

POLICY SCHEDULE & WORDING

Professional Indemnity Insurance Policy for Construction Consultants

libertyinternational.com/sg





Important notice

Please note that this is a Claims Made policy. Accordingly, **Liberty** will only cover the **Insured** in respect of **Claims** which are first made against the **Insured** during the **Policy Period** and reported to **Liberty** during the **Policy Period**. The **Insured** should carefully read all of this **Policy**, including all definitions and, in particular, the exclusions, to ascertain the precise scope of cover afforded by this **Policy**. The **Insured** is advised to consult its insurance agent or broker to ensure a clear understanding of the **Insured's** rights and obligations under this **Policy**.

Specimen



Policy schedule

POLICY NUMBER XX-XX-XX-XXXXXXX

NAMED INSURED

ADDRESS OF INSURED

POLICY PERIOD From: <time> on <date> local standard time
To: <time> on <date> local standard time

PROFESSIONAL SERVICES

LIMIT OF LIABILITY \$X,000,000

SUB-LIMITS OF LIABILITY	Insuring Clause 1.3 Professional Inquiries	\$X,000
	Extension 2.15 Loss of Documents	\$X,000
	Extension 2.19 Reputation Expenses	\$X,000
	Optional Extension 3.2 Loss Mitigation & Rectification	\$X,000

EXCESS \$X,000

POLICY WORDING Liberty SIN PI Construction Consultants Policy Wording (05-16)

OPTIONAL EXTENSIONS	3.1 Limitation of Liability Contracts	Included/Not Included
	3.2 Loss of Mitigation & Rectification	Included/Not Included

ENDORSEMENTS

RETROACTIVE DATE

This policy is valid only if this schedule is signed and dated below by a person authorised by **Liberty**.

Issued <day> <month> <year> in <office location>

AUTHORISED BY LIBERTY

Table of contents



1. Insuring Clauses			
1.1 Professional Liability	1	4.18 War, Terrorism & Nuclear	10
1.2 Advancement of Defence Costs	1	4.19 Watercraft, Aircraft & Motor Vehicles	10
1.3 Professional Inquiries	1	4.20 Breach of Economic, Trade or Other Sanctions or Law	10
2. Extensions		5. Claims Conditions	
2.1 Continuous Cover	2	5.1 Notification of Claims & Co-operation	10
2.2 Reinstatement	2	5.2 Defence & Settlement	11
2.3 Vicarious Liability	2	5.3 Excess Insurance	11
2.4 Breach of Confidentiality & Interference with Privacy	2	5.4 Allocation	12
2.5 Consumer Protection & Related Legislation	3	5.5 Contesting a Claim	12
2.6 Deemed Employees	3	5.6 Settling a Claim	12
2.7 Defamation	3	5.7 Other Insurance	12
2.8 Exemplary & Punitive Damages	3	6. General Conditions	
2.9 Extended Policy Period	3	6.1 Assignment	12
2.10 Fraud & Dishonesty	3	6.2 Change in Control	12
2.11 Hold Harmless Contractual Liability	4	6.3 Limit of Liability	12
2.12 Implied Warranties & Conditions	4	6.4 Excess	13
2.13 Intellectual Property Rights	4	6.5 Subrogation	13
2.14 Joint Ventures	4	6.6 Severability of Proposal	13
2.15 Loss of Documents	4	6.7 Non-Imputation	13
2.16 Multiple Causes of Loss	5	6.8 Notices	13
2.17 New Subsidiaries	5	6.9 Governing Law & Exclusive Jurisdiction	13
2.18 Period of Grace	6	6.10 Policy Interpretation & Construction	14
2.19 Reputation Expenses	6	6.11 Premium Payment Warranty	14
2.20 Spouses, Estates & Representatives	6	6.12 Valuation & Foreign Currency	14
3. Optional Extensions		6.13 Third Parties	14
3.1 Limitation of Liability Contracts	6	7. Definitions	
3.2 Loss Mitigation & Rectification	7	7.1 Agent	14
4. Exclusions		7.2 Change in Control	14
4.1 Anti-Competitive Practices	7	7.3 Claim	15
4.2 Contractual Liability & Commercial Risks	7	7.4 Defence Costs	15
4.3 Employer's Liability	8	7.5 Document	15
4.4 Fraud & Dishonesty	8	7.6 GST	15
4.5 Goods & Services Tax	8	7.7 Insured	15
4.6 Intellectual Property Rights	8	7.8 Intellectual Property Rights	15
4.7 Licensing Inquiries	8	7.9 Liberty	15
4.8 Management Liability	8	7.10 Money	15
4.9 North American Jurisdiction	8	7.11 Policy	16
4.10 Owners & Occupiers Liability	8	7.12 Policy Period	16
4.11 Penalties & Punitive Damages	8	7.13 Pollutant	16
4.12 Pollution	9	7.14 Premium	16
4.13 Prior Matters	9	7.15 Professional Inquiry	16
4.14 Products & Workmanship	9	7.16 Proposal	16
4.15 Related Parties	9	7.17 Schedule	16
4.16 Retroactive Limitation	9	7.18 Senior Counsel	16
4.17 Uninsurable Amounts	9	7.19 Subsidiary	16

Policy wording

Professional Indemnity Insurance for Construction Consultants

In consideration of the payment of the **Premium** by the **Named Insured** and subject to all the terms, conditions and exclusions, including all definitions of the **Policy** and in reliance upon the statements made to **Liberty** in the **Proposal**, its attachments and all other material information submitted to **Liberty**, all of which are to be the basis of and incorporated into this contract, **Liberty** agrees as follows:

1. Insuring Clauses

1.1 Professional Liability

Liberty will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of the performance of **Professional Services**.

1.2 Advancement of Defence Costs

Liberty will pay for **Defence Costs** in respect of a **Claim**, or that part of a **Claim**, covered under Insuring Clause 1.1 or under any applicable extension. **Liberty** will pay for these **Defence Costs** as and when they are incurred prior to final resolution of the **Claim**.

However, each **Insured** shall repay to **Liberty** all payments of **Defence Costs** incurred on that **Insured's** behalf if and to the extent it is established that such **Defence Costs** are not in fact insured under the **Policy**.

Defence Costs are subject to the **Excess** and form part of the **Limit of Liability**.

1.3 Professional Inquiries

Liberty will pay on behalf of the **Insured** the reasonable and necessary costs and expenses incurred by the **Insured** (but excluding the **Insured's** salaries, wages, fees, allowances, travel and accommodation expenses) in preparing for and attending a **Professional Inquiry** provided that:

- (a) such costs and expenses were incurred with the prior written consent of **Liberty** which shall not be unreasonably withheld; and
- (b) the first notice requiring any **Insured** to attend the **Professional Inquiry** is served during the **Policy Period** and reported to **Liberty** during the **Policy Period**.

The **Insured** shall repay to **Liberty** all payments of **Professional Inquiry** costs and expenses incurred on the **Insured's** behalf if and to the extent it is established that such **Professional Inquiry** costs and expenses are not insured under the **Policy**.

The maximum amount payable by **Liberty** under this insuring clause is the applicable **Sub-Limit of Liability**.

Policy wording

2. Extensions

Subject to all the terms, conditions and exclusions, including all definitions of the **Policy**, **Liberty** further agrees to extend cover provided under the **Policy** as follows:

2.1 Continuous Cover

If the **Insured** was aware of any facts that might give rise to a **Claim** or **Professional Inquiry** arising from the performance of **Professional Services** prior to the **Policy Period** and had not notified **Liberty** of such facts prior to the commencement of the **Policy Period**, then Exclusion 4.13(b) in respect of "Prior Matters" will not apply to the notification of a **Claim** or **Professional Inquiry** resulting from such facts, provided that:

- (a) the failure to notify such facts was not a result of fraudulent misrepresentation or fraudulent non-disclosure by the **Insured**; and
- (b) the **Insured** has been insured continuously under a primary professional indemnity policy with **Liberty** and was so insured by **Liberty** at the time the **Insured** first became aware of such facts; but
- (c) indemnity will be considered under the terms and conditions of the policy (including limits of liability and excesses) in force when the **Insured** first became aware of such facts; and
- (d) **Liberty** will reduce its liability to the extent of any prejudice suffered as a result of the **Insured's** failure to notify such facts giving rise to a **Claim** prior to the **Policy Period**.

2.2 Reinstatement

Liberty will provide a single reinstatement of the **Limit of Liability** if the **Limit of Liability** is exhausted due to payment of amounts insured under the **Policy**, but **Liberty** will only provide such reinstatement if the limit of liability available under any policy or policies in excess of the **Policy** has or have been exhausted and provided always that **Liberty** will pay no more than a single **Limit of Liability** in respect of each **Claim** and associated **Defence Costs** and each claim for any other amounts insured under the **Policy**.

The cover provided under this extension shall not apply to insuring clause 1.3 or any extensions or optional extensions to which a **Sub-Limit of Liability** applies or if the extended policy period is granted under Extension 2.9 in respect of "Extended Policy Period".

2.3 Vicarious Liability

Liberty will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of **Professional Services** performed by an **Agent** of the **Insured**.

Liberty will not be liable under this extension for the **Agent's** own liability, nor will **Liberty** be prevented from seeking recovery from any **Agent**.

2.4 Breach of Confidentiality & Interference with Privacy

Liberty will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of the performance of **Professional Services** alleging breach of confidentiality or unlawful interference with privacy by the **Insured**.

Policy wording

Professional Indemnity Insurance for Construction Consultants

2.5 Consumer Protection & Related Legislation

Liberty will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising from the performance of **Professional Services** under the terms of any consumer protection, fair trading or related legislation in Singapore.

2.6 Deemed Employees

The definition of **Insured** in Definition 7.7 is extended to include any contractor or consultant with no more than two employees who has a written contract with the **Named Insured** or its **Subsidiaries** to perform **Professional Services**, but only in relation to the performance of **Professional Services** for or on behalf of the **Named Insured** or its **Subsidiaries**.

2.7 Defamation

Liberty will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of the performance of **Professional Services** alleging any libel, slander, defamation or injurious falsehood by the **Insured**. No cover is provided under this extension for any **Claim** arising out of any intentional libel, slander, defamation or injurious falsehood.

2.8 Exemplary & Punitive Damages

Notwithstanding Exclusion 4.11(b) in respect of "Penalties & Punitive Damages", **Liberty** will pay on behalf of the **Insured** the exemplary or punitive damages awarded in a Singapore court and pursuant to the laws of Singapore which the **Insured** is legally liable to pay as a result of a **Claim** covered under the **Policy**.

The maximum amount of exemplary or punitive damages payable by **Liberty** under this extension shall not exceed the amount of compensatory damages payable in respect of the **Claim**.

2.9 Extended Policy Period

If a **Change in Control** occurs during the **Policy Period** then the **Named Insured** may request an extended policy period of up to 84 months commencing from the end of the **Policy Period** during which time the **Insured** may notify any claim to **Liberty** provided it arises from **Professional Services** performed prior to the effective date of the **Change in Control**.

The **Named Insured** must request this extended policy period in writing before the end of the **Policy Period**. **Liberty** will offer this extended policy period on such terms and conditions and for such additional premium as **Liberty** may reasonably impose.

This extension is subject to the **Limit of Liability**, the **Sub-Limits of Liability** and the **Excess**.

2.10 Fraud & Dishonesty

Notwithstanding Exclusion 4.4 in respect of "Fraud & Dishonesty", **Liberty** will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of the performance of **Professional Services** alleging fraudulent or dishonest conduct by the **Insured** or their **Agent**.

Policy wording

Professional Indemnity Insurance for Construction Consultants

However, no cover is provided under this extension:

- (a) to any person, company or other entity who has committed or condoned the fraudulent or dishonest conduct; or
- (b) in respect of a **Claim** arising out of or in any way connected with loss of **Money**.

2.11 Hold Harmless Contractual Liability

Notwithstanding Exclusion 4.2(a) in respect of "Contractual Liability & Commercial Risks", **Liberty** will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** under an indemnity and/or hold harmless term of a contract to the extent such civil liability arises out of the performance of **Professional Services** by the **Insured**.

2.12 Implied Warranties & Conditions

Notwithstanding Exclusion 4.2(a) in respect of "Contractual Liability & Commercial Risks", **Liberty** will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** alleging breach of warranty or condition as to merchantable quality, due skill and care or fitness for purpose implied in a contract under common law which results from the **Insured's** performance of **Professional Services**.

2.13 Intellectual Property Rights

Notwithstanding Exclusion 4.6 in respect of "Intellectual Property Rights", **Liberty** will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of the performance of **Professional Services** alleging infringement of **Intellectual Property Rights** by the **Insured**.

However, no cover is provided under this extension for any **Claim**:

- (a) resulting from any intentional infringement of **Intellectual Property Rights**; or
- (b) arising out of or in any way connected with:
 - (i) legal or regulatory proceedings brought within the United States of America and/or Canada or any of their territories or protectorates or in which the laws of those countries are applicable, even if only to a limited extent; or
 - (ii) the enforcement of any judgment, award or regulatory order obtained within or determined pursuant to the laws of the United States of America and/or Canada or any of their territories or protectorates.

2.14 Joint Ventures

Liberty will indemnify the **Insured** against civil liability the **Insured** incurs in respect of a **Claim** arising out of the performance of **Professional Services** by the **Insured** in the **Insured's** capacity as a joint venture partner but only to the extent of the **Insured's** own liability as a joint venture partner.

Liberty will only pay under this extension for **Defence Costs** incurred by the **Insured** in respect of such **Claim** solely in respect of its own liability as a joint venture partner.

2.15 Loss of Documents

Liberty will pay on behalf of the **Insured** the costs the **Insured** incurs with the prior written consent of **Liberty**, which shall not be unreasonably withheld, for replacing or restoring any **Documents** which are destroyed, damaged or after diligent search cannot be found.

Policy wording

Professional Indemnity Insurance for Construction Consultants

Such destruction, damage or loss must result solely from the performance of **Professional Services** by the **Insured** and be discovered for the first time during the **Policy Period** and reported to **Liberty** during the **Policy Period**.

Liberty will not pay for any destruction, damage or loss resulting from:

- (a) wear and tear or gradual deterioration;
- (b) any computer virus, spyware, malware or other electronic attack; or
- (c) any act or omission 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** is first discovered.

This extension is not subject to any **Excess**, however, the maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

2.16 Multiple Causes of Loss

In the event that there are a number of causes which contribute to the loss in respect of which a **Claim** is made, **Liberty** will indemnify the **Insured** against the civil liability the **Insured** incurs in respect of only that proportion of the loss which is attributable to the performance of **Professional Services**. **Liberty** will indemnify the **Insured** against that civil liability irrespective of whether one or more of the other causes of the loss is excluded or otherwise not covered under the **Policy**.

2.17 New Subsidiaries

The definition of **Subsidiary** in Definition 7.19 is extended to include any company which, according to the laws of Singapore becomes a subsidiary of the **Named Insured** during the **Policy Period**.

However,

- (a) in the case of an acquisition, where the revenue of the new subsidiary for the 12 months preceding the date of its acquisition exceeds 10% of the consolidated revenue of the **Named Insured** and its **Subsidiaries** for the 12 months preceding the commencement of the **Policy Period**;
- (b) where the new subsidiary is incorporated in the United States of America and/or Canada or any of their territories or protectorates;
- (c) where the new subsidiary performs **Professional Services** within the United States of America and/or Canada or any of their territories or protectorates; or
- (d) where the new subsidiary has any paid or incurred professional indemnity claims against it for the 5 years preceding the date of its acquisition,

Liberty will only provide cover for a period of 45 days (but not beyond the end of the **Policy Period**) from the effective date of the new subsidiary being acquired or created. If the **Named Insured** provides to **Liberty** full details of the new subsidiary, **Liberty** will consider providing cover for the new subsidiary for a further period on such terms and conditions and for such additional premium as may be agreed.

Cover in respect of any such new subsidiary applies only in respect of **Professional Services** performed whilst the subsidiary is a subsidiary of the **Named Insured**.

Policy wording

Professional Indemnity Insurance for Construction Consultants

2.18 Period of Grace

If the **Policy** is neither renewed nor replaced by the **Named Insured** with a policy or policies providing similar cover then the **Named Insured** is entitled to an automatic extended policy period of 30 days commencing from the end of the **Policy Period** during which time the **Insured** may notify any claim under the **Policy** to **Liberty** provided it arises from **Professional Services** performed prior to end of the **Policy Period**.

The cover provided under this extension does not apply if the extended policy period is granted under Extension 2.9 in respect of "Extended Policy Period".

2.19 Reputation Expenses

Liberty will pay on behalf of the **Insured** the reasonable and necessary costs and expenses incurred by the **Insured** with **Liberty's** prior written consent (which shall not be unreasonably withheld), up to the applicable **Sub-Limit of Liability**, in seeking advice from a public relations consultant solely for the benefit of protecting the **Insured's** professional reputation where **Professional Services** performed by the **Insured** have or could reasonably lead to a **Claim** being made against the **Insured**.

This extension is not subject to any **Excess**, however, the maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

2.20 Spouses, Estates & Representatives

Liberty will cover:

- (a) in the event of the death, incapacity or bankruptcy of an **Insured**, any **Claim** brought against his or her estate, heirs, executors, administrators or legal representatives; or
- (b) any **Claim** brought against the lawful spouse or domestic partner of an **Insured**, as if the **Claim** had been brought against that **Insured**.

No cover is provided under this extension for any actual or alleged act or omission by such estate, heirs, executors, administrators, legal representatives, lawful spouse or domestic partner.

3. Optional Extensions

The following extensions are subject to all the terms, conditions and exclusions, including all definitions of the **Policy**, and shall apply only if they are specifically included in the **Schedule**.

3.1 Limitation of Liability Contracts

Notwithstanding General Condition 6.5 in respect of "Subrogation", **Liberty** recognises that the **Insured** may enter into written contracts with other parties relating to the performance of **Professional Services** which may exclude or limit the liability of such parties and **Liberty** agrees that such contracts will not prejudice the **Insured's** right to indemnity under the **Policy**. The cover provided under this extension does not apply to contracts (whether or not they are written contracts) entered into as a result of a dispute which involves the **Insured** in any way.

Policy wording

Professional Indemnity Insurance for Construction Consultants

3.2 Loss Mitigation & Rectification

Liberty will pay to the **Insured** the reasonable direct costs and expenses incurred by the **Insured** in taking action necessary to rectify, or to mitigate the effects of, any act or omission of the **Insured** or its **Agent** in the performance of **Professional Services** that would otherwise result in a **Claim** covered under the **Policy**, provided always that:

- (a) the **Insured** first discovers such act or omission during the **Policy Period** and notifies **Liberty** of such act or omission during the **Policy Period**; and
- (b) the **Insured** notifies **Liberty** during the **Policy Period** of its intention to take such action and obtains **Liberty's** written consent (which shall not be unreasonably withheld) prior to incurring any such direct costs or expenses.

No cover is provided for:

- (i) indirect costs and expenses such as overheads, any of the **Insured's** profit including the loss or diminution of the **Insured's** profit, bonus, incentive payment or opportunity cost; or
- (ii) costs and expenses of materials or **Professional Services**, which result in an increased quality or standard from that specified in the parameters of the relevant contract.

Notification under this extension must be given to **Liberty** in accordance with Claims Condition 5.1(a) and the **Insured** must give **Liberty** such information and cooperation as it may reasonably require in accordance with Claims Condition 5.1(b).

The maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

4. Exclusions

Liberty will not pay for any amounts insured under the **Policy** for or arising out of:

4.1 Anti-Competitive Practices

any intentional contravention of any law regulating monopolisation, anti-trust, price fixing, price discrimination, predatory pricing, restraint of trade or similar activities.

4.2 Contractual Liability & Commercial Risks

- (a) a liability which the **Insured** has assumed under a contract unless such liability would have attached in the absence of such contract;
- (b) the insolvency, receivership, administration, bankruptcy or liquidation of the **Insured**;
- (c) any trading debt incurred by the **Insured**;
- (d) any portion of damages calculated by reference to, or the refund of, professional fees; or
- (e) any guarantee given by the **Insured** for a debt.

Policy wording

Professional Indemnity Insurance for Construction Consultants

4.3 Employer's Liability

death, bodily or mental injury, sickness or disease, emotional distress or mental anguish of any actual or deemed employee of the **Insured**.

4.4 Fraud & Dishonesty

any grossly reckless, wilful, malicious, dishonest or fraudulent conduct including any intentional breach of any law or regulation committed by the **Insured** or their **Agent**.

This exclusion will only apply where it is established by an admission of such **Insured** or their **Agent** or by a judgment, award, finding or other adjudication of a court, tribunal, commission or arbitrator that such conduct did in fact occur.

4.5 Goods & Services Tax

GST imposed or payable in respect of the **Premium** or any payment of insured amounts made under the **Policy**.

4.6 Intellectual Property Rights

any actual, potential or alleged infringement of **Intellectual Property Rights**.

4.7 Licensing Inquiries

any prosecution, inquiry, hearing, commission or other investigation in relation to the **Insured** failing to be properly licensed, registered or accredited to provide **Professional Services** as required by any law or other regulation including industry codes of practice.

4.8 Management Liability

the **Insured** acting in the capacity of a director or officer.

4.9 North American Jurisdiction

- (a) legal proceedings brought within the United States of America and/or Canada or any of their territories or protectorates;
- (b) the enforcement of any judgment or award obtained within or determined pursuant to the laws of the United States of America and/or Canada or any of their territories or protectorates; or
- (c) legal proceedings in which the laws of the United States of America and/or Canada or any of their territories or protectorates are applicable even if only in a limited respect.

4.10 Owners & Occupiers Liability

the ownership, management, control or occupation of real property by or on behalf of the **Insured**.

4.11 Penalties & Punitive Damages

- (a) any fines or other penalties; or
- (b) any exemplary, aggravated, multiple or punitive damages.

Policy wording

Professional Indemnity Insurance for Construction Consultants

4.12 Pollution

the actual or alleged presence, discharge, dispersal, release or escape of any Pollutant or the cost of removing, nullifying or cleaning up any Pollutant unless it results directly from an act, error or omission of the Insured in the performance of **Professional Services**.

4.13 Prior Matters

or in any way connected with:

- (a) any written demand or legal proceedings for compensation or **Professional Inquiry** made, threatened, intimated against or involving any **Insured** prior to the commencement of the **Policy Period**;
- (b) any facts that, before the commencement of the **Policy Period**, any **Insured** was aware, or a reasonable person would have been aware, might give rise to a claim under the **Policy**;
- (c) any facts that might give rise to a claim under the **Policy** which have been reported to an insurer under any insurance policy entered into before the commencement of the **Policy Period**;
- (d) any facts that might give rise to a claim under the **Policy** which have been disclosed to any insurer in any proposal for insurance before the commencement of the **Policy Period**; or
- (e) any facts that might give rise to a claim under the **Policy** which were disclosed to **Liberty** in the **Proposal**.

4.14 Products & Workmanship

any defect or alleged defect in any product or good manufactured, supplied, sold, installed, assembled, repaired, erected or maintained by the **Insured**;

4.15 Related Parties

any **Claim** made by or on behalf of:

- (a) one or more **Insured**;
- (b) any child, sibling, spouse, partner, parent or dependant of an **Insured**;
- (c) any parent company or other entity which owns, controls or manages any **Insured**; or
- (d) any entity or trustee of a trust which is owned, controlled or managed by any:
 - (i) **Insured**;
 - (ii) any child, sibling, spouse, partner, parent or dependant of an **Insured**; or
 - (iii) any parent company or other entity which owns, controls or manages any **Insured**;

other than a **Claim** for contribution or indemnity which results directly from another **Claim** which would be covered under the **Policy** if made directly against another **Insured**.

4.16 Retroactive Limitation

any act, error or omission committed or allegedly committed prior to the **Retroactive Date**.

4.17 Uninsurable Amounts

amounts uninsurable at law.

Policy wording

Professional Indemnity Insurance for Construction Consultants

4.18 War, Terrorism & Nuclear

- (a) war (whether declared or not), civil disturbance or riot;
- (b) any actual or threatened act of terrorism or any action taken to, or taken in an attempt to, control, prevent or suppress any act of terrorism;
- (c) ionising radiation or contamination by radioactivity from any nuclear fuel or any waste from the combustion of nuclear fuel; or
- (d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear weapon, installation, reactor or other nuclear assembly or nuclear component thereof.

4.19 Watercraft, Aircraft & Motor Vehicles

the ownership, maintenance, operation, possession, use, loading or unloading by or on behalf of the **Insured** of any watercraft, aircraft, motor vehicle or trailer.

4.20 Breach of Economic, Trade or Other Sanctions or Law

notwithstanding anything else to the contrary in the **Policy**, whenever coverage provided by this **Policy** would be in violation of any United Nations resolutions or the economic or trade sanctions, laws or regulations of the European Union, United Kingdom, Australia, Singapore or the United States of America, such coverage shall be null and void and **Liberty** has no obligation to pay a claim if to do so would breach that sanction or law.

5. Claims Conditions

5.1 Notification of Claims & Co-operation

As soon as the **Insured** becomes aware of a **Claim** or **Professional Inquiry** during the **Policy Period** (or the extended policy period under Extension 2.9 in respect of "Extended Policy Period", if applicable) the **Insured** must:

- (a) notify **Liberty** in writing of the **Claim** or **Professional Inquiry**. The notification must be sent to:
The Claims Department
Liberty
One Raffles Quay
#40 – 01 North Tower
Singapore 048583
Tel: 65 6221 8611

Policy wording

Professional Indemnity Insurance for Construction Consultants

- (b) give **Liberty** such information and co-operation as it may reasonably require including but not limited to:
 - (i) a description of the **Claim** or **Professional Inquiry**;
 - (ii) the nature of the allegation;
 - (iii) the nature of the alleged or potential loss;
 - (iv) the names of actual or potential claimants; and
 - (v) the manner in which the **Insured** first became aware of the **Claim** or **Professional Inquiry**.

Where the **Insured** becomes aware of facts that might give rise to a **Claim** or **Professional Inquiry** against the **Insured** during the **Policy Period**, then the **Insured** may elect to report those facts in writing to **Liberty** as soon as the **Insured** becomes aware of those facts but before the end of the **Policy Period** (or the extended policy period under Extension 2.9 in respect of "Extended Policy Period", if applicable) in which case any **Claim** or **Professional Inquiry** that subsequently arises out of those reported facts shall be deemed to have been reported to **Liberty** at the time those facts were reported to **Liberty**.

5.2 Defence & Settlement

Liberty may, in its absolute discretion, take over the conduct of any investigation, settlement or defence of any **Claim**. In the event **Liberty** does not exercise its discretion to take over conduct, **Liberty** will have the right to effectively associate in the conduct of any investigation, settlement or defence of any **Claim**.

The **Insured** must:

- (a) at its expense take all reasonable steps to mitigate any loss;
- (b) not agree to any waiver, limitation or delay as to their legal rights of recovery against any other party;
- (c) not admit liability, negotiate any settlement, enter into any settlement agreement or incur any **Defence Costs** without the prior written consent of **Liberty** which shall not be unreasonably withheld; and
- (d) at its expense give **Liberty** all the information and assistance that **Liberty** requires for the purpose of investigating:
 - (i) the cause and consequences of any **Claim**;
 - (ii) the **Insured's** liability to any party in respect of any **Claim**; and
 - (iii) whether **Liberty** has any liability to the **Insured** under the **Policy** and, if so, the extent of its liability,and, where applicable, conducting the defence of any **Claim**.

5.3 Excess Insurance

If at the time of any **Claim** there is or would be but for the existence of this **Policy** any other policy of indemnity or insurance in favour of or effected by or on behalf of the **Insured** applicable to such **Claim**, **Liberty** shall not be liable under this **Policy** to indemnify the **Insured** for such **Claim** except insofar as it concerns any excess beyond the amount which would be payable under such indemnity or insurance had this **Policy** not been effected.

Policy wording

Professional Indemnity Insurance for Construction Consultants

5.4 Allocation

In the event the **Insured** is a party to a demand, legal proceedings, inquiry or hearing which is covered only in part by the **Policy**, the **Insured** and **Liberty** will use their best efforts to agree upon a fair and proper allocation of amounts insured under the **Policy** which relate solely to what is covered under the **Policy**.

In the event that an agreement cannot be reached **Senior Counsel** shall determine, as an expert but not an arbitrator, a fair and proper allocation. Until **Senior Counsel** has made his or her determination, **Liberty** may, in its absolute discretion, pay such amount insured under the **Policy** as it considers appropriate.

5.5 Contesting a Claim

Liberty shall not require the **Insured** to contest any **Claim** unless **Senior Counsel** advises that such **Claim** should be contested. In formulating such advice, **Senior Counsel** shall take into consideration the economics of the matter (including potential **Defence Costs**) and the prospects of the **Insured** successfully defending the **Claim**.

5.6 Settling a Claim

In the event that **Senior Counsel** recommends settlement in respect of a **Claim** and the **Insured** does not agree that such **Claim** should be settled, the **Insured** may elect to contest such **Claim** provided always that the liability of **Liberty** shall not exceed the amount for which the **Claim** could have been settled plus **Defence Costs** incurred with **Liberty's** prior written consent up to the date of such election.

5.7 Other Insurance

If any amounts insured under this **Policy** are also potentially covered under any other insurance policy or policies, then the **Insured** must advise **Liberty** at the time of making a claim under this **Policy** and provide **Liberty** with details of the other insurance.

6. General Conditions

6.1 Assignment

This **Policy** and any rights under or in respect of it cannot be assigned without **Liberty's** prior written consent.

6.2 Change in Control

If a **Change in Control** occurs during the **Policy Period**, the **Policy** will continue to provide cover but only in respect of civil liability the **Insured** incurs in respect of a **Claim** arising out of **Professional Services** performed prior to the effective date of the **Change in Control**.

6.3 Limit of Liability

The maximum amount payable by **Liberty** under the **Policy** is the **Limit of Liability**. The **Limit of Liability** is inclusive of **Sub-Limits of Liability** and any other amounts insured under the **Policy**.

All **Claims**, and claims in respect of any other amounts insured under the **Policy**, attributable to one source or originating cause shall be deemed to be a single **Claim** and only one **Limit of Liability** shall apply.

Policy wording

Professional Indemnity Insurance for Construction Consultants

6.4 Excess

Liberty will only pay in respect of a **Claim** and associated **Defence Costs** and other amounts insured under the **Policy**, the amount which is above the **Excess**. The **Excess** shall be the first amount borne by the **Insured** and shall remain uninsured.

6.5 Subrogation

If **Liberty** grants indemnity under the **Policy**, then **Liberty** shall be subrogated to the **Insured's** rights of recovery against any person or entity whether or not payment has in fact been made and whether or not the **Insured** has been compensated in full for their loss. Each **Insured** must, at its own cost, provide all reasonable assistance to **Liberty** (including, but not limited to giving information, signing documents and giving evidence) to help enforce those rights.

The **Insured** must not do anything (including but not limited to excluding or limiting the liability of other parties in contracts, whether or not they are written contracts) that may prejudice **Liberty's** position or its potential or actual rights of recovery against any party.

Any amounts recovered by **Liberty** in excess of **Liberty's** total payment to the **Insured** (including **Defence Costs**) shall be restored to the **Insured** less the cost to **Liberty** of such recovery.

6.6 Severability of Proposal

Failure by any **Insured** to comply with their duty of disclosure or misrepresentation by any **Insured** to **Liberty** shall not prejudice the right of any other **Insured** to cover under the **Policy**. Cover is only provided to an **Insured** who is innocent of and has no prior knowledge of such failure or misrepresentation.

6.7 Non-Imputation

For the purposes of determining the availability of cover under the **Policy** the conduct of one **Insured** shall not be imputed to any other **Insured**, provided that cover is only provided to an **Insured** who is innocent of and has no prior knowledge of such conduct.

6.8 Notices

Any notice given to **Liberty** under this **Policy** must be in writing and sent to the address specified in Claims Condition 5.1. A notice served by post, if not received earlier, is taken to have been received on the next day after posting. A notice served by fax is taken to be served only if a complete and correct transmission report is received and it is taken to be received by the addressee (whether it is in fact received or not) on the day of transmission.

6.9 Governing Law & Exclusive Jurisdiction

The **Policy** is governed by the law in force in Singapore. All matters arising out of or relating to the construction or operation of the provisions of the **Policy** shall be submitted to the exclusive jurisdiction of the courts exercising jurisdiction of the courts of Singapore.

Policy wording

Professional Indemnity Insurance for Construction Consultants

6.10 Policy Interpretation & Construction

The headings in the **Policy** are for descriptive purposes only and do not form part of the **Policy** for the purpose of its construction or operation. Words used in the singular shall include the plural and vice versa. For the meaning of any words in bold refer to the **Schedule** and Section 7 - Definitions.

6.11 Premium Payment Warranty

The full **Premium** is earned and due to **Liberty** at the commencement of the **Policy Period**. Time is of the essence for payment of the **Premium** and the **Named Insured** warrants that the **Premium** will be paid and actually received in full by **Liberty** no later than 60 days from the commencement of the **Policy Period**.

In the event of breach of the above warranty, **Liberty** will have the right to terminate the **Policy**. Upon termination **Liberty** will be discharged from all further liability under the **Policy**. The **Named Insured's** obligation to pay the **Premium** in full continues after a termination for breach of the above warranty. It is further agreed that **Liberty** will have the right to reject any claim made under the **Policy** prior to payment of the **Premium** in full. **Liberty** agrees to withdraw any rejection made solely on the basis of non-payment of the **Premium** following payment of the **Premium** in full.

6.12 Valuation & Foreign Currency

All amounts referred to in the **Policy** are expressed and payable in the currency specified in the **Schedule**. If judgment is rendered, settlement is negotiated or any element of loss, **Defence Costs** or any other amount insured under the **Policy** is stated in a currency other than the currency specified in the **Schedule**, then payment under the **Policy** shall be made in that currency at the rate of exchange for the purchase of the currency specified in the **Schedule** published in the Singapore Business Times on the date, or if not published on that date then immediately thereafter, the final judgment is reached or the settlement is agreed upon.

6.13 Third Parties

A person who is not a party to this **Policy** shall have no right under the Contracts (Rights of Third Parties) Act 2001 (Cap.53B) to enforce any of its terms.

7. Definitions

In the **Policy**:

7.1 Agent means a natural person, company or other entity who has or had a written contract with the **Named Insured** or its **Subsidiaries** to perform **Professional Services**, but only in relation to the performance of **Professional Services** for or on behalf of the **Named Insured** or its **Subsidiaries**.

7.2 Change in Control means any one of the following events:

- (a) the **Named Insured** consolidates or merges with, or sells all or substantially all of its assets to a person, entity or group of persons or entities acting in concert;
- (b) the **Named Insured** becomes a subsidiary of another entity or becomes controlled by another entity; or
- (c) a trustee, administrator, receiver or liquidator including any provisional liquidator is appointed to the **Named Insured**.

Policy wording

Professional Indemnity Insurance for Construction Consultants

7.3 Claim means any written demand or legal proceedings for compensation first made or brought against the **Insured** during the **Policy Period** (or the extended policy period under Extension 2.9 in respect of “Extended Policy Period”, if applicable), and reported to **Liberty** during the **Policy Period** (or the extended policy period under Extension 2.9 in respect of “Extended Policy Period”, if applicable), which may result in the payment of any amounts insured under the **Policy**.

7.4 Defence Costs means:

- (a) reasonable and necessary costs and expenses incurred by **Liberty**, or by the **Insured** but only with **Liberty’s** prior written consent which shall not be unreasonably withheld, solely for the benefit of the **Insured** in the investigation, settlement, defence or appeal of any **Claim** covered under the **Policy**; and
- (b) the costs of obtaining **Senior Counsel’s** advice or determination under the **Policy** pursuant to Claims Conditions 5.4 in respect of “Allocation”, 5.5 “Contesting a Claim” and 5.6 “Settling a Claim”.

Defence Costs does not include salaries, wages, allowances, travel or accommodation expenses incurred by the **Insured** in assessing, investigating, dealing with and assisting others to deal with any **Claim**.

7.5 Document means a document of any nature whether written, printed or reproduced by any method, including designs and drawings, computer records or electronic data, in the possession or control of the **Insured** or the property of the **Insured** but does not include **Money**.

7.6 GST means the tax imposed as goods and services tax under the Goods and Services Tax Act (Cap. 117A) or as amended and any penalty or interest payable in respect of that tax.

7.7 Insured means each of the following:

- (a) the **Named Insured** and its **Subsidiaries**; and
- (b) any past, present or future director, partner or employee of the **Named Insured** or its **Subsidiaries** but only in relation to **Professional Services** performed for or on behalf of the **Named Insured** or its **Subsidiaries** whilst they are a director, partner or employee of the **Named Insured** or its **Subsidiaries**.

7.8 Intellectual Property Rights means all existing and future intellectual property rights throughout the world in whatever media, whether registered or unregistered and whether or not capable of registration, including but not limited to all copyright, patents, trade marks, trade names, domain names, brand names, slogans, logos, emblems and designs (and all applications or renewals for the protection or registration of these rights) CAD drawings, architectural designs and drawings together with all confidential information including trade secrets, know-how, formulae, methods, routines and other proprietary technology.

7.9 Liberty Liberty Pte Limited (UEN 201538069C) (**Liberty**)

7.10 Money means shares, bonds means, currency, coins, bank notes, bullion, precious metals, gems, jewellery, coupons, stamps, cheques, travellers’ cheques, registered cheques, postal orders and money orders.

Policy wording

Professional Indemnity Insurance for Construction Consultants

- 7.11 Policy** means this policy wording, any endorsements to it, the **Schedule** and the **Proposal**.
- 7.12 Policy Period** means the period of time specified in the **Schedule**.
- 7.13 Pollutant** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, noise, acids, alkalis, compounds, chemicals, asbestos including derivatives, mould or waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 7.14 Premium** means the amount payable by the **Named Insured** for the **Policy** including any applicable charges advised by **Liberty**.
- 7.15 Professional Inquiry** means any administrative or regulatory proceeding, official investigation, inquiry or hearing into the performance of **Professional Services** by the **Named Insured** or its **Subsidiaries** 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**.
- 7.16 Proposal** means the proposal form and any other information submitted by the **Insured** in applying for this insurance.
- 7.17 Schedule** means the schedule attached to the **Policy** and signed by a person authorised by **Liberty**.
- 7.18 Senior Counsel** means a Senior Counsel to be mutually agreed upon by **Liberty** and the **Insured** or, in the absence of agreement, to be appointed by the current President of the Law Society of Singapore.
- 7.19 Subsidiary** means any company which, according to the laws of Singapore, was or is a subsidiary of the **Named Insured** prior to or at the commencement of the **Policy Period**.
- Cover in respect of any such company applies only in respect of **Professional Services** performed whilst the company was or is a **Subsidiary** of the **Named Insured**.