

**THE DOMESTIC AGREEMENT**

**dated 1st November 1985**

**between**

**MOTOR INSURERS' BUREAU OF HONG KONG**

**and**

**AUTHORISED MOTOR INSURERS**

**THIS AGREEMENT** is made the 1st November 1985

*BETWEEN:-*

- (1) **MOTOR INSURERS' BUREAU OF HONG KONG** ("M.I.B."); and
- (2) **INSURERS FOR THE TIME BEING AUTHORISED TO CARRY ON MOTOR VEHICLE INSURANCE BUSINESS IN HONG KONG** ("Insurers"), being at the date of this Agreement those insurance companies and Lloyd's underwriters by or on behalf of whom this Agreement is signed.

*WHEREAS:-*

- (A) By an agreement dated 1st November 1985 (the "Insolvency Fund Agreement", which expression includes such agreement as from time to time amended) between the Government of Hong Kong ("Government") (1) and M.I.B. (2) (a copy of which is annexed to this Agreement) M.I.B. has undertaken with Government to establish and operate the Insolvency Fund Scheme (as therein defined) (the "Insolvency Fund Scheme") upon the terms and subject to the conditions therein set out.
- (B) The Insurers and M.I.B. wish to enter into this Agreement for the purpose of enabling M.I.B. to carry out its obligations under the Insolvency Fund Agreement.

*NOW IT IS HEREBY AGREED as follows:-*

## **1. OBLIGATIONS OF THE INSURERS**

In consideration of the undertakings by M.I.B. in Clause 2 of this Agreement each of the Insurers severally hereby undertakes with each other of them severally, and separately with M.I.B.:-

- (a) fully and promptly to do all those things which it is contemplated in the Insolvency Fund Agreement that it should as an Insurer do, in all respects as if it had been party to the Insolvency Fund Agreement and agreed to be bound thereby;
- (b) to remain a member of M.I.B. until it ceases to be such a member in terms of Article 4 of the Articles of Association of M.I.B.; and
- (c) to be bound by this Agreement for so long as it remains a member of M.I.B. and thereafter in respect of obligations arising under this Agreement or under the Insolvency Fund Agreement before it ceased to be a member of M.I.B.

## **2. OBLIGATIONS OF M.I.B.**

In consideration of the undertakings by the Insurers in Clause 1 of this Agreement M.I.B. hereby undertakes with each of the Insurers severally:-

- (a) to establish and operate the Insolvency Fund Scheme as provided in the Insolvency Fund Agreement; and
- (b) to make it a condition of membership of M.I.B. that each applicant for membership shall, forthwith on becoming a member, promptly indicate in writing in manner satisfactory to M.I.B. that it agrees to be bound by this

Agreement as an Insurer with effect from the date on which it became a member of M.I.B.

### 3. CERTAIN RIGHTS UNAFFECTED

Nothing in this Agreement or in the Insolvency Fund Agreement shall affect any right of an Insurer to any indemnity or contribution from another Insurer whether such right arises at common law, by statute, from a claims sharing or other agreement, by subrogation or by assignment of any relevant judgment and all such rights shall be determined according to the facts and circumstances of each case without reference to this Agreement.

### 4. DISPUTES

4.01 Any dispute arising between M.I.B. and one or more of the Insurers touching this Agreement or the Insolvency Fund Agreement which cannot be settled by agreement shall be referred to an arbitrator to be nominated by the Chairman for the time being of the Hong Kong Bar Association. The award of such an arbitrator shall be final and binding on all the parties to such dispute.

4.02 Any dispute arising between two or more of the Insurers arising out of or concerning the application of this Agreement or the Insolvency Fund Agreement shall be referred to an arbitrator to be appointed by the Council of M.I.B. and his decision shall be final and binding on all the parties. For the purposes of avoiding such disputes and facilitating their settlement M.I.B. and the Insurers agree that all questions of interpretation and construction of this Agreement or the Insolvency Fund Agreement arising between Insurers (including such questions arising during an arbitration between Insurers) shall be submitted to the Council of M.I.B., whose ruling shall be final and binding on all parties hereto.

AS WITNESS the hands of the duly authorised representative of the parties the day and year first before written.

SIGNED by Ko Ying )  
for and on behalf of **MOTOR** ) Ko Ying (Sd.)  
**INSURERS' BUREAU OF HONG KONG** )  
in the presence of: )

Stewart Smith  
Solicitor  
Hong Kong

SIGNED for and on behalf of the )  
**Insurers** in the presence of: )  
)  
)  
)

Stewart Smith  
Solicitor  
Hong Kong