of insurance prior to the inception of this policy.
4.17	Prior Acts	arising out of based upon, attributable to or in any way involving any Wrongful Act which first takes place before the Retroactive Date .
4.18	Trade Debts	arising out of, based upon or attributable to any: (i) trading debt incurred by an Insured or (ii) guarantee given by an Insured for a debt.
4.19	War/ Terrorism	arising out of, based upon or attributable to any war (declared or otherwise), Terrorism , warlike, military, terrorist or guerrilla activity, sabotage, force of arms, hostilities (declared or undeclared), rebellion, revolution, civil disorder, insurrection, usurped power, confiscation, nationalisation or destruction of or damage to property by or under the order of, any governmental, public or local authority or any other political or terrorist organisation.

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| 4.20 | Watercraft/
Aircraft and
Motor Vehicle | arising out of, based upon or attributable to the ownership maintenance, operation, possession, use, loading or unloading by or on behalf of the Insured of any watercraft, aircraft, motor vehicle or trailer. |
| 4.21 | Workmanship | arising out of defective workmanship (including without limitation, defective physical construction work, erection, installation, or repair) defective materials, defective products, or any defective materials, workmanship or production techniques used in the actual manufacture of any product. This exclusion shall not apply where such liability solely arises from the performance of Professional Services in respect of the Project . |

5. LIMIT of LIABILITY & RETENTION

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| 5.1 | Limit of Liability | <p>(a) The total amount payable by the Insurer under this policy for all Claims in the aggregate during the Policy Period shall not exceed the Limit of Liability.</p> <p>(b) Sub-limits of liability, Extensions and Defence Costs are part of that amount and are not payable in addition to the Limit of Liability.</p> <p>(c) Each sub-limit of liability specified in the policy is the most the Insurer will pay in the aggregate under this policy as Loss in respect of any insurance cover or extension to which it applies.</p> <p>(d) The inclusion of more than one Insured under this policy does not operate to increase the total amount payable by the Insurer under this policy.</p> |
| 5.2 | Other Insurance /
Indemnification | Unless otherwise required by law, cover under this policy is provided only as excess over any self-insurance or other valid and applicable insurance, unless such other insurance is written only as specific excess insurance over the Limit of Liability . This policy shall not cover Defence Costs of any Claim where another insurance policy imposes upon another Insurer a duty to defend such Claim . |
| 5.3 | Retention | The Insurer shall only pay the amount of any Loss which is in excess of the Retention . For the avoidance of doubt, the Retention also applies to Defence Costs . The Retention is to be borne by the Insured and shall remain uninsured. A single Retention shall apply to Loss arising from Related Claims . The Insurer may, in its sole and absolute discretion, advance all or part of the Retention , and, in that event, such amounts shall be reimbursed to the Insurer by the Insureds forthwith. The Loss of Documents Extension excess rather than the Retention specified in the schedule shall apply to each and every Claim solely covered by that Extension. |

6. CLAIMS

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| 6.1 | Allocation | In the event that any Claim involves both covered matters and matters or persons not covered under this policy, a fair and proper allocation of any cost of defence, damages, judgments and/or settlements shall be made between each Insured and the Insurer taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this policy. |
| 6.2 | Circumstances | <p>The Policyholder shall as soon as reasonably practicable during the Policy Period notify the Insurer at the address listed in the Claims Notifications Clause below of any circumstance of which any Insured becomes aware during the Policy Period which is reasonably expected to give rise to a Claim. The notice must include at least the following:</p> <p>(a) a statement that it is intended to serve as a notice of a circumstance of which an Insured has become aware which is reasonably expected to give rise to a Claim;</p> <p>(b) the reasons for anticipating that Claim (including full particulars as to the nature and date(s) of the potential Wrongful Act(s));</p> <p>(c) the identity of any potential claimant(s);</p> <p>(d) the identity of any Insured involved in such circumstance; and</p> <p>(e) the date on and manner in which an Insured first became aware of such circumstance.</p> |

Provided that notice has been given in accordance with the requirements of this clause, any later **Claim** arising out of such notified circumstance (and any **Related Claims**) shall be deemed to be made at the date when the circumstance was first notified to the **Insurer**.

- 6.3 Claim Notification The **Policyholder** shall give written notice to the **Insurer** of any **Claim** first made against an **Insured** as soon as practicable and during the **Policy Period**. All notifications must be in writing to the address stated in Item 10 of the schedule.
- If posted, the date of posting shall constitute the date that notice was given, and proof of posting shall be sufficient proof of notice.
- 6.4 Cooperation An **Insured** will at their own cost:
- (a) render all reasonable assistance to the **Insurer** and co-operate in the defence of any **Claim** and the assertion of indemnification and contribution rights;
 - (b) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any **Loss** under this policy; and
 - (c) give such information and assistance to the **Insurer** as the **Insurer** may reasonably require to enable it to investigate any **Loss** or determine the **Insurer's** liability under this policy.
- 6.5 Defence The **Insurer** does not assume any duty to defend, and an **Insured** shall defend and contest any **Claim** made against them unless the **Insurer**, in its sole and absolute discretion, elects in writing to take over and conduct the defence and settlement of any **Claim**. If the **Insurer** does not so elect, it shall be entitled, but not required, to participate fully in such defence and the negotiation of any settlement that involves or appears reasonably likely to involve the **Insurer**. In the event that the **Insurer** decides that representation by a solicitor is necessary (such decision to be at the sole discretion of the **Insurer**) then an **Insured** shall select one of the **Legal Panel** to provide such legal representation.
- 6.6 Insured's Consent The **Insurer** may make any settlement it deems expedient of any **Claim** against any **Insured**, subject to such **Insured's** written consent. Where an **Insured** does not consent, the **Insurer** may elect to pay to an **Insured** the **Settlement Value** less the applicable **Retention** that the **Insurer** wishes to accept. Upon such payment being made there is no further cover available under the policy for that **Claim**.
- 6.7 Insurer's Consent No **Insured** shall admit or assume any liability, enter into any settlement agreement, or consent to any judgment without the prior written consent of the **Insurer**, other than where provided for under the terms of Mitigation Cover.
- 6.8 Fraudulent Claims If any **Insured** shall give any notice or **Claim** cover for any **Loss** under this policy knowing such notice or **Claim** to be false or fraudulent as regards amounts or otherwise, such **Loss** shall be excluded from cover under the policy, and the **Insurer** shall have the right, in its sole and absolute discretion, to avoid its obligations under or void this policy in its entirety, and in such case, all cover for **Loss** under the policy shall be forfeited, all premium shall be deemed fully earned and non-refundable and the **Policyholder** shall reimburse the **Insurer** for any payments made under this policy.
- 6.9 Advance Payment of Defence Costs The **Insurer** shall pay **Defence Costs** covered by this policy within thirty (30) days after sufficiently detailed invoices for those costs are received by the **Insurer**. The **Policyholder** shall reimburse the **Insurer** for any payments which are ultimately determined not to be covered by this policy. This clause shall be applied in the same manner to **Professional Inquiry Extension** in respect of any **Inquiry**.
- 6.10 Related Claims If during the **Policy Period** a **Claim** is made or a circumstance is notified in accordance with the requirements of this policy any **Related Claim** made after expiry of the **Policy Period** will be accepted by the **Insurer** as having been:
- (a) made at the same time as the notified **Claim** was made or the relevant circumstance was notified; and
 - (b) notified at the same time as the notified **Claim** or circumstance.
- All **Related Claims** shall be deemed to be one single **Claim** and deemed to be made at the date of the first **Claim** of the series or at the first circumstance notified, whichever is first.
- 6.11 Settlement The **Insurer** shall be under no obligation (save where requested by the **Policyholder**) to make any payment to an **Insured** other than the **Policyholder** and shall unless otherwise requested by the **Policyholder** make payment of all **losses** insured hereunder to the

Policyholder and such payment shall constitute a full and complete release and discharge of the **Insurer's** liabilities in respect of all and any such loss whether suffered directly by the **Policyholder** or not.

7. GENERAL CONDITIONS

- 7.1 Assignment This policy and any rights under or in respect of it cannot be assigned by an **Insured** without the prior written consent of the **Insurer**.
- 7.2 Cancellation This policy may be cancelled:
- (a) by the **Insurer** pursuant to the Premium Payment clause for non-payment of premium; or
 - (b) if no notice of a **Claim** or circumstance which is reasonably expected to give rise to a **Claim** has been provided to the **Insurer** under this policy, by the **Policyholder** with effect immediately upon the **Insurer's** receipt of written notice of such cancellation; the **Insurer** shall retain the customary short rate proportion (unexpired portion of premiumless handling charges) of the premium. If notice of a **Claim** or circumstance which is reasonably expected to give rise to a **Claim** has been provided to the **Insurer** under this policy, the premium shall not be returnable and shall be deemed fully earned at cancellation;
 - (c) by mutual agreement between the Insurer and the **Policyholder**.
- 7.3 Change of Control The **Insurer** shall not be liable to make any payment or to provide any services in connection with any **Claim** arising out of, based upon or attributable to a **Wrongful Act** committed after the occurrence of a **Transaction**.
- 7.4 Contract Rights Nothing in this policy is intended to confer an enforceable benefit on any Third Party, whether pursuant to legislation equivalent to Vietnam Civil Code (Chapter: Liability for Compensation of non-contractual Damages).
- 7.5 Currency All premiums, **Limit of Liability, Retention, Loss** and other amounts under this policy are expressed and payable in the currency stated in Item 11 of the schedule. If judgment is rendered, settlement is denominated, or any element of Loss under the policy is stated, in a currency other than the schedule one, then payment under this policy shall be made at the middle rate of exchange published in Bloomberg.com web site on the date the **Claim** is made, or if it is no longer current, a currency conversion web site selected by the Insurer.
- 7.6 Dispute Resolution Where, following receipt by the **Insurer** of all information reasonably required to provide such decision;
- (a) a final decision has been given by the **Insurer** regarding any aspect of this policy or any matter relating to cover thereunder;
 - (b) that decision is disputed between the **Insurer** and an **Insured**; and
 - (c) such dispute cannot be resolved within 14 days of the date on which such decision is communicated to the **Policyholder** or its insurance broker,
- the dispute shall be referred to arbitration at the Vietnam International Arbitration Centre at the Vietnam Chamber of Commerce and Industry (VIAC) in accordance with its Rules of Arbitration by a sole arbitrator.
- 7.7 Governing Law An interpretation of this policy relating to its construction, validity or operation shall be made exclusively in accordance with the laws of the country as stated in Item 12 of the schedule and in accordance with the English text as it appears in this policy.
- 7.8 Material Change of Risk It is the condition precedent to cover under this policy that the Insured must, within 30 days of a material change to the risk that is the subject of this policy, notify the Insurer in writing of that change. Such changes include but are not limited to any material change to the **Professional Services** in respect of the **Project** and/or any material change to the nature of the **Project** itself. In that event, the Insurer reserves the right to impose additional terms and conditions and to charge additional premium.

- 7.9 Plurals, Headings and Titles The descriptions in the headings and titles of this policy are solely for reference and convenience and do not lend any meaning to this contract. Words and expressions in the singular shall include the plural and vice versa. In this policy, words in italic typeface have special meaning and are defined. Words that are not specifically defined in this policy have the meaning normally attributed to them.
- 7.10 Sanctions This policy does not provide any cover or benefit for any business or activity to the extent that:
- (a) Such cover or benefit and/or
 - (b) Such business or activity
- would violate any applicable economic or trade sanction law or regulations of the UN and/or EU and/or United States of America and/or any other applicable national economic or trade sanction law or regulations.
- 7.11 Subrogation An **Insured** shall take all steps necessary or such steps as are required by the **Insurer** before or after any payment by the **Insurer** under this policy to preserve the rights and remedies which an **Insured** may have to recover the **Loss**. If any payment is to be made under this policy in respect of a **Claim**, the **Insurer** shall be subrogated to all rights of recovery of an **Insured** whether or not payment has in fact been made and whether or not an **Insured** has been fully compensated for its actual **Loss**. The **Insurer** shall be entitled to pursue and enforce such rights in the name of an **Insured**, who, both before and after payment under this policy, shall provide the **Insurer** with all reasonable assistance and co-operation in doing so, including the execution of any necessary instruments and papers. An **Insured** shall do nothing to prejudice the **Insurer's** rights under this subrogation clause.
- The **Insurer** agrees not to exercise any such rights of recovery against any **Employee** unless the **Claim** is brought about or contributed to by the dishonest, fraudulent, intentional criminal or malicious act or omission of the **Employee**. In its sole discretion, the **Insurer** may, in writing, waive any of its rights set forth in this Subrogation Clause.
- Any amounts recovered in accordance with this clause shall be applied in the following order:
- (a) to compensate the **Insurer** and an **Insured** for the costs incurred in making the recovery (such payment to be allocated between the **Insurer** and an **Insured** in the same proportions as they have borne the costs thereof); and
 - (b) to the **Insurer** up to the amount of the **Loss** paid by the **Insurer**; and
 - (c) to an **Insured** in respect of any uninsured element of the **Claim** (including the **Retention** under this policy).
- 7.12 Policy Administration The **Policyholder** shall act on behalf of each and every **Insured** with respect to:
- (a) negotiating the terms and conditions of and binding cover; and
 - (b) the exercise of all rights of **Insured's** under this policy; and
 - (c) all notices; and
 - (d) premiums; and
 - (e) endorsements to this policy; and
 - (f) the appointment of a member of the **Legal Panel** to defend a **Claim**; and
 - (g) dispute resolution; and
 - (h) the receipt of all amounts payable to an **Insured** by the **Insurer** under this policy.