



PACIFIC & ORIENT INSURANCE CO BERHAD (No. 12557-W)
A Member Of The Pacific & Orient Group

HEAD OFFICE : 11th Floor, Wisma Bumi Raya, No. 10, Jalan Raja Laut, P.O. Box 10953, 50730 Kuala Lumpur
JOHOR BAHRU : Suite 905, 9th Floor, Johor Tower, No. 15, Jalan Gereja, 80100 Johor Bahru, Johor
IPOH : 75, Jalan Raja Ekram, 30450 Ipoh, Perak
MELAKA : No. 2, Jalan PM7, Plaza Mahkota, Bandar Hilir, 75000 Melaka
PENANG : 51-11-A, Menara BHL Bank, Jalan Sultan Ahmad Shah, 10050 Pulau Pinang.
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2015 CERTIFICATE OF INSURANCE

This Certificate of Insurance and the attached sample Schedule in Appendix 1 forms part of the **Pacific & Orient Insurance Co. Berhad Master Policy No. 129714U7000005** issued to the Malaysian Bar for and on behalf of its Members and it is hereby certified that this insurance has been effected for those Members named in the Schedule hereunder in respect of the Limits of Indemnity specified and for the Period of Insurance stated.

When reading this Certificate, please note the use of specially-defined words that appear in **bold type**. There is a list of these words in Clause 35.

In consideration of payment of the premium and subject to the Schedule, limitations, conditions, provisions and other terms of this Certificate, we agree as follows:

WHO IS INSURED?

1. **We** agree to insure **you** being the **Firm**; and:
 - (a) each **principal**;
 - (b) each **employee**; and
 - (c) the estate and legal representative of each person referred to in (a) and (b) above.

WHAT WE INSURE YOU FOR AND WHEN

2. **We** agree to indemnify **you** against civil liability for a **claim** that:
 - (a) arises from your **legal practice**; and
 - (b) is first made against **you** during the **Period of Insurance**.
3. Our indemnity also extends to:
 - (a) **Claimant's costs** and **defence costs**; and
 - (b) **Mitigation Costs**, subject to the **Firm**:
 - (i) providing prior written notice to **us** during the **period of insurance** of the potential civil liability, the costs required to mitigate the potential civil liability and the probability of the eventual **claim** being made against **you** in the absence of **you** undertaking such mitigating action; and
 - (ii) complying with the terms and conditions of this insurance applicable to **claims**





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Provided that:

- (a) we shall not be liable under this insurance for mitigation costs which we have not consented to in writing, where reasonably practical; and
- (b) all mitigatory actions are within the spirit of the Bar Council's Rules and Rulings that govern the Profession.

4. Professional appointments and assignments assumed or undertaken by **you** in a personal capacity shall be regarded as part of your **legal practice** provided that any fees or other income accruing therefrom inure to the benefit of the **Firm** or its predecessor/s or successor/s.

HOW MUCH WE INSURE YOU FOR

5. The maximum amount **we** shall indemnify **you** for any **one claim** is the amount specified in Item 7 of the Schedule, subject to the provisions of Clause 11. The maximum amount includes **claimant's costs**.
6. **We** shall also indemnify **you** for **defence costs**, which amount shall be in addition to the Limit of Indemnity specified in Item 7 of the Schedule. Any payment by **us** of **defence costs** shall not reduce such Limit of Indemnity.

Provided however, that:

- (a) if any **one claim** exceeds the Limit of Indemnity, our liability for **defence costs** shall be restricted to such proportion thereof that the Limit of Indemnity bears to the **claim**.
- (b) any cost recovered from the claimant shall first be fully used to offset and indemnify **us** of any costs **we** may have incurred in your defence, with any balance remaining thereafter to inure to **you** for your benefit.
- (c) if **we** do not pursue the recovery of costs awarded and where the cost is recovered by the **Firm**, **we** shall have no right to this amount.

YOUR BASE EXCESS

7. Our liability under this insurance shall only apply to that part of any **one claim** which exceeds the Base Excess specified in Item 9 of the Schedule. The Base Excess shall be borne by **you** uninsured and at your own risk.
8. Our liability under this insurance shall only apply to that part of the **defence costs** on account of any **one claim** which exceeds the Base Excess specified in Item 9 of the Schedule. Provided however, that the Base Excess shall only be applied once in the event **claim** and/or **defence costs** are incurred.
9. Where **defence costs** are payable, **you** must pay the amount of the Base Excess specified in Item 9 of the Schedule within 45 days of the receipt of the invoice. This payment is a condition precedent to your right to renew your insurance under the Master Policy for subsequent policy periods.
10. The Base Excess specified in Item 9 of the Schedule shall be increased to the amounts specified below in the event of any **claim** arising out of the following circumstances or events:





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- (a) Conflict of Interest : RM100,000 or 2 times the Base Excess whichever is the higher subject to a maximum of RM300,000 where **you** have acted for more than one party to a transaction in respect of conveyancing of land and/or buildings otherwise than in accordance with Bar Council's Rules and Rulings as amended from time to time or conflict of interest, applicable at the time of the transaction.

However the Base Excess shall apply in the event **you** had obtained written waivers from the clients.

- (b) Conveyancing Base Excess : RM50,000 minimum in respect of conveyancing of land and/or buildings.

However the Base Excess shall apply if:

- (i) **you** had in place an implemented risk management programme at the time the act, error or omission giving rise to the **claim** was committed; or
- (ii) it is adjudged by the Court that there is no civil liability arising from the **claim** against the **Firm**; or
- (iii) the claimant unconditionally withdraws the **claim** against the **Firm**.
- (c) Dishonesty of Partner : RM20,000 multiplied by the number of **principals** subject to a minimum of RM30,000 and maximum of RM250,000 per **Firm** in respect of **misconduct** of **principals**.

CLAIMS INVOLVING MISCONDUCT

11. Notwithstanding the Exclusion in Clause 32(e), **we** shall indemnify the **Firm** and its **employees** against any **claim** arising out of **misconduct** excluding indemnity to any person(s) or **employees** who were party to or condoned such **misconduct** relating to the **claim**.

PROVIDED THAT

- (a) The maximum amount **we** shall indemnify **you** for **claims** in respect of **misconduct** is RM350,000 or the Firm's Mandatory Limit whichever is the lower. This is applicable towards any **one claim** and in the aggregate during the Period of Insurance. This Limit of Indemnity is over and above the Base Excess in Clause 7.
- (b) **You** shall at our request take or procure, to be taken at our expense, all reasonable steps to obtain reimbursement from any party to such **misconduct** or from his personal legal representatives.
- (c) **You** agree that any recovery so obtained together with any monies which but for such **misconduct** would have been due to any party to such **misconduct**, shall be paid to **us** up to but not exceeding the amounts paid by us in respect of such **claim** together with any expenditure reasonably incurred in obtaining such reimbursement.
- (d) **You** establish that at the time of the **misconduct** giving rise to the **claim**, the **principal** who committed such **misconduct** was practising as a genuine **principal** of and carrying on practice in common with other **principals** of the **Firm**.





CLAIMS INVOLVING DEFAMATION

12. The Mandatory Limit of Indemnity as stated in Item 7 of the Schedule will apply for each and every claim in respect of defamation.

WHEN YOU HAVE TO NOTIFY US

13. **Claims or Notifiable Circumstances**

- (a) As a condition precedent to liability **you** must notify **us** in writing as soon as reasonably practicable but no later than 60 days, of any **claim** first made against **you** during the **Period of Insurance**;
- (b) **You** must notify **us** in writing as soon as reasonably practicable but no later than 60 days of any **notifiable circumstances** of which **you** first become aware of during the **Period of Insurance**. **We** shall treat any subsequent **claim** arising from the same originating cause as the circumstances notified in accordance with this Clause as if it had been made against **you** during this **Period of Insurance**.
- (c) Notice under this Policy shall be given in writing addressed to:

Jardine Lloyd Thompson Sdn Bhd
Suite 10.2 10th Floor
Faber Imperial Court
21A Jalan Sultan Ismail
50250 Kuala Lumpur

Telephone No : +603 2723 3388
Facsimile No : +603 2723 3301

YOUR DUTY TO CO-OPERATE

14. As a condition precedent to our liability under this insurance it is your duty to provide full disclosure of all relevant facts and circumstances, whether specifically requested or otherwise, which is known or becomes known to **you** any time before or after a **claim**. It is furthermore your duty to render at your own expense all reasonable assistance and co-operation to **us** or our **authorised representatives** which includes but is not limited to:
- (a) providing all relevant information, documents and data in whatsoever form; and
- (b) attending meetings, mediation, court hearings and appearing as a witness to give evidence or testimony if required.
15. If after three written requests for **you** to comply with Clause 14, **you** fail to respond in a timely manner or in a manner satisfactory to **us** or our authorised representatives, your inaction shall be deemed as total or gross disregard or avoidance and shall entitle **us** to decline to indemnify **you** in relation to such **claim** except when the failure was due to circumstances beyond your reasonable control.
16. **You** further agree to waive any legal professional privilege to the extent of your duties described at Clause 14, if any, and generally in relation to a claim.





YOU SHALL NOT ADMIT LIABILITY OR INCUR UNREASONABLE COSTS

17. **You** agree:

- (a) not to admit liability for a **claim**;
- (b) not to settle a **claim**; or
- (c) not to incur any unreasonable costs or expenses in connection with a **claim** without our prior consent, which shall not be unreasonably withheld, except as stated in Clause 3(b), the proviso in Clause 19 and Clause 20.

WE HAVE THE RIGHT TO TAKE CONDUCT OF THE CLAIM

18. **You** agree that:

- (a) **we** have the right to take over the conduct of a **claim** against **you**, including its investigation, defence, avoidance, reduction or, subject to Clause 21, its settlement; and
- (b) **we** may do so in your name.

19. Upon receipt of notice from **you** of any writ, **we** and/or our **authorised representatives** shall appoint a **legal practitioner** within 14 working days to take conduct of the **claim** without prejudice to our right to investigate and subsequently refuse coverage or to decline to indemnify **you** in relation to such **claim** as provided under this insurance.

Provided that if **we** and/or our **authorised representatives** fail or neglect to appoint a **legal practitioner** within 14 working days and take conduct of the **claim**, **you** shall have the right, if

you so choose, to appoint a **legal practitioner** from the approved panel to defend the claim and instruct the appointed **legal practitioner** as **you** deem fit. **You** shall not be liable for any act or omission that compromises our right to settle or defend the **claim**. **We** shall be liable to indemnify **you** as if **we** had conduct of the **claim**.

20. Where the amount of the **claim** is less than the Base Excess in Item 9 of the Schedule, **you** may, with our prior written consent, assume the conduct of and settle the **claim**.

DECIDING WHETHER TO PROCEED TO HEARING OR SETTLE

21. In the event of a dispute on whether a **claim** should proceed to trial or settlement, advice shall be taken from a senior member of the Malaysian Bar to be appointed by both of **us** or in the absence of such mutual agreement, to be appointed by the President, for the time being, of the Malaysian Bar. The option to invoke this clause by either party shall be made within 30 days of the written notification of our decision on whether to contest or settle any legal proceedings.

22. This advice shall bind both of **us**. The fees payable for this advice shall not exceed RM10,000 and shall be shared equally between **us**.





23. If both of **us** cannot agree on invoking Clause 21, and if **we** recommend that a claim be settled but **you** elect to contest the proceedings, **you** may do so with our prior written consent with a **legal practitioner** of your choice PROVIDED THAT our liability for all losses arising out of that **claim** shall not exceed the amount for which that **claim** could have been settled plus legal costs up to the date **we** and/or our **authorised representatives** recommended the settlement in writing to **you**.

DISPUTES WITH US

24. Except as provided in Clause 21 and Definition in Clause 35(g), if there is any dispute between **us** about this insurance **we** both may agree to arbitration on the basis that:
- (a) the sole arbitrator is to be appointed by the President, for the time being of the Malaysian Bar;
 - (b) **we** share the costs of the arbitration equally; and
 - (c) the arbitrator's decision binds both of **us**.

CHANGES IN EXPOSURE

25. Your Premium, Limit of Indemnity and Base Excess shall not be varied during the **Period of Insurance** by dissolution of your **Firm**, turnover in **principals** or **employees** after the inception date of this insurance in any circumstances other than in respect of your merger or amalgamation with another Firm. However, additional premium will be payable in respect of the addition to the **Firm** of any **legal practitioner** who had ceased to be insured prior to the date of commencement of this Period of Insurance.
26. In the case of your merger or amalgamation with another **Firm** during the **Period of Insurance**, your Premium, Limit of Indemnity and Base Excess shall be re-determined. **You** shall give written notice of such event to **us** as soon as practicable and provide such other information as **we** may reasonably request.

SUBROGATION

27. In the event of any payment under this insurance, **we** shall be subrogated to the extent of such payment to all your rights of recovery. **You** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable **us** effectively to bring the suit in your name.
28. **We** agree not to exercise our rights of subrogation against a **principal** or an **employee** except in the case of that person's **misconduct**.

CONDITIONS PRECEDENT TO LIABILITY

29. The due observance and fulfilment of Clauses 13(a), 14 and 15 in so far as they relate to anything to be done or complied with by **you** and the truth of the statements and answers in the proposal form shall be condition precedent to our liability to make any payments under this insurance.





INNOCENT NON-DISCLOSURE

30. If a **principal** inadvertently fails to disclose facts material or otherwise to the assessment of the risk hereunder, **we** shall not exercise our right to avoid this insurance on the grounds of such failure.

FRAUDULENT CLAIMS

31. If **you** make any **claim** for indemnity knowing the same to be false or fraudulent, as regards amount or otherwise, **you** shall forfeit the benefits of this insurance with regards to such claim.

WHAT WE EXCLUDE FROM THE INSURANCE

32. **We** will not indemnify **you** under this insurance for:
- (a) any liability which is more specifically insured under any other policy effected by **you** or on your behalf or which would but for this insurance be so covered.
 - (b) **claims** arising from any **notifiable circumstances** which **you** were aware of prior to the inception of this insurance.
 - (c) **claims** relating to **notifiable circumstances** to which this insurance would otherwise respond which **you** notified to **us** or any other insurer prior to the inception of this insurance.
 - (d) any legal proceedings outside Malaysia. This exclusion shall not apply to legal proceedings in Malaysia for the enforcement of any award or judgment secured in any foreign jurisdiction except that of the United States of America, its possessions and dependencies or Canada.
 - (e) any liability directly or indirectly caused by or contributed to by or arising from or in respect of **misconduct** (except as provided in Clause 11).
 - (f) any **claim** in respect of any personal financial guarantee or undertaking given by **you** otherwise than in good faith in the course of the conduct of the **Firm** or as required by law or order of the courts.
 - (g) death, bodily injury or loss of or damage to any physical property occupied or used by **you** for the purposes of the operations of the **Firm** (excluding property in your care, custody and control in connection with the **Firm** and for which **you** are responsible).
 - (h) wrongful dismissal or any other alleged breach of any contract of employment by **you**.
 - (i) wrongful termination or any other alleged breach of any contract for supply to or use by **you** of services, materials, equipment, other goods and/or immovable property.
 - (j) any trading debt incurred by **you**.
 - (k) the giving of any express or implied warranty or guarantee relating to the financial return on any investment.
 - (l) any liability directly or indirectly caused by or contributed to by or arising from war, invasion, acts of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection, military or usurped power or terrorist activity or from any action taken to avoid or detect terrorist activity.





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- (m) any **claims** brought about by or attributable to or consequent upon the holding by **you** of any appointment as a director, officer or company secretary of a company or organisation.

Provided however that this exclusion shall not apply to **claims** arising out of **you** acting as a **legal practitioner**, with the consent and prior approval of the **Firm**, for any company or organisation for whom **you** are a director, officer or company secretary and for which **you** received a fee.

- (n) any claims for refund of your professional fees, charges, disbursements and other incidental costs.
- (o) any liability directly or indirectly, wholly or in part caused or contributed to or arising from or in respect of any disciplinary proceedings brought against **you** or by **you**.
- (p) any **claim** or counterclaim set off by an insured against another insured under the Malaysian Bar Professional Indemnity Insurance Scheme; provided however that this exclusion shall not apply to:
- (i) any **claim** where **you** act as a **legal practitioner** for the claimant;
- (ii) any **claim** where **you** act as a **legal practitioner** for a client in pursuing an action against another insured (second insured) and the second insured sues **you**.
- (q) for fines and penalties imposed by law and non-compensatory awards of any kind.

INTERPRETATION

33. The construction, interpretation and meaning of the provisions of this Certificate shall be determined in accordance with the law of Malaysia, and any disputes relating thereto shall be subject to Malaysian law and jurisdiction.
34. In this Certificate, unless the context requires otherwise:
- (a) the singular includes the plural and vice versa;
- (b) the male gender includes the female and vice versa;
- (c) where an expression is defined for the purpose of this Certificate, any other grammatical form of the expression has the same meaning;
- (d) headings are merely descriptive and not an aid to interpretation;
- (e) references to an amount of money are references to that amount in Malaysian Ringgit (RM).
- (f) where reference to written communication, notices in writing or similar are made then the equivalent and other usual forms of electronic communications will be acceptable.





DEFINITIONS

35. In this Certificate, unless the context otherwise requires:

- (a) **authorised representatives** means the employees and management of Jardine Lloyd Thompson Sdn Bhd, Echelon Claims Consultants Sdn Bhd and any **legal practitioner** and any other person retained by **us**.
- (b) **claim** means:
 - (i) a demand for, or an assertion of a right to, compensation or damages; or
 - (ii) an intimation of an intention to seek compensation or damages.
- (c) **claimant's costs** means legal costs **you** have to pay to the person making a **claim** against **you**.
- (d) **defence costs** means reasonable costs, charges, fees and expenses incurred by **you** or on your behalf in the investigation, defence and/or settlement of any actual or potential **claim** which may form the subject of indemnity under this insurance.
- (e) **employee** means a person who, at any time, is or was employed or similarly engaged by the **Firm** (such as a legal assistant, articled clerk, pupil in chambers, consultant, office or clerical staff).
- (f) **Firm** means the person(s) in Item 3 and/or Firm name named in Item 4 of the Schedule and includes a **successor practice** or a **prior practice** which is no longer specifically insured under any current or run-off whether enforceable or not.
- (g) **legal practice** means the provision of such services including pro bono and all professional services as are provided in the normal course of carrying on the profession as a **legal practitioner** in **private practice** anywhere in Malaysia as governed by the Legal Profession Act of 1976 as amended.

In the event of any dispute as to whether any particular service falls within the definition of **legal practice**, then the dispute shall be referred to the President, for the time being, of the Malaysian Bar whose ruling shall be binding on **us**.
- (h) **legal practitioner** means an advocate and solicitor as defined in Section 43 of the Legal Profession Act 1976, as amended; and does not include entities and lawyers defined under Part IVA of the Legal Profession (Amendment) Act 2012.
- (i) **misconduct** means dishonest or fraudulent conduct in the discharge of his duties.
- (j) **Mitigation Costs** means any payment of loss, costs or expenses reasonably and necessarily incurred by the **Firm** in taking action to mitigate or rectify or avoid or reduce a **claim** which could have been covered under this insurance.
- (k) **notifiable circumstances** means any fact, circumstance or event which **you** reasonably anticipate could give rise to a **claim** against **you** at any future time.
- (l) **one claim** means all claims by one or more claimants that arise from
 - (i) one act or omission; or
 - (ii) one series of related acts or omissions; or





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- (iii) the same act or omission in a series of related matters or transactions; or
- (iv) similar acts or omissions in a series of related matters or transactions; or
- (v) **misconduct** of one person acting alone or in collusion with others; such claims shall be regarded as attributable to one underlying cause and shall be subject to the terms of Clause 10 and Clause 11;
- (m) **Period of Insurance** means the period specified in Item 6 of the Schedule.
- (n) **principal** means
 - (i) a person who, at any time is or was a partner of the **Firm**; or
 - (ii) a person who is the sole practitioner of the **Firm**.
- (o) **prior practice** means any practice previously conducted by or engaged by any of **you** or to which this practice is a successor or subsequent employer.
- (p) **successor practice** means any **legal practice** which succeeds at any time during the **Period of Insurance** to the whole or part of the **legal practice**.
- (q) **us** means the Insurer named in Item 2 of the Schedule except when the context requires '**us**' to refer to both the Insurer and **you**.
- (r) **we** means the Insurer named in Item 2 of the Schedule except when the context requires '**we**' to refer to both the Insurer and **you**.
- (s) **you** means the **Firm** and other parties referred to in Clause 1 or where the context requires any one or more of the **Firm** and other parties referred to in Clause 1.

ADDRESS FOR NOTICES TO INSURER

36. Any summons, notice, or process to be served on **us** may be served at the address specified in the Schedule.

PREMIUM AND CLAIMS LOADINGS

37. If **we** have not made any payment towards your claim or notifiable circumstance under this insurance the premium applicable for the Firm shall be RM1,140.00 per legal practitioner. The premium of RM1,140.00 per practitioner will similarly apply to newly established practices.
38. In the event that **we** make a payment towards your claim or notifiable circumstance under this insurance, an additional premium (also referred to as claims loading) will be applied upon renewal of your insurance. This additional premium will be calculated either as 5% of the claim amount paid by us or 5 times the current year premium, whichever is the lower, subject to a maximum cap of up to 25% of the amount paid for that particular claim and will apply over a period of 5 years from date of notification.





APPENDIX 1

MALAYSIAN BAR

SCHEDULE ATTACHING TO AND FORMING PART OF THE MALAYSIAN BAR PROFESSIONAL INDEMNITY INSURANCE CERTIFICATE AS PART OF MASTER POLICY NO. 129714U7000005				
1.	CERTIFICATE NO.	:	2015/M/_____/_____	
2.	INSURER	:	Pacific & Orient Insurance Co. Berhad (12557-W) 11 th Floor, Wisma Bumi Raya No. 10, Jalan Raja Laut, P.O. Box 10953 50730 Kuala Lumpur (and its successors or assigns)	
3.	NAMED INSURED	:	(As per Attachment 1 to this Schedule)	
4.	THE FIRM	:		
5.	ADDRESS	:	(and all branches within West Malaysia)	
6.	PERIOD OF INSURANCE	:	From 1st January 2015 to 31st December 2015 at midnight Malaysian Time	
7.	MANDATORY LIMIT OF INDEMNITY	:	RM	each and every claim (subject to sub-limit in respect of Misconduct)
8.	SUB-LIMIT IN RESPECT OF MISCONDUCT	:	RM	350,000.00 in the aggregate (subject to Firm's Mandatory Limit, whichever is lower)
9.	BASE EXCESS	:	RM	each and every claim (subject to Clause 11 of the Certificate of Insurance)
10.	PREMIUM INCLUSIVE OF 6% SERVICE TAX	:	RM	
11.	STAMP DUTY	:	Paid on the Master Policy	
			SIGNED FOR : Pacific & Orient Insurance Co. Berhad S. KRISHNA MURTHIE General Manager Business Development, Underwriting	
The insurance is subject to the terms of the <u>Master Policy No. 129714U7000005</u> and the 2015 Certificate of Insurance.				

