



CONTRACTORS “ALL RISKS” INSURANCE POLICY

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, 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 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;

2.1.4 nuclear weapons, material, ionizing 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 exceptions 2.1.1, 2.1.2 and 2.1.3 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 be upon the Insured.

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 of 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.

EXCEPTIOS 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 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 exclusion 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 of 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 of loss or damage 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 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 HK\$100,000, 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;
- 4.3.2 all costs and expenses of litigation incurred by the Insured with the written consent of the Insurers in resisting any claim.
- 4.4 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 in respect of death, bodily injury, illness or disease suffered by:
- 1) Any person employed by any insured party for the purpose of execution of insured contract or any parts thereof; and
- 2) Any person to whom part or parts of the insured contract have been sub-contracted including but not limited to self-employed sub-contractors.
- 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 of 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 of 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 (1993 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 Insurer, or 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 minimize 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 any loss hereon if and so far as not recoverable under any other insurance.
- 5.12 All differences arising out of this Policy shall be determined by arbitration in accordance with the Arbitration Ordinance as amended from time to time. If the parties fail to agree upon the choice of arbitrator, then the choice shall be referred to the Chairman for the time being of the Hong Kong International Arbitration Centre. It is expressly stipulated that it shall be a condition precedent to any right of action or suit upon this Policy that an arbitration award shall be first obtained. If the Company shall disclaim liability to the Insured for any claim hereunder and such claim shall not within twelve calendar 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.

Industries, Seepage, Pollution and Contamination Exclusion Clause

This insurance does not cover any liability for:

- (a) Personal Injury or Bodily Injury or loss of, damage to or loss of use of property directly or indirectly caused by seepage, pollution or contamination, provided always that this paragraph (a) shall not apply to liability for Personal Injury or Bodily Injury or loss of or physical damage to or destruction to tangible property, or loss of use of such property damaged or destroyed, where such seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the period of this insurance.
- (b) The cost of removing, nullifying or cleaning-up seeping, polluting or contaminating substances unless the seepage pollution or contamination is caused by a sudden, unintended and unexpected happening during the period of this insurance.
- (c) Fines, penalties, punitive or exemplary damages

This Clause shall not extend this insurance to cover any liability which would not have been covered under this insurance had this clause not been attached.

Infectious Disease Exclusion

This policy shall exclude any claim in respect of death, bodily injury, illness of any person or damage to property arising directly or indirectly out of or caused by or in connection with infectious or contagious disease of any kind.

It is further understood that the Company shall not be liable for

- i) any payment for the investigation or defence of any loss
- ii) any cost or extra expense incurred

in relation to any kind of infectious or contagious disease either.

Subject otherwise to the terms, exceptions and conditions of this policy.

Terrorism and Computer Risk Exclusion Clauses

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 expenses 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 is 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 (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.

IT Clarification Clause

Property damage covered under this Agreement shall mean physical damage to the substance of property.

Physical damage to the substance of property shall not include damage to data or software, in particular any detrimental change in data, software or computer programs that is caused by a deletion, a corruption or a deformation of the original structure.

Consequently the following are excluded from this Agreement.

- (A) Loss of or damage to data or software, in particular any detrimental change in data, software or computer programs that is caused by a deletion, a corruption or a deformation of the original structure, and any business interruption losses resulting from such loss or damage.

Notwithstanding this exclusion, loss of or damage to data or software which is the direct consequence of insured physical damage to the substance of property shall be covered.

- (B) Loss of damage resulting from an impairment in the function, availability, range of use or accessibility of data, software or computer programs, and any business interruption losses resulting from such loss or damage.

Terrorism Exclusion Clause for Contamination And Explosive

It is agreed that, regardless of any contributory causes, this insurance does not cover any loss, damage, cost or expenses directly or indirectly arising out of

- a) Biological or chemical contamination
 - b) Missiles, bombs, grenades, explosives
- due to any act of terrorism.

For the purposes of the endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological, or ethnic purposes or reasons including the intention to influence any government and/or to put the public, or any section of the public, in fear.

For the purpose of a) "contamination" means the contamination, poisoning, or prevention and/or limitation of the use of objects due to the effects of chemical and/or biological substances.

If the insurer alleges 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 Insured.

Toxic Mold Exclusion

This policy does not insure loss or damage by mold, moss mildew, fungi, spores, bacterial infestation or any similar organism and wet or dry rot, whether directly or indirectly the result of a covered peril. This includes, but is not limited to, the cost for investigation, testing, remediation services, extra expense or business interruption. Such loss is excluded regardless of any other cause or event that continues concurrently or in any sequence to the loss. If loss otherwise covered by this Policy occurs and the cost of removal of debris is increased due to the presence of mold, moss, fungi, bacterial infestation, wet or dry rot and extremes of humidity, this Policy will only be liable for the costs of debris removal which would have been incurred had no such factors been present in, on or about the covered property to be removed.

Total Asbestos Exclusion Clause

It is hereby understood and agreed that this contract shall not apply to and does not cover any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of asbestos in whatever form or quantity.

Year 2000 Exclusion Clause

Memorandum

For the purposes of this Memorandum the expression Computer Equipment shall mean any computer or other equipment or system for processing, storing or retrieving data and shall include but shall not be limited to any computer hardware, firmware or software, media, microchip, integrated circuit or similar device.

This Policy does not cover any loss damage or liability of whatsoever nature directly or indirectly caused by contributed to by or arising from the failure or inability of any Computer Equipment whether the property of the Insured or not and whether occurring before during or after the year 2000.

- i) correctly to recognize any date as its true calendar date.
- ii) to capture save or retain or correctly to manipulate interpret or process any data or information or command or instruction as a result of treating any date otherwise than as its true calendar date.
- iii) to capture save or retain or correctly to process any data as a result of the operation of any command which has been programmed into any Computer Equipment being a command which causes the loss of data or the inability to capture save or retain or correctly to process such data on or after any date.

Sanction Limitation And Exclusion Clause

The Insurers shall not be deemed to provide cover and shall not be 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 Insurers 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, The People's Republic of China / Hong Kong SAR or any jurisdiction or regulation or specific national law applicable to the Insurers or the Insurers' reinsurers panel.

Rights of Third Parties 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.

CYBER RISK EXCLUSION CLAUSE LMA5411

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

Definitions

3. Cyber Loss means 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.
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.
7. 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.