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## South China Insurance Business/Corporate/Purchasing Liability Waiver Insurance Wording

103.07.31(103) 華產企字第 184 號函備查

### DEFINITIONS:

1. **Affidavit of Waiver** shall mean a written request or claim form sent from the company requesting the Insured Bank to waive the Company's charges in accordance with the terms and conditions of the Program.
2. **Bank** means
3. **Billed** or **Unbilled** with respect to any Charge shall be based upon the date of the Bank's statement
4. **Cardholder** shall mean any person authorised by the Company to use the Corporate Credit, Debit or Prepaid Cards for Company business only who are either
  - a) under a contract of/for service or apprenticeship with the Company or
  - b) undergoing training under any government approved training scheme under the control of the Company in connection with the businessSubject always to the Cardholder having reached the age of eighteen

The term **Cardholder** shall include a director of the Company if such person

- (i) is also employed by the Company under a contract of service and
  - (ii) controls no more than 5% of the issued share capital of the Company or of any subsidiary of the Company
5. **Charges** shall mean all amounts except cash disbursements, charged to the Company's Corporate Card Account with the Bank
6. **Company** shall mean a corporation, partnership, sole proprietorship, or any other entity which has signed a Corporate Card Account agreement with a Bank and subsequently issues Corporate Card Accounts for use by designated employees.

7. **Corporate Card Account (Account or Cardholder Account)** shall mean an agreement with the Bank through which designated employees of a Company, Cardholders, are authorized to purchase goods or services for the Company with a Corporate Credit, Debit Prepaid Card or Purchasing Cards.

A Purchasing Card shall mean a card issued to a listed company with representative offices or a client who is running a pilot arrangement to test the card. The card can only be used for travel & entertainment or internet purchases or local purchases of small value items.

8. **Notification of Termination** of the Cardholder's employment shall mean the date the Cardholder gives or receives oral or written notice of immediate or pending termination, or the date the Cardholder leaves the Company's service, whichever the earlier.

9. **Termination Date** shall mean the date on which:

- (a) the Cardholder gives notice to the Company
- (b) the date the Company gives notice to the Cardholder
- (c) or the date the Authorised Card is withdrawn by the Company from the Cardholder whichever is the sooner

10. **Theft** shall mean any act of Fraud or dishonesty by any Cardholder committed in connection with the Authorised Card issued to them with clear intent of obtaining an improper financial gain for themselves or for any other person or organisation intended by the Cardholder to receive such gain

11. **Waivable Charges** shall mean all amounts charged to the Company's Business/Corporate/ Purchasing account with the Bank which are not of either direct or indirect benefit to the Company and

- (a) where the Company has paid the bill but been unable to obtain reimbursement from the Cardholder or
- (b) where the Bank has billed the Cardholder direct and the Company has reimbursed the Cardholder but the Cardholder has not paid the Bank or
- (c) where the Company has received direct or indirect benefit but is contractually required to pay twice as a result of (b) above.

It is understood and agreed that there can be no circumstance where Underwriters can pay a claim twice provided that such unauthorised charges

- (i) are billed up to 105 days preceding the Waiver Date and notified by the Company to the Bank by means of a Waiver Request Letter on or within 14 days of the Waiver

Date

The waiver request letter is a document incorporated within the Guide to this Policy.

- (ii) are incurred but are not yet billed as of the Waiver Date or up to 14 days after the date on which the Bank received a request to cancel that Cardholders Card whichever occurs first
- (iii) are discovered not later than 105 days after the termination of
  - a. this Policy, or
  - b. the insurance in respect of the Company employing the Cardholder concerned with the loss whichever occurs first

12. **Waiver date** shall mean the discovery date of the loss by the Company

13. **Underwriters** shall mean certain Underwriters at **South China Insurance Co., Ltd.**

## **The Underwriters will indemnify**

\_\_\_\_\_ (hereinafter called “the Bank”) and at the request of the Bank any Company (meaning a corporation partnership sole proprietorship or any other entity with which the Bank has a signed agreement to issue Corporate Credit, Debit, Prepaid or Purchasing Cards) for losses for which the Bank is entitled to indemnity subject to the terms exceptions and conditions of the Policy as far as they apply

### **Terms of cover**

The Underwriters will provide indemnity

- 1) against loss of Waivable Charges due to the Bank or for which they are legally responsible caused by any act of Theft committed during the Period of Insurance by any Cardholder
- 2) for auditors fees incurred with the Underwriters consent solely to substantiate the amount of the claim

Provided that

- i) the Underwriters total liability in respect of any One Claim caused by any one Cardholder shall not exceed the Limit of Indemnity applicable to that Cardholder where One Claim shall mean all acts of Theft within the Period of Insurance committed by one Cardholder or two or more Cardholders acting in collusion (meaning all circumstances where two or more Cardholders are concerned or implicated together or materially assist each other in committing the act of Theft)
- ii) in the event that One Claim is caused by two or more Cardholders acting in collusion the Underwriters total liability shall not exceed  $a \times b$  where  $a$  = the number of Cardholders involved and  $b$  = the Limit of Indemnity applicable to each Cardholder
- iii) the Underwriters total liability in any one Period of Insurance shall in any case not exceed the aggregate Limit of Indemnity
- iv) any underlying policy shall be maintained in force and this Policy shall apply only to the extent to which an indemnity for damages and claimants costs and expenses is not provided under such underlying policy by virtue of any limitation of cover or Limits of Indemnity
- v) the Limit of Indemnity under this Policy shall be reduced by an amount equal to the Indemnity provided by any underlying policy
- vi) the Underwriters may at any time pay the Limit of Indemnity (less any sums already paid) or any lesser amount for which the claims arising out of such an event can be settled the Underwriters will then relinquish control of such claims and be under no further liability in respect thereof except for costs and expenses for which the Underwriters may be responsible in respect of matters prior to the date of such payment.

## General Conditions

- 1) This Policy shall be voidable in the event of deliberate misrepresentation misdescription or non-disclosure in any material particular
- 2) Observance of the terms of this Policy relating to anything to be done or complied with by the Bank is a condition precedent to the Underwriters liability
- 3) The Underwriters shall not be liable in the event of any material change in the nature of the business of the Bank unless the Underwriters have been advised and their written approval obtained.
- 4) Either party may cancel this Policy by giving 90 days notice in writing to the other Party at its last known address Any such Termination will not affect the rights of the Bank with respect to charges incurred by its Cardholders prior to the effective date of Termination If the Underwriters give such notice the Bank shall become entitled to a proportionate return of Premium If the Bank gives such notice then the Bank shall be entitled only to a return premium in accordance with the Underwriters usual short period scale provided that no claim has been made in the then current Period of Insurance  
For the purposes of this Policy termination shall mean the date of cancellation of this Policy
- 5) If this Policy immediately supersedes a similar insurance affected by the Bank (hereinafter called the “Superseded Insurance”) the Underwriters will indemnify the Bank in respect of any loss discovered during the continuation of the Superseded Insurance if the loss is not recoverable solely because the period allowed for discovery has expired  
Provided that
  - a. such insurance has been continually in force from the time of the loss until inception of this Policy
  - b. the loss would have been insured by this Policy had it been in force at the time of the loss
  - c. the liability of the Company shall not exceed whichever is the lesser of
    - i. the amount recoverable under the insurance in force at the time of the loss or
    - ii. the Limit of Indemnity applicable under this Policy

In any event the Underwriters total liability in respect of any one Claim continuing through both the terms of the Superseded Insurance and the continuation of this Policy shall not exceed the Limit of Indemnity applicable under this Policy
- 6) This Policy shall be voided if
  - a. the Bank or Company be wound up or carried on by a liquidator or receiver or permanently discontinued or
  - b. the Bank or Companys interest ceases otherwise than by death

- 7) This Policy shall be avoided if the Bank or Company's interest ceases and nothing herein contained shall give any right against the Underwriters to any person other than the Bank or Company except to a transferee approved by the Underwriters

## Claims Conditions

- 1) If any claim shall be in any respect fraudulent or if fraudulent means or devices are used by the Bank or Company or anyone acting on their behalf to obtain any benefit under this Policy or if any loss is occasioned by the wilful act or with the connivance of the Bank or Company all benefit under this Policy shall be forfeited
- 2) Upon knowledge of or discovery of loss or of any occurrence which may give rise to a claim for loss the Bank or Company whichever is appropriate shall
  - a. give notice thereof as soon as practicable to the Underwriters via C J Coleman & Company Limited
  - b. file detailed proof of loss with the Underwriters within 120 days after the discovery of the loss

Upon the Underwriters request the Bank or Company whichever is appropriate shall submit to examination by the Underwriters and produce for the Underwriters examination all pertinent records and all at such reasonable time and place as the Underwriters shall designate and shall cooperate with the Underwriters in all matters pertaining to loss or claims with respect thereto
- 3) In the event of any payment under this Policy the Underwriters shall be subrogated to all the Bank's (or Company's) rights of recovery therefor against any person or organisation and the Bank (or Company) shall execute and deliver instruments to secure such rights The Bank (or Company) shall do nothing after loss to prejudice such rights
- 4) If at any time any claim arises under this Policy there be any other insurance or indemnity or guarantee covering the same loss the Underwriters shall not be liable except in respect of an excess of the amount which is payable under such other insurance or indemnity or guarantee
- 5) If any difference shall arise as to the amount to be paid under this Policy, such difference shall be referred to arbitration, depending on the jurisdiction, in accordance with the rules set out below:
  - Taiwan-in accordance with the arbitration rules of the local Arbitration Act.
- 6) The insurance provided under this Policy shall not apply in respect of any loss caused by a Cardholder if the Company possesses knowledge of any act or acts of fraud or dishonesty committed by such Cardholder
  - i. In the service of the Company or otherwise during the terms of employment by the Company
  - ii. prior to employment by the Company

For the purposes of this Policy knowledge possessed by the Company means knowledge

possessed by a partner director elected or appointed officer who is aware of the employment of a person and that persons acts of fraud or dishonesty

- 7) For a valid claim to arise it is a condition of this Policy that the Company shall as soon as any act of Theft is discovered make every effort to retrieve the Corporate Credit, Debit or Prepaid Card from the Cardholder and destroy the Corporate Credit, Debit or Prepaid Card
- 8) Immediately following the discovery by the Company of any act of Theft by a Cardholder it shall be the duty of the Company to inform the Bank immediately and to have the Card placed upon the suspended card list the Underwriters shall bear no liability for future acts of Theft by the Cardholder following the said discovery of fraudulent activity
- 9)
  - A) Any money of the Cardholder in the Company's hands upon discovery of any loss and money which but for the Cardholders Theft would have been due to the Cardholder from the Company shall be deducted from the amount of the loss before a claim is made under this Policy
  - B) Any further monies which are recovered less any costs incurred in recovery shall accrue
    - i) in the event that the Company's claim has exceeded the Limit of Indemnity firstly to the benefit of the Company to reduce or extinguish the amount of the Company's loss
    - ii) thereafter to the Underwriters benefit to the extent of the claim paid or payable
    - iii) and finally any surplus thereafter shall be returned to the Company

10) Claim details

In the event of a claim or any circumstances giving rise to the possibility of a claim the Assured must **immediately** notify:-

C J Coleman & Company Limited



## **Exclusions**

The Underwriters shall not be liable for

- 1) loss of interest or consequential loss of any kind
- 2) loss caused by any act of any Cardholder committed prior to the commencement date for that Cardholder
- 3) charges incurred to Purchasing goods or services for the Company or for persons other than the Cardholder pursuant to the instructions of the Company or acquiescence thereto by the Company if those goods or services are of the type which are regularly purchased by or for the Company
- 4) charges incurred by a Cardholder after the discovery date of the loss by the Company or charges incurred beyond 14 days after the Bank receives a request to cancel the Cardholder's Business/Corporate/Purchasing Card whichever is the earlier
- 5) cash advances, after Notification of Termination Date
- 6) cash advances which exceed USD250 per day or a maximum of USD1,000 in all prior to notification of Termination

## **Minimum Standards of Control**

### **Obligation of the Company**

The Company may require the Bank to waive their liability for Waivable Charges only if they meet all the following requirements:

- 1) The Company has two (2) or more Cards in good standing on or after establishing a Card account with the Bank. This requirement maybe waived for Purchasing cards only.
- 2) The Company send a “Waiver Request” by letter or fax to the Bank. The Waiver Request must state:
  - A) That the Company request the waiver of covered Charges.
  - B) The Cardholder’s name, Card number and last known business and home address.
  - C) In cases where the Bank invoices the Cardholder directly, that the Company has contacted the Cardholder in writing and directed him to immediately pay all outstanding Charges to the Bank; and
  - D) Whether the Card was retrieved from the Cardholder.
- 3) The Company has delivered to the Cardholder or sent by first class mail a written notice stating that the Cardholder’s Card has been cancelled, that he should immediately discontinue all use of that Card, that he must immediately pay any outstanding amounts owed to the Bank, and that he must immediately return that Card to the Company.
- 4) The Company has used and will continue to use its best endeavours to retrieve the Card from the Cardholder and to return it, cut in half, to the Bank.
- 5) The Company shall promptly give written notice to the Bank if any Cardholder’s employment has been terminated or in cases where the Bank invoices the Cardholder, if the Company knows or should know that a Cardholder is receiving reimbursement for Charges but is not paying the Bank for those Charges.

## **ENDORSEMENTS**

### **30 DAYS CANCELLATION CLAUSE**

Underwriters may cancel this Policy at any time by written notice delivered to the Bank or mailed to the last address of the Bank as shown on the records of Underwriters, stating when, not less than thirty (30) days thereafter, such cancellation shall be effective; the Bank may cancel this Policy at any time by written notice delivered or mailed to Underwriters effective on receipt or on such alternate date as may be specified in the notice.

In the event of such cancellation by either Underwriters or the Bank, Underwriters shall promptly return the unearned premium paid, if any, and the Bank shall promptly pay the earned premium which has not been paid. Such cancellation shall be without prejudice to any claim originating prior to the effective date of such cancellation.

### **WAR AND TERRORISM EXCLUSION ENDORSEMENT**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
2. any act of terrorism.

For the purpose of this endorsement an act of 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 organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 1 and/or 2 above.

If the Underwriters 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 Assured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

08/10/01

NMA2918

**RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE  
PHYSICAL DAMAGE - DIRECT**

This Policy does not cover any loss or damage arising directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination however such nuclear reaction nuclear radiation or radioactive contamination may have been caused \* NEVERTHELESS if Fire is an insured peril and a Fire arises directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination any loss or damage arising directly from that Fire shall (subject to the provisions of this Policy) be covered EXCLUDING however all loss or damage caused by nuclear reaction nuclear radiation or radioactive contamination arising directly or indirectly from that Fire.

\*NOTE. - If Fire is not an insured peril under this Policy the words "NEVERTHELESS" to the end of the clause do not apply and should be disregarded.

7/5/59

NMA1191

**UNIFORM INSOLVENCY CLAUSE (INSURANCE)**

IN THE EVENT of the insolvency of the Bank, this insurance shall be payable directly to the Bank's liquidator, receiver, conservator or statutory successor on the basis of the liability of the Bank without diminution because of the insolvency of the Bank or because the liquidator, receiver, conservator or statutory successor of the Bank has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator or statutory successor of the Bank shall give written notice to the Underwriters of the pendency of a claim against the Bank indicating the policy or bond insured which claim would involve a possible liability on the part of the Underwriters within a reasonable time after such claim is filed in the conservation or liquidation proceeding or in the receivership, and that during the pendency of such claim, the Underwriters may investigate such claim and interpose, at their own expense, in the proceeding where such claim is to be adjudicated any defence or defences that they may deem available to the Bank or its liquidator, receiver, conservator or statutory successor. The expense thus incurred by the Underwriters shall be chargeable, subject to the approval of the court, against the Bank as part of the expense of conservation or liquidation to the extent of a pro rata share of the benefit which may accrue to the Bank solely as a result of the defence undertaken by the Underwriters.

(31/12/64)

NMA1497 (Amended)

## **FINANCIAL GUARANTEE EXCLUSION CLAUSE**

This Policy does not cover any form of Financial Guarantee, Surety or Credit indemnity.

## **DATA PROTECTION CLAUSE**

Any information provided to the Insurers regarding any individual person will be processed by the Insurers for the purpose of providing insurance and handling claims, if any, which may necessitate providing such information to third parties

## **CHOICE OF LAW AND JURISDICTION**

This insurance shall be governed by and construed in accordance with the laws of Taiwan and for this purpose; the Insured and Insurers agree to submit to the exclusive jurisdiction of the courts of Taiwan in any dispute arising hereunder.

## **ELECTRONIC DATE RECOGNITION EXCLUSION (EDRE)**

This policy does not cover any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise directly or indirectly arising out of or relating to:

the calculation, comparison, differentiation, sequencing or processing of data involving the date change to the year 2000, or any other date change, including leap year calculations, by any computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not; or

any change, alteration, or modification involving the date change to the year 2000, or any other date change, including leap year calculations, to any such computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

NMA 2802 (17/12/1997)