



CONTRACTORS' "ALL RISKS" INSURANCE POLICY

This Policy should be examined and immediately returned if any error be found therein.

1. NOW THIS POLICY WITNESSETH **that in consideration of the Insured having paid or agreed to pay to the Insurers the premium stated in the said Schedule.**

1.1 **THE INSURERS HEREBY AGREE** subject to the terms exceptions and conditions contained herein or attached hereto or endorsed hereon that if during the Period of Insurance stated in the said Schedule or during any further period in respect of which the Insured shall have paid and the Insurers shall have accepted premium the Insured shall sustain loss or damage or shall incur liability in the circumstances provided for by this Policy and defined herein the Insurers shall indemnify the Insured in the manner hereinafter described.

2. GENERAL EXCEPTIONS

2.1 The Insurers shall not indemnify the Insured in respect of loss, damage or liability directly or indirectly caused by or arising out of:

2.1.1 War, invasion act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, mutiny, military or usurped power or persons acting on behalf of or in connection with any political organization with activities directed towards the overthrow or influencing of a government, de jure or de facto, by force, martial law, confiscation, nationalization, commandeering, requisition or destruction or damage by order of any government, de jure or de facto, or by any public authority;

2.1.2 strike, riot, lock out, civil commotion or persons taking part in labour disturbances;

2.1.3 malicious damage by any persons;

2.1.4 acts of terrorism committed by a person or persons acting on behalf of or in connection with any organization. For the purpose of this exclusion "terrorism" means the use of violence for political ends and includes the use of violence for the purpose of putting the public or any section of the public in fear;

2.1.5 nuclear weapons material ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel and for the purposes of this exception combustion shall include any self-sustaining process of nuclear fission.

2.2 In any action suit or other proceeding where the Insurers allege that by reason of the provisions of exception 2.1.1, 2.1.2, 2.1.3 and 2.1.4 above any loss damage or liability is not covered by this insurance the burden of proving that such loss damage or liability is covered shall upon the Insured.

2.3 CYBER LOSS EXCLUSION CLAUSE - LMA5411 (AMENDED)

1. Notwithstanding any provision to the contrary within this insurance agreement or any endorsement thereto, this insurance agreement excludes any:

1.1. Cyber Loss;

1.2. loss, damage, liability, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

2. If the Company alleges that by reason of this exclusion any loss, damage, liability, claim, cost or expense sustained by the Insured is not covered by this insurance agreement, the burden of proving the contrary shall be upon the Insured.

Definitions

3. Cyber Loss means:

3.1 any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any Cyber Act or Cyber Incident, including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident.

3.2 means any loss, damage, liability, expense, fines or penalties or any other amount directly or indirectly caused by:

(a) the use or operation of any Computer System or Computer Network;

(b) the reduction in or loss of ability to use or operate any Computer System, Computer Network or Data;

(c) access to, processing, transmission, storage or use of any Data;

(d) inability to access, process, transmit, store or use any Data;

(e) any threat of or any hoax relating to (a) to (d) above;

(f) any error or omission or accident in respect of any Computer System, Computer Network or Data.

4. Cyber Act means an unauthorized, malicious or criminal act or series of related unauthorized, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

5. Cyber Incident means:

5.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System, or

5.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

6. Computer System means:
 - 6.1 any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.
 - 6.2 any computer, hardware, software, application, process, code, programme, Information technology, communications system or electronic device owned or operated by the Insured or any other party. This includes any similar system and any associated input, output or data storage device or system, networking equipment or back up facility.
7. Computer Network means a group of Computer Systems and other electronic devices or network facilities connected via a form of communications technology, including the internet, intranet and virtual private networks (VPN), allowing the networked computing devices to exchange Data.
8. Data means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

2.4 SANCTION LIMITATION AND EXCLUSION CLAUSE - LMA3100 (AMENDED)

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is agreed that the Company shall not provide cover and liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Company to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America or the People's Republic of China/Hong Kong SAR.

2.5 CONTRACTS (RIGHTS OF THIRD PARTIES) ORDINANCE EXCLUSION CLAUSE

Any person or entity who is not a party to this Policy shall have no rights under the Contracts (Rights of Third Parties) Ordinance (Cap 623 of the Laws of Hong Kong) to enforce any terms of this Policy.

2.6 COMMUNICABLE DISEASE EXCLUSION - LMA5396 (AMENDED)

1. Notwithstanding any provision to the contrary within this policy, this policy does not cover all actual or alleged loss, damage, claim, liability, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this endorsement, loss, liability, damage, claim, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
 - 2.1 for a Communicable Disease, or
 - 2.2 any property insured hereunder that is affected by such Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
 - 3.1 the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
 - 3.2 the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
 - 3.3 the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress, damage to human health, human welfare or property damage or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.

This endorsement applies to all coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

All other terms, conditions and exclusions of the policy remain the same.

3. SECTION I – MATERIAL DAMAGE

- 3.1 The Insurers shall indemnify the Insured in respect of loss of or damage to the Insured Property described in the Schedule whilst at the Site during the Period of Insurance arising from any cause whatsoever not hereinafter excluded.
- 3.2 The Insurers shall not indemnify the Insured in respect of that part of the works:
 - 3.2.1 which has been taken into use or occupation by the Employer from the time of such taking into use or
 - 3.2.2 for which a certificate of completion has been issued from the expiry of 28 days from the date of completion certified therein;

- 3.2.3 whichever of 3.2.1 or 3.2.2 is the earlier unless;
 - 3.2.4 such loss or damage be occasioned during the Maintenance Period stated in the Schedule and
 - 3.2.5 was caused by an occurrence during the Construction Period stated in the Schedule or
 - 3.2.6 was caused by an insured contractor in the course of complying with his obligations under the maintenance and defects liability clauses of the Contract.
- 3.3 Provided that the total liability of the Insurers under this Section shall not exceed the Sum Insured shown in the Schedule for each item of the Insured Property.

EXCEPTIONS TO SECTION I

- 3.4 The Insurers shall not indemnify the Insured in respect of:
- 3.4.1 loss or damage due to any fault, defect, error or omission in or failure of any design, plan or specification;
 - 3.4.2 loss or damage due to defect in material or workmanship but this exception shall be limited to that part of the Insured Property directly affected and shall not exclude loss or damage to other parts of the Insured Property resulting from an accident due to such defect;
 - 3.4.3 loss of or damage to any item of machinery forming part of the Works or Constructional Plant due to its own explosion, mechanical or electrical breakdown or derangement but this exception shall not be deemed to exclude damage to other parts of the Works or Constructional Plant arising as a consequence of such explosion, breakdown or derangement;
 - 3.4.4 loss of Insured Property due to it being stolen or otherwise missing from the Site unless such loss is identifiable by the Insured with a specific occurrence;
 - 3.4.5 loss of or damage to cash, bank notes, treasury notes, cheques, postal orders, money orders, stamps, deeds, bonds, bills of exchange, promissory notes and securities;
 - 3.4.6 loss of use liquidated damages, penalties, performance guarantees or other consequential losses;
 - 3.4.7 loss or damage due to wear and tear, rust, mildew or other deterioration due to gradually operating causes;
 - 3.4.8 the cost of maintenance;
 - 3.4.9 loss of or damage to any locomotive, waterborne vessel, aircraft or vehicle other than any land vehicle which is used solely on the Site and which is not used on any public road or public highway to which any road traffic legislation applies;
 - 3.4.10 damage to tyres whilst attached to a vehicle or plant unless the vehicle or plant is damaged at the same time;
 - 3.4.11 loss or damage due to cessation of work whether total or partial;
 - 3.4.12 loss or damage that is not unforeseen or accidental in nature.

CONDITIONS TO SECTION I

- 3.5 The Sum Insured shall in respect of Item 4 in the Schedule represent the new replacement value inclusive of erection, freight and customs.
- 3.6 If in the event of loss or damage to the Insured Property under Item 4 it is found that the Sums Insured are less than the amounts required to be insured the amount recoverable under this Policy shall be reduced in such proportion as the Sums Insured bear to the amounts required to be insured.
- 3.7 In the event to the Insured Property under Item 4 indemnifiable under this Policy the basis of loss settlement shall be:
- 3.7.1 in the case of damage which can be repaired, the costs of necessary repairs without deduction for depreciation, however indemnification shall be limited to costs not exceeding the actual value of the damaged property;
 - 3.7.2 in the case of a total loss, the actual value of the Insured Property immediately before the occurrence of the loss less salvage.
- 3.8 In the event of loss or damage to the Insured Property the insurance hereunder shall be maintained in force during the Period of Insurance for the Sum Insured the Insured undertaking to pay an additional premium at the agreed rate on the amount of any loss exceeding HKD100,000, pro rata from the date of such loss or damage to the expiry of the Period of Insurance but this additional premium shall be disregarded for the purpose of any adjustment of premium under General Condition 5.6 of this Policy.

4. SECTION II – LIABILITY TO THIRD PARTIES

- 4.1 The Insurers shall indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay for:
- 4.1.1 accidental death, bodily injury, illness or disease suffered by any person arising out of the performance of the Contract described in the Schedule;
 - 4.1.2 accidental loss or damage to physical property arising out of the performance of the Contract described in the Schedule.
- 4.2 The liability of the Insurers under this Section of the Policy for all compensation payable to any claimant or number of claimants in respect of or arising out of all occurrences of a series consequent on or attributable to one original cause shall not exceed the limit of indemnity specified in the Schedule.

- 4.3 In respect of any claim covered by this Section of the Policy the Insurers shall in addition be liable for:
- 4.3.1 all costs and expenses of litigation recovered by any claimant against the Insured;
- 4.4 all costs and expenses of litigation incurred by the Insured with the written consent of the Insurers in resisting any claim; Where the Insured consists of more than one party the insurance by this Section shall apply to each party as if a separate policy had been issued to each party.
- 4.5 Provided always that the aggregate liability of the Insurers shall not be increased beyond the limit of indemnity specified in the Schedule.

EXCEPTIONS TO SECTION II

- 4.6 The Insurers shall not indemnify the Insured in respect of:
- 4.6.1 Liability for death, bodily injury, illness or disease arising out of or in the course of undertaking any activity in connection with an Insured Contract in respect of:
- 1) any person employed directly or independently by the Employer or any contractor and/or sub-contractor of any tier; and
 - 2) any person to whom any part of the Insured Contract has been sub-contracted, including but not limited to self-employed person(s) and/or sole proprietor.
- 4.6.2 liability in respect of compensation claimed from the Insured by an injured person or dependent under any Employees Compensation Legislation;
- 4.6.3 liability resulting from or attributable to or caused by the ownership or possession or use by or on behalf of the Insured of any locomotive, waterborne vessel, aircraft or vehicle other than any land vehicle which is used solely on the Contract Site and which is not used on any public road or public highway to which any Road Traffic Legislation applies;
- 4.6.4 liability compulsorily insurable under any legislation governing the use of motor vehicles;
- 4.6.5 liability in respect of loss or damage to any building, property or structure caused by or resulting from vibration or by the removal or weakening of support;
- 4.6.6 liability in respect of loss of or damage to property belonging to or in the care, custody or control of the Insured;
- 4.6.7 liability in respect of loss or damage to permanent or temporary works or materials forming part of the Contract or contracts insured under this Policy;
- 4.6.8 liability consequent upon any agreement by the Insured to pay any sum by way of indemnity or otherwise or predetermined penalties or liquidated damages imposed under any contract entered into by the Insured unless such liability would have attached also in the absence of such agreement, contractual penalty or liquidated damages.

5. GENERAL CONDITIONS

- 5.1 This Policy shall be construed according to the laws of Hong Kong.
- 5.2 The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule shall bear such meaning wherever it may appear.
- 5.3 All the terms, exceptions and conditions contained herein or endorsed hereon are incorporated in and form part of this contract of insurance and are deemed to be conditions precedent to any liability on the part of the Insurers so far as they relate to anything to be done by the Insured.
- 5.4 The expressions "Constructional Plant", "Certificate of Completion", "Contract", "Contractor", "Contract Sum", "Final Contract Sum", "Maintenance Period", "Site", "Specification" and "Works" shall bear the meaning ascribed to them in the Government of Hong Kong General Conditions of Contract for Civil Engineering Works/Building Works (1999 Edition).
- 5.5 If any change shall occur materially varying any of the facts upon which this Policy is based the Insured shall immediately give notice in writing to the Insurers and the premium shall be adjusted in accordance with any agreed rate.
- 5.6 The Insured shall within three months of the expiration of the Period of Insurance furnish to the Insurers a declaration of the Final Contract Sum and if such sum shall differ from the Contract Sum the premium shall be adjusted accordingly subject to any minimum retained premium previously agreed.
- 5.7 The Insured shall also take and cause to be taken all reasonable precautions to prevent loss damage or accident and shall comply with the "Construction Sites (Safety) Regulations" and any ordinance or regulation which might apply in respect of the Insured Contract.
- 5.8 In the event of any occurrence which might give rise to a claim under this Policy the Insured shall:
- 5.8.1 notify the Insurers as soon as possible and in writing give an indication as to the nature and extent of the damage;

- 5.8.2 at the expense of the Insurers take such immediate action as is necessary to minimise the loss provided that such expense shall not increase the Insurers ultimate loss;
- 5.8.3 keep parts affected and make them available for inspection by a representative or surveyor of the Insurers for a reasonable period of time but the Insured shall not in any case be entitled to abandon any property to the Insurers whether taken possession of by the Insurers or not;
- 5.8.4 submit a formal claim and furnish all such information and documentary evidence as the Insurers may require within six months of the occurrence or such further time as the Insurers may in writing agree, such agreement not to be unreasonably withheld;
- 5.8.5 inform and assist the police authorities in case of loss or damage due to theft or burglary or malicious action;
- 5.8.6 immediately send to the Insurers upon receipt any writ summons or other proceedings which may be commenced against the Insured;
- 5.8.7 give to the Insurers all information and assistance to enable the Insurers to settle or resist any claim or institute proceedings.
- 5.9 In the event of a claim or claims arising for which the Insurers could be liable under this Policy the Insurers shall be entitled:
 - 5.9.1 to undertake in the name and on behalf of the Insured the absolute conduct and control of any proceedings and the settlement of the same;
 - 5.9.2 to take proceedings at their own expense and for their own benefit but in the name of the Insured to recover compensation or secure an indemnity from any third party in respect of anything covered by this Policy;
 - 5.9.3 to pay to the Insured in respect of any claim or claims the maximum liability of the Insurers under Section II of this Policy as stated in the Schedule or such lesser sum for which the said claim or claims can be settled (subject to deduction in either case of any sum or sums already paid on account for such claim or claims) and thereafter the Insurers shall be under no further liability in respect of said claim or claims except for payment of costs and expenses incurred prior to the date of such payment and for which the Insurers may be liable hereunder.
- 5.10 The Insured shall not negotiate, pay, settle, admit or repudiate any claim under the Policy without the written consent of the Insurers.
- 5.11 This insurance is not to be called upon in contribution and is only to pay and loss hereon if and so far as not recoverable under any other insurance.
- 5.12 All differences arising out of this Policy shall be referred to the decision of an Arbitrator to be appointed in writing by the parties in difference or if they cannot agree upon a single Arbitrator to the decision of two Arbitrators one to be appointed in writing by each of the parties within one calendar month after having been required in writing so to do by either of the parties or in case the Arbitrators do not agree an Umpire appointed in writing by the Arbitrators before entering upon the reference. The Umpire shall sit with the Arbitrators and preside at their meetings and the making of an award shall be a condition precedent to any right of action against the Insurers. If the Insurers shall disclaim liability to the Insured for any claim hereunder and such claim shall not within twelve months from the date of such disclaimer have been referred to arbitration under the provisions herein contained then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable hereunder.