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South China Insurance Commercial General Liability Insurance Self-Insured Retention Clause

101.07.20 (101) 華產企字第 558 號函備查

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

I. LIMITS OF INSURANCE

The LIMITS OF INSURANCE as set forth in Item 4 of the Declarations shall apply excess of a Self-Insured Retention (hereafter referred to as the Retained Limit) in the amount of: _____ per claim.

And you agree to assume the Retained Limit. The Retained Limit, or any part of it, shall not be insured without our prior written approval.

II. DEFENSE AND SETTLEMENT – COVERAGES A AND B

The defense and settlement obligations as set forth in Section I – Coverages A and B are deleted and replaced by the following defense and settlement obligation:

A. WITHIN THE RETAINED LIMIT:

“We” do not have the duty to investigate or defend any “occurrence”, claim or “suit” unless and until the Retained Limit is exhausted with respect to that “occurrence”, claim or “suit”. However, we may, at our discretion and expense, participate with you in the investigation of any such “occurrence” and the defense of any such claim or “suit” that may result.

B. IN EXCESS OF THE RETAINED LIMIT:

1. Once the Retained Limit is exhausted, with respect to any specific “occurrence”, claim or “suit”, we shall thereafter have the right and duty to defend that “occurrence”, claim or “suit”.
2. When we have the duty to investigate and/or defend pursuant to B.1. above, we may, at our sole discretion, settle any such “occurrence”, claim or “suit”.

C. If you refuse to agree to a settlement we recommend and the resulting judgment or settlement exceeds our recommended settlement, our liability for that “occurrence”, claim or “suit”, subject to the Limits of Insurance, will not exceed our recommended settlement amount (less any amount of the Retained Limit remaining). In such event we will have no further obligation with respect to “Allocated Loss Adjustment Expense” subsequent to the date of such refusal.

In addition, if you do not pay in full any settlement we recommend for any “occurrence”, claim or “suit” which is less than the Retained Limit, we will have no further obligation under this policy for either defense or settlement of that “occurrence”, claim or “suit”.

D. In no event shall you agree to a settlement in excess of the Retained Limit without our prior written approval.

E. There will be no reduction of the Retained Limit because of payment of claims or “suits” arising from claims or “suits” for which coverage is not afforded by the policy.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Section III ALLOCATED LOSS ADJUSTMENT EXPENSES.

III. ALLOCATED LOSS ADJUSTMENT EXPENSES – COVERAGES A AND B

SECTION 1 – COVERAGES, DEFENSE COSTS AND CLAIM EXPENSES –

COVERAGES A AND B is deleted in its entirety and replaced with the following:

ALLOCATED LOSS ADJUSTMENT EXPENSES – COVERAGES A AND B

You are responsible for “Allocated Loss Adjustment Expenses” according to your election as indicated by an “X” below. If no election is indicated, election i. shall apply.

i. All “Allocated Loss Adjustment Expenses” up to the Retained Limit. However, the most you are responsible for with respect to damages and “Allocated Loss Adjustment Expenses” combined shall not exceed the Retained Limit.

ii. A part of “Allocated Loss Adjustment Expenses”. That part will be calculated by dividing the smaller of the Retained Limit or the damages by the damages. If we pay no damages you are responsible for all “Allocated Loss Adjustment Expenses”.

iii. All “Allocated Loss Adjustment Expenses”.

Your duty to pay for “Allocated Loss Adjustment Expenses” applies separately to each “claim” for “bodily injury” or “property damage”, or to each offense for “personal and advertising injury”.

IV. INSOLVENCY

Your bankruptcy, insolvency, inability to pay, failure to pay, or refusal to pay the Retained Limit will not increase our obligations under the policy. In the event there is insurance, whether or not applicable to an “occurrence”, claim or “suit” within the Retained Limit, you will continue to be responsible for the full amount of the Retained Limit before the limits of insurance under this policy apply. In no case will we be required to pay the Retained Limit or any portion thereof.

V. NOTICE PROVISIONS

A. You shall immediately notify us in writing of any claim which:

1. involves serious “bodily injury”, including but not limited to, burns, spinal cord injury, amputation, brain damage, loss of eyesight or hearing, a fatality, or any claim which is likely to exceed 50% of the Retained Limit, or for which you have established a reserve (including Indemnity and “Allocated Loss Adjustment Expense”) at or more than 50% of the Retained Limit;
2. you receive notice of a “suit” in which the damage demand exceeds the Retained Limit and/or of a “suit” or claim for Punitive Damages.

B. On a quarterly basis, “you” must provide us with a written summary (loss run) of all “occurrences”, offenses, claims, or “suits” which have or may result in payments within

the Retained Limit.

This written summary must show:

1. The date of the “occurrence”, offenses, claims or “suits”; and
2. The name(s) of the injured person(s) or identification of the damaged property; and
3. A description of the injury or damage; and
4. The amount paid or reserved, including “Allocated Loss Adjustment Expense”, resulting from the “occurrence”, offenses, claim or “suit”.

VI. SPECIAL CONDITION

- A. The insured must employ a claim service provider acceptable to us for the purpose of providing claim services for the adjusting or settlement of losses within the Retained Limit. The fees and costs of the claim service provider will apply towards the Retained Limit. The insured’s obligation to provide for its own defense and investigation is terminated upon the exhaustion of the Retained Limit. The insured will provide evidence of its own payments of the Retained Limit upon requested of the Company.
- B. The insured shall pay the amount that the claim service provider requests the insured to pay within the Retained Limit based on the agreement between the insured and claim service provider. If the insured does not pay in timely manner and causes delay to the company handling that defense or settlement of that "occurrence", "claim" or "suit", we will have no further obligation under this policy for either defense or settlement of that "occurrence", "claim" or "suit". And this policy will become void and null of that "occurrence", "claim" or "suit".
- C. Alternatively, the insured, can authorize us to take over handling or settlement of any such “occurrence”, offenses, claims or “suits”., the insured, at our request, shall pay deposit with us the Retained Limit as specified, to be applied by us as payment toward any damages, “Allocated Loss Adjustment Expenses” or expenses incurred by us in the handling or settlement of any such “occurrence”, offenses, claims or “suits”. We shall have the right to negotiate a reasonable settlement which is more than, equal to, or less than the Retained Limit. Payment of the Retained Limit is due within 15 days upon receipt of our request.
- D. In the event of a “Suit”, we shall have the right to select defense counsel, even if the amount claimed in the suit is unspecified or less than the Retained Limit. If an insured selects its own counsel, then such fees will not apply towards the Retained Limit unless the counsel and rates are approval by us.

VII. ADDITIONAL DEFINITIONS

Definitions Section of the policy is amended to include the following additional definition:

“Allocated Loss Adjustment Expenses” means all fees for service of process and court costs and court expenses; pre- and post-judgment interest; attorneys’ fees; cost of undercover operative and detective services; costs of employing experts; costs for legal transcripts, copies of any public records, and costs of depositions and court reported or recorded statements; costs and expenses of subrogation; and any similar fee, cost or expense reasonably chargeable to the

investigation, negotiation, settlement or defense of a loss or a claim or “suit” against you, or for the protection and perfection of your or our subrogation rights.

“Allocated Loss Adjustment Expenses” shall not include your or our general overhead, the salary and employee benefits of any of our employees, nor the fees of any attorney who is our employee or under our permanent retainer; nor the fees of any attorney we retain to provide counsel to us about our obligations, if any, under any policy issued by us or our affiliated company (ies), with respect to a claim or “suit” against you.

All other terms, exclusions, and conditions of this policy remain unchanged.