

**ZURICH INSURANCE COMPANY LTD**  
(a company incorporated in Switzerland)

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CONTRACTORS' ALL RISKS  
(LIABILITY TO THIRD PARTIES)  
INSURANCE POLICY

營造商(第三者責任險)保險單

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## CONTRACTORS' ALL RISKS (LIABILITY TO THIRD PARTIES) INSURANCE POLICY

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Please read this Policy carefully upon receipt and promptly request for any necessary amendments

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Whereas the Contractor has by proposal and declaration which shall be the basis of this insurance contract and be held as incorporated herein applied to ZURICH INSURANCE COMPANY LTD (hereinafter called "the Insurers") for the insurance hereinafter contained.

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, 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 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 will not be liable under this Policy for claims in respect of :

### 2.1.1 War

2.1.1.1 liability directly or indirectly caused by or arising out of 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 organisation with activities directed towards the overthrow or influencing of a government, de jure or de facto, by force, confiscation, nationalisation, commandeering, requisition or destruction or damage by order of any government de jure or de facto, or by any public authority.

2.1.1.2 liability directly or indirectly caused by or arising out of strike, riot, lockout, civil commotion or persons taking part in labour disturbances.

### 2.1.2 Terrorism

2.1.2.1 liability arising directly or indirectly out of or consequent upon or contributed to or by any injury, loss, damage, cost or expense arising from any consequence, whether direct or indirect, of

2.1.2.1.1 any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

2.1.2.1.2 any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

2.1.2.1.3 any failure to control, prevent or suppress any act of terrorism.

2.1.2.2 For the purpose of this exception 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.

### 2.1.3 Radio Contamination

2.1.3.1 liability in respect of bodily injury and/or property damage directly or indirectly caused by or contributed to or arising from

2.1.3.1.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

2.1.3.1.2 the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

2.1.3.2 For the purpose of this exception, combustion will 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 and 2.1.2 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 – NOT APPLICABLE

## 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 this 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 this 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 any person employed by any insured party i.e. Principal Contractors, Sub-contractors, Sub-sub-contractors for the purpose of execution of the Insured contract or any parts thereof and 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 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.
- 4.7 The Insurers will not be liable under this Policy for claims in respect of
- 4.7.1 **Asbestos**
    - 4.7.1.2 liability arising out of, resulting from, caused by contributed to by asbestos or exposure to asbestos; or
    - 4.7.1.3 the costs of abatement, mitigation, removal or disposal of asbestos
    - 4.7.1.4 This exception also includes :
      - 4.7.1.4.1 any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
      - 4.7.1.4.2 any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.
  - 4.7.2 **AIDS, UREA Formaldehyde, etc**
    - 4.7.2.1 liability arising directly or indirectly out of or consequent upon or contributed to or by :
      - 4.7.2.1.1 Acquired Immune Deficiency Syndrome (AIDS) or Aids Related Complex (ARC) however this syndrome may be acquired or named or any related diagnostic or therapeutic products
      - 4.7.2.1.2 Human implants
      - 4.7.2.1.3 Urea Formaldehyde; Polychlorinated Biphenyl; 8-Hydroxyquinoline derivatives; Contraceptives; Tobacco, Vaccine; Diethylstilbestrol; RU 486 and any other Chemical Abortifacients
  - 4.7.3 **Electromagnetic Fields (EMF)/Electromagnetic Interference (EMI)**
    - 4.7.3.1 liability of whatsoever nature in connection with, directly or indirectly, caused by or contributed to by or arising from Electromagnetic Fields (EMF)/Electromagnetic Interference (EMI).

#### 4.7.4 **Electronic Data**

4.7.4.1 liability arising from the transmission of any computer code, programme or other data and/or the unauthorized taking of or access to data

#### 4.7.5 **Electronic Date Recognition**

4.7.5.1 legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from the failure or inability of any computer or other equipment or system for processing storing or receiving data, whether the property of the Insured or not, occurring at any time, to :

4.7.5.1.1 correctly recognise any date as its true calendar date

4.7.5.1.2 capture save or retain and/or correctly 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

4.7.5.1.3 capture save retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software, being a command which causes the loss of data or the inability to capture save retain or correctly process such data on or after any date

#### 4.7.6 **Genetically Modified Organisms (GMO)**

4.7.6.1 liability of whatsoever nature in connection with, directly or indirectly caused by or contributed to by or arising from a Genetically Modified Organism (GMO)

4.7.6.2 For the purpose of this exception Genetically Modified Organism (GMO) means organisms (meaning any biological or molecular unit either living or capable of reproducing or replicating itself, including but not limited to animals, plants, micro-organisms, cells, cell cultures and cell organelles, as well as biological units incapable of independent sexual reproduction, including but not limited to viruses, viroids, sterile domesticated animals, and cultured plants that are either sterile or solely capable of vegetative reproduction, as well as their seeds) which have undergone, or whose precursors have undergone, or parts of which have undergone, a genetic engineering process which resulted in their genetic change in a manner unachievable through traditional breeding methods or natural genetic recombination.

#### 4.7.7 **Intellectual Property**

4.7.7.1 liability in respect of bodily injury and/or property damage arising from the infringement of plans copyright patent trademark or registered design or other intellectual property.

#### 4.7.8 **Penalties and Fines**

4.7.8.1 liability in respect of bodily injury and/or property damage arising from non-completion non-performance or delay in completion of any contract or agreement or the payment of any penalty sums fines or liquidated damages or punitive or exemplary damages.

#### 4.7.9 **Pollution & Contamination (Total)**

4.7.9.1 liability in respect of third parties properties &/or death/bodily injuries of any parties arising out of the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants onto or upon land, the atmosphere or any water course or body of water regardless the loss or damage is caused directly or indirectly, sudden or non-sudden nature arisen from contractor's performance of the contract works.

#### 4.7.10 **Products**

4.7.10.1 liability in respect of bodily injury and/or property damage caused by the nature, condition or quality of the Insured's Products.

#### 4.7.11 **Products-Completed Operation**

4.7.11.1 liability in respect of bodily injury, disease, loss or damage caused by or through or in connection with any commodity which the Insured or his employees or his agents working on his behalf have manufactured, sold, supplied, repaired, serviced, tested or processed after such commodity has been handed over to the customers clients or service users and has left the care, custody and control of the Insured or his employees or his agents working on his behalf.

#### 4.7.12 **Professional Liability**

4.7.12.1 liability in respect of bodily injury and/or property damage arising out of a breach of the duty owed in a professional capacity by the Insured and/or by persons for whose breaches of such duty the Insured may be legally liable.

#### 4.7.13 Silica

4.7.13.1 liability arising directly or indirectly out of or consequent upon or contributed to or by silica and/or mixed dust.

### 5. GENERAL CONDITIONS

- 5.1 This Policy is subject to the exclusive jurisdiction of the Hong Kong Special Administrative Region and is to be construed according to the laws of the Hong Kong Special Administrative Region.
- 5.2 This 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 (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 6 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 the 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 this 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 In the event of a dispute arising out of this policy, the parties may settle the dispute through mediation in good faith in accordance with the relevant Practice Direction on civil mediation issued by the Judiciary of Hong Kong and applicable at the time of dispute. All unresolved disputes shall be determined by arbitration in accordance with the Arbitration Ordinance (Chapter 609), Laws of Hong Kong as amended from time to time. The arbitration shall be conducted in Hong Kong by a sole arbitrator to be agreed by the parties. It is expressly stated that the obtaining of an arbitral award is a condition precedent to any right of legal action arising out of this policy. Irrespective of the status or outcome of any form of alternative dispute resolution, if the Insurers deny or reject liability for any claim under this policy and the Insured does not commence arbitration in the aforesaid manner within twelve (12) calendar months from the date of the Insurers' disclaimer, the Insured's claim shall then for all purposes be deemed to have been withdrawn or abandoned and shall not thereafter be recoverable under this policy.
- 5.13 The Insurers may cancel this Policy by thirty days' written notice by registered letter to the Insured at this last known address and will return to the Insured the premium less the pro rata proportion thereof for the period this Policy has been in force subject to adjustment under Condition 5.6.

## ENDORSEMENTS

The following standardised endorsements are optional and supplementary and only apply to this Policy when specifically mentioned in the Schedule.

### A1 EXTENSION OF COVER FOR VIBRATION OR REMOVAL OR WEAKENING OF SUPPORT (A)

- A1.1 It is agreed and understood that otherwise subject to the terms, exclusions, provisions and conditions contained in the Policy or endorsed here and subject to the Insured having paid the agreed extra premium, Section 2 of this insurance shall be extended to cover liability consequent upon loss or damage caused by vibration or by the removal or weakening of support.

Provided that :

- A1.1.1 the Insurers indemnify the Insured in respect for loss or damage to any property or land or building only if prior to the commencement of construction its condition is sound and the necessary loss prevention measures have been taken.
- A1.1.2 if required, the Insured, before commencement of construction and at his own expense, prepares a report on the condition of any endangered property or land or building.
- A1.2 The Insurers shall not indemnify the Insured in respect of liability for
- A1.2.1 loss or damage which is foreseeable having regard to the nature of the construction work or the manner of its execution,
- A1.2.2 superficial damage only if such damage necessitates repair or replacement,
- A1.2.3 the costs of loss prevention or minimization measures which become necessary during the period of insurance.
- A1.3 The limit of indemnity (any one occurrence), total limit of indemnity and deductible are as per the amount stipulated in the schedule.

### A7 EXTENSION OF COVER FOR EMPLOYER'S PROPERTY

- A7.1 It is agreed and understood that notwithstanding Exception 4.6.6 and otherwise subject to the terms, exclusions, provisions and conditions contained in this Policy or endorsed thereon and subject to the Insured having paid the agreed extra premium, Section II of this insurance shall be extended to indemnify the Insured for :
- A7.1.1 liability in respect of loss of or damage to any building, structure or property belonging to the Employer in the care, custody or control of the insured Contractor in connection with the execution of the insured Contract;
- A7.2 In respect of each and every occurrence of loss or damage indemnifiable under this endorsement the Insurers shall not be liable for the amount of excess shown in the Schedule.

A7.3 The liability of Insurers in respect of loss of or damage to the Employer's property held in the care, custody or control of the Insured shall not exceed the aggregate limit shown in the Schedule during the Period of Insurance.

**B1 SAFETY PRECAUTIONS**

B1.1 Further to General Condition 5.7 the Insured shall :

B1.1.1 take into account the prevailing weather conditions in the Hong Kong Special Administrative Region;

B1.1.2 construct storage facilities for cement and other materials as water tight structures in areas not exposed to flooding and shall store cement at least 0.6 metres above ground level. The Insurers shall not indemnify the Insured in respect of loss of or damage to cement due to rain, flood or other forms of ingress of water unless the cement storage structures also suffer damage by a cause indemnifiable under this Policy;

B1.1.3 take all reasonable measures to secure the Site against unauthorised entry and shall have watchman on guard 24 hours a day 7 days a week;

B1.1.4 take all reasonable precautions against fire hazards and provide and maintain fire fighting equipment.

**B2 SPECIAL CONDITIONS FOR UNDERGROUND SERVICES**

B2.1 The Insurers shall not indemnify the Insured in respect of liability as result of loss of or damage to existing underground services (such as water, gas and sewage pipes, electric and telephone cables) unless :

B2.1.1 prior to the commencement of excavation the Insured has inquired with the relevant authorities about the exact position of such services and;

B2.1.2 in the event of the relevant authorities indicating the presence of such services in the vicinity of the Site the Insured shall proceed to locate such services by the hand-digging of trial pits prior to any mechanical excavation and;

B2.1.3 if such services cannot be located by hand-digging the Insured shall approach each relevant authority and seek their assistance in locating its services.

B2.2 The liability of Insurers shall be restricted to the cost of repair or replacement or reinstatement of such damaged services and shall not extend to cover any consequential loss resulting from the interruption of the service.

B2.3 In respect of each and every occurrence of loss or damage indemnifiable under this clause the Insurers shall not be liable for the amount of excess shown in the Schedule.