



**POLICY SCHEDULE**

Insurance Class : Employees' Compensation  
Policy No. : ABK/ECC/16-08046366  
Transaction No. : 00001

Date : 05/01/2016  
A/C : 13250

The Insured : Swire Properties Ltd. and/or  
Swire Properties Management Ltd. and/or its subsidiaries as the Employers  
(Details as specified in the Policy Schedule)

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**Period of Insurance** : From 1st January 2016 to 31st March 2017 (both dates inclusive)  
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**The Insured**

**The Employers** : Swire Properties Ltd. and/or Swire Properties Management Ltd. and/or its subsidiaries

**The Insured Contractors** : All Contractors, including but not limited to Nominated Sub-Contractors and/or Specialist Contractors, directly appointed by the Employers and/or their Sub-Contractors of any tiers

for their respective rights and interests engaged in the Insured Project specified in the Policy and no other contract works, collectively insured hereunder pursuant to Subsection 40(1B) of the Employees' Compensation Ordinance (Chapter 282)

**Policy Limit of Indemnity**

HK\$200,000,000 any one Event (costs inclusive)

**The Insured Project**

The Insured Project is hereby deemed to mean all building (indoor/outdoor) works including but not limited to repair & maintenance, fit-out, building management and renovation works, such as concrete repair, carpark repainting, office reinstatement and re-partitioning, toilet & lobby renovation, air conditioning, fire services, plumbing, drainage, electrical, etc. to be carried out by the Insured Contractors who are directly appointed by the Employers provided further that :

(a) **Contract Period**

- The Insured Project must commence within Period of Insurance specified in the Schedule;
- The maximum contract period of each Insured Project shall not exceed 24 months;
- Each Insured Project is subject to 12 months' Maintenance Period and/or Defect Liability Period immediately thereafter upon completion wherever applicable.

(b) **Contract Value**

- The maximum contract value for each Insured Project shall not exceed HK\$20,000,000;
- The Insured has declared the Estimated Contract Value of HK\$ \_\_\_\_\_ which represents full contract value (upto 24 months) of the Insured Project which commenced and declared during the Period of Insurance

(c) **Contract Site / Geographical Limit**

- Anywhere within Hong Kong Special Administrative Region

For the avoidance of doubt, it is hereby declared and agreed that this Policy shall not provide insurance indemnity for any contract work which had commenced before the Period of Insurance specified in the Schedule.

**Insured Employees**

It is specifically declared and agreed that this Policy intends to cover and only covers the employees directly employed by the Insured Contractors specified in the Schedule and working within the Contract Site exclusively engaged in the Insured Project specified herein and no other contract work.

Notwithstanding anything contained herein to the contrary, it is hereby noted and agreed that the Insured Employees covered by this Policy shall not include and does not intend to include :

- (a) any employees of the Employers, including Swire Properties Ltd. and/or Swire Properties Management Ltd. and/or its subsidiaries;
- (b) any self-employed person(s), partner(s), sole-proprietor(s) and/or any person(s) who is not an Employee of the Insured Contractors under the Employees' Compensation Ordinance.

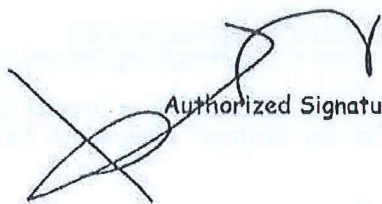
**W348 - Witnessing Clause**

It is hereby understood and agreed that the witnessing clause of this Policy is deemed to be deleted and replaced by the following :

"Now this Policy witnesseth that if any Employee in the immediate employ of any of the parties jointly described as the Insured Contractors shall sustain bodily injury or death by Accident occurring or Disease contracted during the Period of Insurance and arising out of and in the course of his employment by the Insured Contractors engaged in the Insured Project."

It is further understood and agreed that Exception (a) of this Policy is deleted.

For and on behalf of  
ASIA INSURANCE CO., LTD.



Authorized Signature



Clauses/Memoranda attaching to and forming part of Policy No. ABK/ECC/16-08046366

The following Clauses as printed in the policy jacket are hereby incorporated into this Policy :

S88 - Sanction Clause

T08 - Terrorism Endorsement

W204 - Employees of Sub-Contractors Endorsement

W358 - Indemnity to Principal Contractor Endorsement

Memorandum 004 - Extra-Ordinary Weather Conditions

Memorandum 012 - Working anywhere outside the Hong Kong Special Administrative Region  
(applicable to non-manual work only)

Construction Site Exclusion

It is hereby noted and agreed that this Policy does not indemnify the Insured in respect of any claim arising in connection with work on Construction Sites.

For the purpose of this Exclusion, the Construction Site is deemed to mean any site in the course of construction and/or prior to the issue of the necessary occupation permit from the local authorities concerned for the building thereon.

Emergency Transportation Expenses Clause

It is hereby noted and agreed that this Policy is extended to indemnify the Insured in respect of the costs necessarily and reasonably incurred by the Insured for emergency transportation of the serious injured Insured Employees as a result of an accident arising out of and in the course of the employment of the Insured Contractors.

Provided further that the maximum liability of the Company shall not exceed HK\$50,000 any one accident and in aggregate during the Period of Insurance.

Joint Insured Clause

It is hereby noted and agreed that the Insured covered under this Policy comprises more than one party, each operating as separate and distinct entities and that indemnity provided hereunder shall apply in the same manner and to the same extent as if individual insurance policy had been issued to each insured party.

The rights and indemnity of any of the insured parties who are not guilty of any fraud, misrepresentation, non-disclosure or breach of conditions shall not be prejudiced or affected by any fraud, misrepresentation, non-disclosure or breach of condition by any of the other parties comprising the Insured.

Nothing in this Clause shall be deemed to increase the Policy Limit of Indemnity in respect of any one Event as specified in the Policy Schedule irrespective of the number of persons or Insureds claiming to be indemnified.

In no case shall such injury or death be self-inflicted or attributable to Insured Employee's addiction to drugs or under influence of alcohol or attributable to or resulting from serious and/or wilful misconduct of Insured Employees.

**Non-Contribution Clause**

Notwithstanding anything contained herein to the contrary, it is hereby understood and agreed that the insurance provided by this Policy is the primary insurance for the Insureds shown in the Schedule. If any time any claim arises under the Policy, should there be any other insurance provided by the Insureds covering the same loss, damage or liability, such other insurance shall only apply as an excess coverage and non-contributing herewith.

**Primary Insurance Cover Clause**

It is expressly understood that this Insurance provided by this Policy is the primary insurance for the Insureds shown in the Schedule.

**Run Off Liability Clause**

In the event of this Policy being terminated at mid-term or not being renewed upon its natural expiry, it is hereby noted and agreed that upon request of the Insured, the insurance cover under this Policy shall continue to operate in respect of those Insured Contracts to which the insurance coverage has already been attached hereto until the practical completion of each Insured Contract or expiration of the maximum duration restriction for each Insured Contract Work whichever is the earlier.

For the avoidance of doubts, this Clause shall apply only to those Insured Contracts which have been declared to the Company and have commenced within the Period of Insurance subject to terms and conditions to be agreed with the Company.

**Total Asbestos Exclusion Clause**

It is hereby understood and agreed that this Policy 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.

**Safety Belt Warranty**

It is a condition precedent to the liability of the Company that the Insured Employee(s) must be secured by effective safety belt(s) while working outside building or above ground or floor level (including roof floor level) in accordance with the legal requirements/regulations and/or Construction Site (Safety) Regulations wherever applicable.



### Special Warranties

It is hereby warranted that :

- (a) The Insured must comply with all Regulations and/or Ordinance regarding the erection of and/or use of and/or maintenance of and/or testing of scaffolding structures and/or safety belt;
- (b) The scaffolding operation must not be carried out at outdoor if ANY rainstorm warning signal (except for amber rainstorm signal) and/or typhoon warning signal No.3 or above and/or thunderstorm warning signal has been announced;
- (c) The scaffolding workers covered by this Policy must be qualified scaffolding workers;
- (d) The Insured must comply with Code of Practice for the Electricity (Wiring) Regulations in respect of any work relating to electrical work;
- (e) The Insured Employees must be equipped with sufficient personal protective equipment (including insulating gloves, safety shoes and insulation mat) and testing equipment for the purpose of performance of electrical work;
- (f) The Insured must comply with the relevant Regulations and Ordinances in respect of any work within confined space, including but not limited to Confined Space Warranty specified herein.

### Lift and Escalator Works Warranty

It is hereby warranted that the Insured must comply with Code of Practice for Safety at Work (Lift and Escalator) and the Insured Employees must be equipped with sufficient personal protective equipment (such as safety helmets, safety gloves, hearing protectors, eye protectors, reflective vest, respirators, safety shoes and safety harnesses/belts (with secure anchorage or independent lifeline provided) whenever necessary).

### Confined Space Warranty

It is a condition precedent to the liability of the Company that the Insured must fully comply with CAP59AE Factories and Industrial Undertakings (Confined Spaces) Regulation under Chapter 59 Factories and Industrial Undertakings Ordinance and other regulations/legal requirements on the safety of employees working within confined space and/or water tanks, including but not limited to the following:

- (a) only certified worker is allowed to work in confined space and/or water tanks; and
- (b) adequate personal protective equipment must be provided whilst working in confined space, including full-body harness, toxic gas meter, breathing apparatus, and air-blower.

### Special Exclusions

It is hereby noted and agreed that this Policy does not indemnify the Insured in respect of any claim arising in connection with :

- (a) work on gondola and/or swing boat;
- (b) work inside the tunnels which the construction of tunnel structures has not yet been finished;
- (c) chimney shaft work;
- (d) diving work and/or marine work of any description

### Sole-Proprietor(s), Partner(s) or Self-employed person Exclusion

It is hereby noted and agreed that this Policy shall not be liable in respect of any liabilities to self-employed person, partner or sole-proprietor who is not defined as "an Employee" under the Employees' Compensation Ordinance (Chapter 282).

### Exclusion of Rights of Third Parties under Contracts (Rights of Third Parties) Ordinance

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.

**Subject otherwise to the Terms, Exceptions and Conditions of this Policy.**





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## Employees' Compensation INSURANCE

### INSURING CLAUSE

WHEREAS the insured carrying on the Business by a Proposal and Declaration which shall be the basis of this contract and is deemed to be incorporated herein has applied to the Company for the insurance herein contained and has paid or agreed to pay the Premium specified herein as consideration for such insurance

NOW THIS POLICY WITNESSETH that if any Employee in the Insured's immediate employ shall sustain bodily injury or death by Accident occurring or Disease contracted during the Period of Insurance within the Geographical Area and arising out of and in the course of his employment by the Insured in the Business

THE COMPANY WILL subject to Policy Limit of Indemnity and to the terms exceptions and conditions contained in or endorsed on this Policy (all of which are hereinafter collectively referred to as "the Terms of this Policy") indemnify the Insured against his legal liability in respect of such bodily injury or death under the Ordinance and independently of the Ordinance to pay compensation and damages and claimant's costs and expenses and also indemnify the Insured against costs and expenses incurred by or on behalf of the Insured with the Company's written consent in connection therewith

PROVIDED THAT in the event of any change to the Ordinance during or subsequent to the Period of Insurance altering the legal liability of the Insured under the Ordinance the liability of the Company under this Policy shall be limited to such sums as the Company would have been liable to pay if the Ordinance had remained unaltered

#### FURTHER PROVIDED THAT:

- (a) the due observance and fulfilment of the Terms of this Policy in so far as they relate to anything to be done or not to be done or to be complied with by the Insured; and
- (b) the truth of the statements and answers in the Proposal and Declaration and the Estimated Earnings Declaration and the Actual Earnings Declaration shall be conditions precedent to any liability of the Company to make payment or to provide indemnity under this Policy.

THE COMPANY WILL ALSO in the event of the death of the Insured indemnify the Insured's legal personal representatives in the Terms of this Policy in respect of liability incurred by the Insured provided that such legal personal representatives shall as though they were the Insured observe fulfil and be subject to the Terms of this Policy in as far as they can apply.

This Policy shall not be in force unless it has been signed in the Schedule by a person authorized by the Company.

### DEFINITIONS

For the purposes of this Policy:

- (a) "Accident" means an accident or a series of accidents arising out of one event.
- (b) "The Business" means the usual work and activities carried on by the Insured pertaining to his business as specified in the Schedule and no others.
- (c) "The Company" means Asia Insurance Co., Ltd.
- (d) "The Company's Indemnity" means indemnity provided under this Policy including costs and expenses incurred by or on behalf of the Insured with the Company's written consent.
- (e) "Disease" means a disease contracted by an Employee of the Insured as a result of his exposure to the nature of his employment with the Insured. Such exposure may extend over a period of time and part of which period may fall outside the Period of Insurance under this Policy.
- (f) "Earnings" means all gross wages salaries remunerations commissions bonuses overtime termination payments allowances and the like directors' fees or other benefits whether at piecework rates or otherwise and whether paid in cash or in kind by the Insured to his Employees.
- (g) "Employee" has the same meaning as assigned to that expression in the Ordinance.
- (h) "The Insured" means only the person or persons specified as such in the Schedule and no others.
- (i) "Noise-Induced Deafness" has the same meaning as assigned to that expression in the Occupational Deafness (Compensation) Ordinance (Chapter 469 of the laws of Hong Kong SAR).
- (j) "The Ordinance" means the Employees' Compensation Ordinance (Chapter 282 of the laws of Hong Kong SAR).
- (k) "Pneumoconiosis" and "Mesothelioma" have the same meaning as assigned to those expressions in the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Chapter 360 of the laws of Hong Kong SAR).
- (l) "The Policy" means this Employees' Compensation Insurance Policy the Schedule and any memoranda and endorsements contained herein or endorsed hereon which shall be read together as one document and any word or expression to which a specific meaning has been assigned shall bear such meaning throughout.
- (m) "The Proposal and Declaration" means any signed proposal form and declaration and any information supplied by or on behalf of the Insured in addition thereto or in substitution therefor.
- (n) Unless the context otherwise requires, words and expressions importing the masculine gender also include the feminine and neuter genders and words and expressions in the singular include the plural and words and expressions in the plural include the singular.

### POLICY LIMIT OF INDEMNITY

- (a) In respect of any Accident or Disease giving rise to a claim or claims against the Insured for which indemnity is provided under this Policy the Company's Indemnity to the Insured shall in the aggregate be limited to the amount specified in the Schedule as "Policy Limit of Indemnity" irrespective of the number of Employees who may sustain bodily injury or death consequent on or attributable to the same occurrence of Accident or Disease.
- (b) In relation to any liability of the Insured in respect of a Disease contracted by an Employee due to the nature of his employment with the Insured which nature of employment applies during a period that extends over more than one policy period of insurance:
  - (i) the aggregate of the Company's Indemnity to the Insured under all Insurance policies shall not exceed the limit of indemnity of the insurance policy that was in force at the time the nature of the Employee's employment to which such Disease was due first affected the Employee; and
  - (ii) subject to the limitation of paragraph (b)(i) hereof, the Company's Indemnity to the Insured under this Policy shall be limited to such proportion of the Insured's liability in respect of such Disease as that part of the Employee's period of employment falling within the Period of Insurance of this Policy bears to the total period of his employment to the nature of which such Disease was due.
- (c) If the occurrence of any Accident or Disease results in indemnity hereunder to more than one Insured, the limitations of the Company's liability specified in paragraphs (a) and (b) hereof shall apply to the aggregate of indemnity to all Insureds.
- (d) At any time after the occurrence of any Accident or Disease giving rise to a claim or claims against the Insured for which indemnity is provided under this Policy the Company may pay to the Insured the full amount of the Company's liability specified in paragraph (a) or (b) hereof (after the deduction of any sums already paid) or any lesser amount for which such claim or claims can be settled and shall relinquish the conduct of any defence settlement or proceedings relating to such claim or claims and shall not thereafter be responsible for any compensation damages or costs in respect thereof or for any costs or expenses whatsoever incurred by the Insured after the Company shall have relinquished such conduct or for any loss damage or expenses caused to the Insured in consequence of any act or omission of the Company in connection therewith or of the Company relinquishing such conduct.
- (e) If there should be any shortfall in the actual Earnings declared in accordance with paragraph (b) of INSURANCE PREMIUM of this Policy from the respective actual Earnings, the extent of the Company's indemnity shall be reduced proportionately by the extent of under-insurance; and the balance shall be borne by the Insured himself. If no declaration of the actual Earnings by the Insured is received by the Company as prescribed, for the purpose of this clause the Earnings estimated by the Insured as at the commencement of the Period of Insurance shall be used in lieu of the actual Earnings that should have been declared to determine the extent of the under-insurance if any.

### JURISDICTION CLAUSE

The Company shall not be liable under this Policy in respect of judgements against the Insured which are not in the first instance delivered by or obtained from a court of competent jurisdiction of the Hong Kong Special Administrative Region. It is further provided that indemnity shall not be provided for a judgement or order obtained in the Hong Kong Special Administrative Region for the enforcement of a judgement obtained elsewhere.

### GEOGRAPHICAL AREA

Anywhere within the Hong Kong Special Administrative Region.

### EXCEPTIONS

The Company shall not be liable under this Policy in respect of:

- (a) the Insured's liability to Employees of contractors to the Insured;



- (b) any liability of the Insured which attaches by virtue of an agreement but which would not have attached in the absence of such agreement;
- (c) any sum which the Insured would have been entitled to recover from any party but for an agreement between the Insured and such party;
- (d) any liability arising from Pneumoconiosis or Mesothelioma or Noise-Induced Deafness;
- (e) the Insured's liability to any self-employed person or sole-proprietor or person who is not an Employee of the Insured within the meaning of the Ordinance;
- (f) any late payment surcharge fines penalties or punitive aggravated or exemplary damages for which the Insured may become liable under the Ordinance or independently of the Ordinance;
- (g) any injury by Accident or Disease attributable to war invasion act of foreign enemy hostilities or warlike operations (whether war be declared or not) civil war mutiny rebellion revolution insurrection or military or usurped power;
- (h) any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
  - (i) nuclear weapons material;
  - (ii) ionising radiation 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;
- (j) any injury by Accident or Disease where the Company has not been given sufficient notice of the institution of proceedings in a court or tribunal to enable the Company to be added as a party to the proceedings.

#### **AVOIDANCE OF CERTAIN TERMS AND RIGHT OF RECOVERY**

If the Company is obliged by the Ordinance to pay an amount for which the Company would not otherwise be liable under this Policy the Insured shall forthwith repay such amount to the Company.

#### **INSURANCE PREMIUM**

- (a) Prior to the commencement of the Period of Insurance, the Insured shall supply the Company with a declaration estimating the Earnings of the Employees employed in the Business during the Period of Insurance (which declaration is referred to herein as "the Estimated Earnings Declaration") on the basis of which a deposit premium becomes payable to the Company.
- (b) The Insured shall within ninety (90) days after the expiry of the Period of Insurance or upon cancellation of the Policy supply the Company with a completed Premium Adjustment and Declaration of Earnings Form stating the actual Earnings of Employees and provide the relevant supporting documents during the Period of Insurance (which declaration is referred to herein as "the Actual Earnings Declaration"). If the actual Earnings shall differ from the estimated Earnings the difference in premium shall be met by a further proportionate adjustment premium to be paid to the Company or by a premium refund to the Insured as the case may be.
- (c) It is hereby declared that the Premium payable by the Insured in consideration of the indemnity provided under this Policy is the sum of the deposit premium and the adjustment premium calculated pursuant to paragraphs (a) and (b) hereof.
- (d) The name Hong Kong Identity Card number class of employment and Earnings of every Employee of the Insured employed in the Business from time to time during the Period of Insurance shall be properly recorded by the Insured and retained in a safe place so that a record exists of all persons who are Employees of the Insured for the purpose of this Policy and the Insured shall at all reasonable times allow the Company to inspect and obtain copies of such records.
- (e) If the Insured fails to cooperate with the Company in submitting the completed Premium Adjustment and Declaration of Earnings Form, without prejudice to any other rights of the Company, the Company shall retain the discretion not to renew this insurance upon expiry of the Policy.

#### **CLAIMS SETTLEMENT CONDITIONS**

- (a) **Claims Notification Demands etc.** In the event of any occurrence which may give rise to a claim under this Policy the Insured shall immediately give notice thereof in writing to the Company with full particulars.  
The Insured shall also give the Company notice in writing immediately the Insured becomes aware of any intention to prosecute the Insured any impending prosecution inquest or fatal inquiry in connection with any occurrence which may give rise to a claim under this Policy. Every letter claim writ summons and process shall be forwarded to the Company immediately on receipt.
- (b) **Claims Control by the Company.** The Company shall be entitled upon notice to the Insured to take over and conduct in the Insured's name the defence or settlement of any claim demand or proceedings against the Insured. In that event:
  - (i) the Insured shall provide all such information and assistance including the latest Earnings of all Employees duly certified as being correct by an independent auditor and forward all such documents and other records to the Company for the conduct of such claim demand or proceedings as the Company in its discretion may from time to time require; and
  - (ii) the Insured shall not without the written consent of the Company incur any expenditure in connection with any such claim demand or proceedings or make any payment admission offer or enter into any settlement whatsoever.
- (c) **Claims Payments by the Insured.** Where the Insured pays all or any part of a claim for which he is liable and for which indemnity is provided by this Policy the Insured shall obtain duly witnessed signed receipts for such payments and shall retain in a safe place all such signed receipts and records and documents relating to such payments and the Insured shall at all reasonable times allow the Company to inspect and obtain copies of such records and documents.
- (d) **Other Insurance.** If at the time of any claim under this Policy there is any other insurance indemnifying any person or Insured or Insureds who are entitled to be indemnified under this Policy, this Policy is not to be called upon in contribution and, subject to the Policy Limit of Indemnity, is only to pay any amount if and so far not recoverable under such other insurance.
- (e) **Waiver of Claims.** The Insured shall not become a party to any agreement the effect of which is that the Insured waives any claim which the Insured would otherwise have against any person in respect of or arising out of any occurrence resulting in liability on the part of the Insured for which indemnity is provided by this Policy or whereby any such claim is limited or qualified in any way.
- (f) **Subrogation.** The Company shall be entitled at its sole discretion to prosecute in the name of the Insured any claim for damages costs indemnity contribution or otherwise against any person who may be liable to the Insured in respect of any liability on the part of the Insured for which indemnity is provided by this Policy and shall have full discretion in the conduct of any such proceedings and in the settlement of any such claim. The Insured shall give all such information and assistance as the Company may from time to time require and execute any necessary documents for the purpose of vesting such rights in the Company. Any moneys recovered pursuant to the exercise of such rights shall be applied firstly for the benefit of the Company to the extent of the amount paid by the Company in respect of any claim including any costs and expenses paid or incurred by the Company and costs and expenses incurred in prosecuting such recovery action.

#### **GENERAL CONDITIONS**

- (a) **Notices.** Every notice or communication to be given or made under this Policy shall be delivered in writing to the Company and in the case of notice or communication to the Insured to his last known address.
- (b) **Precautions.** The Insured shall take all reasonable precautions to prevent Accidents and Diseases and shall comply with all relevant statutory requirements and obligations including but not limited to the provisions of the Factories and Industrial Undertakings Ordinance (Chapter 59 of the laws of Hong Kong SAR) and any Regulations Rules or Notices issued made or promulgated thereunder.
- (c) **Changes in Risk.** The Insured shall immediately notify the Company in writing of any material change in the risk insured hereunder made by the Insured or any other person during the Period of Insurance including but not limited to:
  - (i) any merger with or acquisition of another company or business;
  - (ii) the Insured or any subsidiary or holding company of the Insured being placed in voluntary liquidation receivership or liquidation or entering into a composition with its creditors or being unable to pay its debts from its own resources; or
  - (iii) any material change in the nature of the Business or in the number of the Insured's Employees.
- (d) **Right of Inspection.** The Company shall have the right and opportunity at all reasonable times to inspect the works machinery plant and appliances used in the Business.
- (e) **Assignment.** No assignment of interest under this Policy shall bind the Company unless the written consent of the Company is first obtained and endorsed hereon.
- (f) **Cancellation.** This Policy may be cancelled by the Company or the Insured by written notice of cancellation from one party to the other. Cancellation shall take effect seven (7) days after the date of posting the notice of cancellation and in such event the Premium shall be adjusted in accordance with the provisions of "Insurance Premium".
- (g) **Arbitration.** All differences arising out of this Policy shall be determined by arbitration in accordance with the prevailing Arbitration Ordinance. If the parties fail to agree upon the choice of the 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 (12) 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.
- (h) **Governing Law.** This Policy is subject to the exclusive jurisdiction of Hong Kong Special Administrative Region and is to be construed according to the laws of Hong Kong Special Administrative Region.

#### **CLAUSES / ENDORSEMENTS / MEMORANDA**

The following Clause and Endorsement are hereby incorporated into this Policy:

##### **S&B Sanction Clause**

It is hereby noted and agreed that notwithstanding anything contained herein to the contrary, the Company shall not be deemed to provide any cover and shall not be liable to pay for any claim or to provide any benefits hereunder to the extent that the provision of such cover or payment of such claim or provision of such benefits would expose the Company to any sanction, prohibition



or restriction under United Nations resolutions or the trade or economic sanctions, laws and/or regulations of the European Union, United Kingdom or United States of America and/or any other applicable national economic or trade sanctions, laws and/or regulations.

If the Company alleges that by reason of this Clause, any loss, damage, liability, benefit, cost or expense is not covered by this Policy, the burden of proving the contrary shall be upon the Insured.

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

#### **T08 Terrorism Endorsement**

Notwithstanding any provision to the contrary in the Policy or any endorsement thereto it is hereby agreed that in respect of any bodily injury or death by Accident or Disease directly or indirectly caused by, resulting from, in connection with or arising out of an event of Terrorism (hereinafter referred to as 'the Loss') regardless of any other cause or event contributing concurrently or in any other sequence of the Loss, the Company shall only be liable to make any payment in respect of the Loss subject to the following terms and conditions:

- (a) the Policy Limit of Indemnity in respect of the Loss shall be limited to such amount which the Company actually receives from the Government of the Hong Kong Special Administrative Region ('the Government') in respect of the Loss pursuant to an Agreement for Provision of Facility dated 11th January 2002 between the Government and the Company under which the Government agreed to make available to the Company and other direct insurance companies authorized to underwrite employees' compensation insurance business in Hong Kong a facility to enable them to meet claims under employees' compensation insurance policies in respect of death and injury arising out of an event of Terrorism ('the Facility Agreement');
- (b) the Company will only be required to make payment in respect of the Loss after it has received from the Government (i) an approval letter confirming that the Company should settle the claim and (ii) payment under the Facility Agreement in respect of the Loss;
- (c) for the avoidance of doubt, the Company shall have no obligation to make payment if for whatever reason it does not receive payment from the Government under the Facility Agreement in respect of the Loss, whether or not due to the Government's contention that the Loss does not fall within the scope of the Facility Agreement or the Company's breach of the Facility Agreement; and
- (d) this Policy shall in no event compensate any amount in excess of the minimum statutory cover required under the Ordinance notwithstanding the limits and coverage provided by this Policy.

For the purpose of this Endorsement, 'Terrorism' means the use of force or violence or other means or the threat thereof, of any person or persons, whether acting alone or on behalf of or in connection with any organization or government, for political, religious, or ideological purposes with an intention to influence any government and/or to put the public, or any section of the public, in fear.

If the Company alleges that the Loss falls within the scope of this Endorsement, the burden of proving the contrary shall be upon the Insured.

In the event any part of this Endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

Words and phrases in this Endorsement shall have the same meaning as in the Policy.

The following Endorsements or Memoranda will not be operative unless specifically indicated in the Policy or by endorsement subsequently attached hereto:

#### **9601-Group of Companies Endorsement**

The Endorsement is operative whenever this insurance is arranged on 'Group of Companies' basis pursuant to Subsection 40(1 C) of the Ordinance.

- (a) (i) In the definition of the 'the Insured' specified in the Policy, the terms 'Holding Company' and 'Subsidiaries' have the meaning assigned to them by the Ordinance.  
(ii) The Insured hereby warrant that as of the inception date of this Policy all companies embraced by the term 'Subsidiaries' in the definition of 'the Insured' are Subsidiaries of the Holding Company pursuant to the Companies Ordinance (Cap.32)
- (b) The Company will not under this Policy indemnify any company which may become a Subsidiary of the Holding Company subsequent to the inception date of this Policy unless the Company has in writing agreed to extend the cover. However, within the first thirty (30) days of the above change, the indemnity will be automatically granted subject to appropriate additional premium.
- (c) Unless specially agreed to in writing by the Company, any company which is a Subsidiary of the Holding Company as of the inception date of this Policy but subsequently ceased to be a Subsidiary shall be excluded from the insurance coverage under this Policy as from the time such company ceased to be a Subsidiary.
- (d) Where this Endorsement is at variance with or inconsistent with anything contained in this Policy, this Endorsement shall prevail and take precedent.

#### **Memorandum 002 - Working in the People's Republic of China**

It is hereby understood and agreed that this Policy extends to cover Employees of the Insured whilst temporarily working in the People's Republic of China provided that:

- (a) The Accident or Disease is arising out of and in the course of employment by the Insured in the Business;
- (b) The Company shall not be liable under this Memorandum in respect of judgements which are not in the first instance delivered by or obtained from a court of competent jurisdiction in the Hong Kong Special Administrative Region. The indemnity under this Memorandum shall not be provided for a judgement or order obtained in the Hong Kong Special Administrative Region for the enforcement of a judgement obtained elsewhere.

#### **Memorandum 003 - Named Employees Basis**

It is hereby understood and agreed that the indemnity of this Policy is only provided to the 'Employees' named in the Policy and not other employees. Whenever the word 'Employees' appeared in this Policy refers to the named Employees specifically mentioned in this Policy.

#### **Memorandum 004 - Extra-Ordinary Weather Conditions**

In the event of any Employee of the Insured whose attendance at his place of employment is required by the Insured during extra-ordinary weather conditions being killed or injured whilst proceeding directly to his place of employment or returning therefrom to his place of residence, such Accident shall be deemed to have arisen out of and in the course of his employment.

#### **Memorandum 012- Working anywhere outside the Hong Kong Special Administrative Region**

It is hereby understood and agreed that this Policy extends to cover Employees of the Insured whilst travelling or temporarily working outside the Hong Kong Special Administrative Region provided that:

- (a) The Accident or Disease is arising out of and in the course of employment by the Insured in the Business;
- (b) The Company shall not be liable under this Memorandum in respect of judgements which are not in the first instance delivered by or obtained from a court of competent jurisdiction in the Hong Kong Special Administrative Region. The indemnity under this Memorandum shall not be provided for a judgement or order obtained in the Hong Kong Special Administrative Region for the enforcement of a judgement obtained elsewhere.

#### **W204 Employees of Sub-Contractors Endorsement**

It is hereby understood and agreed that the indemnity herein granted is extended to indemnify the Insured against legal liability (including liability under the Ordinance set out in the Policy) to Employees in the employ of sub-contractors performing work for the Insured while engaged in the Business in respect of which this Policy is granted.

It is further understood and agreed that Exception (a) of this Policy is deleted.

#### **W338 Indemnity to Principal Endorsement**

It is hereby understood and agreed that this Policy is extended to indemnify the Principal named in the Policy (hereinafter called the Principal) against legal liability (including liability under the Ordinance set out in the Policy) in like manner to the Insured but only so far as concerns the liability of the Principal to Employees of the Insured engaged in connection with a contract undertaken by the Insured for the Principal.

Provided always that:

- (a) the Company shall not be liable under this Endorsement (except under the Ordinance) in respect of any injury by Accident or Disease due to or resulting from any act default or neglect of the Principal his servants or agents.
- (b) the Principal shall as though he were the Insured observe fulfill and be subject to the Terms of this Policy insofar as they can apply.
- (c) the Company shall have full conduct and control of all claims in respect of which indemnity is granted by this Endorsement.

#### **W358 Indemnity to Principal Contractor Endorsement**

It is hereby understood and agreed that this Policy is extended to indemnify the Principal Contractor named in the Policy (hereinafter called the Principal Contractor) against legal liability (including liability under the Ordinance set out in the Policy) in like manner to the Insured but only so far as concerns the liability of the Principal Contractor to Employees of the Insured engaged in connection with a contract undertaken by the Insured for the Principal Contractor.

Provided always that:

- (a) the Principal Contractor shall as though he were the Insured observe fulfill and be subject to the Terms of this Policy insofar as they can apply.
- (b) the Company shall have full conduct and control of all claims in respect of which indemnity is granted by this Endorsement.

Subject otherwise to the Terms of this Policy.

## **WARRANTIES**

The following Warranties will not be operative unless specifically indicated in the Policy or by endorsement subsequently attached hereto:

- W1 This Policy does not indemnify the Insured in respect of any claim arising in connection with the use of woodworking machinery driven by steam, gas, water, electricity or other mechanical power. The expression 'woodworking machinery' shall not be deemed to include lathes, fret-saws, boring machines, sanding machines, or mechanically-driven portable tools applied to the work by hand, other than pendulum and swing saws.



- W4 This Policy does not indemnify the Insured in respect of any claim arising in connection with erecting fitting or repair away from the Insured's shop or yard.
- W6 This Policy does not indemnify the Insured in respect of any claim arising in connection with the delivery of goods whether by hand or otherwise.
- W7 This Policy does not indemnify the Insured in respect of any claim arising in connection with the carting or delivery of goods other than by hand or handcart.
- W8 This Policy does not indemnify the Insured in respect of any claim arising in connection with the use of machinery driven by steam, gas, water, electricity or other mechanical power.
- W9 This Policy does not indemnify the Insured in respect of any claim arising in connection with the building of craft of material other than wood.
- W12 It is a condition precedent to liability of the Company that the indemnity granted is in respect of indoor staff only.
- W13 This Policy does not indemnify the Insured in respect of any claim arising in connection with work away from the Insured's shop or yard other than transport work.
- W16 This Policy does not indemnify the Insured in respect of any claim arising in connection with the construction, alteration or repair of any building or structure the height of which from the foundation level to the highest point exceeds, or is designed or intended to exceed 9 metres.
- W17 This Policy does not indemnify the Insured in respect of any claim arising in connection with any work involving maintenance, repair or erection.
- W18 This Policy does not indemnify the Insured in respect of any claim arising in connection with the handling of any unit exceeding 5 pounds in weight when completed for use.
- W21 This Policy does not indemnify the Insured in respect of any claim arising in connection with any building or decorating work.
- W22 This Policy does not indemnify the Insured in respect of any claim arising in connection with work on vessels other than vessels at anchorage.
- W24 This Policy does not indemnify the Insured in respect of any claim arising in connection with the use of machinery for cutting or pressing metal.
- W25 This Policy does not indemnify the Insured in respect of any claim arising in connection with water diversion (other than work of a temporary and minor nature in respect of occasional surface water only) dam construction or work within or behind dams, pile driving, work in compressed air or diving.
- W29 This Policy does not indemnify the Insured in respect of any claim arising in connection with the handling or treatment of fur or leather.
- W31 This Policy does not indemnify the Insured in respect of any claim arising in connection with the erection, painting, repairing or demolition of gasholders.
- W32 This Policy does not indemnify the Insured in respect of any claim arising in connection with work at a height exceeding 9 metres above ground or floor level.
- W34 This Policy does not indemnify the Insured in respect of any claim arising in connection with any manufacturing process.
- W35 This Policy does not indemnify the Insured in respect of any claim arising in connection with the manufacture of bellows for machinery.
- W36 This Policy does not indemnify the Insured in respect of any claim arising in connection with the dismantling, breaking up or demolition of buildings, works or plant; or in connection with the dismantling, breaking up or demolition (other than in the Insured's yard or premises) of machinery or scrap metal or any other description.
- W37 This Policy does not indemnify the Insured in respect of any claim arising in connection with the manufacture of paper.
- W41 This Policy does not indemnify the Insured in respect of any claim arising in connection with clay-getting from any quarry or pit, or with clay mining or the construction, repair or demolition of kiln chimneys.
- W42 This Policy does not indemnify the Insured in respect of any claim arising in connection with water diversion (other than work of a temporary and minor nature in respect of occasional surface water only), dam construction or work within or behind dams, work in compressed air or diving.
- W43 This Policy does not indemnify the Insured in respect of any claim arising in connection with any quarry which is not being worked under a valid licence issued by the Government for the extraction of stone or mineral.
- W44 This Policy does not indemnify the Insured in respect of any claim arising in connection with press-packing other than by manual power; or in connection with press-packing of metal.
- W49 This Policy does not indemnify the Insured in respect of any claim arising in connection with:
- (a) employees receiving from or delivering to vessels or craft of any description or employees on dock quayside or wharf;
  - (b) stevedores or lightermen;
  - (c) the carting or delivery of goods other than by hand or handcart.
- W54 This Policy does not indemnify the Insured in respect of any claim arising in connection with the use of rubber solvents or vulcanizers.
- W55 This Policy does not indemnify the Insured in respect of any claim arising in connection with any work outside buildings.
- W56 This Policy does not indemnify the Insured in respect of any claim arising in connection with pit sinking or the construction, alteration or repair of chimney shafts.
- W57 This Policy does not indemnify the Insured in respect of any claim arising in connection with shaft or lift well sinking.
- W58 This Policy does not indemnify the Insured in respect of any claim arising in connection with castings exceeding 28 pounds in weight.
- W60 This Policy does not indemnify the Insured in respect of any claim arising in connection with:
- (a) work aloft on ships,
  - (b) work at a height exceeding 9 metres above ground or floor level.
- W61 This Policy does not indemnify the Insured in respect of any claim arising in connection with the crews of craft used outside the Territorial waters of the Hong Kong Special Administrative Region.
- W64 This Policy does not indemnify the Insured in respect of any claim arising in connection with work aboard vessels or craft of any description or in connection with shipbreaking.
- W65 This Policy does not indemnify the Insured in respect of any claim arising in connection with shipbreaking risks.
- W68 This Policy does not indemnify the Insured in respect of any claim arising in connection with:
- (a) quarrying or mining;
  - (b) loading, unloading, carting and all other operations, incidental to quarry work.
- W69 This Policy does not indemnify the Insured in respect of any claim arising in connection with fixing and rigging.
- W70 This Policy does not indemnify the Insured in respect of any claim arising in connection with work involving blasting operations.
- W71 This Policy does not indemnify the Insured in respect of any claim arising in connection with:
- (a) employees receiving from or delivering to vessels or craft of any description or employees on dock quayside or wharf;
  - (b) stevedores or lightermen.
- W75 It is hereby understood and agreed that the Provision (b) of Insurance Premium Condition is deleted and replaced by the following:-
- (b) The first premium and all renewal premiums that may be accepted are to be regulated by the number and description of all domestic servants employed by the Insured during each Period of Insurance and the Insured shall supply the Company with a correct account of all domestic servants employed during any one Period of Insurance within one month from the expiry date of such Period of Insurance. If the number and description so disclosed shall differ from that which premium has been paid the difference in premium shall be met by a further payment to the Company or by a refund by the Company as the case may be subject to the retention by the Company of a minimum premium.
- W78 This Policy does not indemnify the Insured in respect of any claim arising in connection with racing pacemaking or speed trials.
- W81 This Policy does not indemnify the Insured in respect of any claim arising in connection with the printing of newspapers or the manufacture of paper.
- W82 This Policy does not indemnify the Insured in respect of any claim arising in connection with the building or repairing of iron steel and concrete vessels other than vessels not exceeding 1000 tons gross measurement.
- W97 This Policy does not indemnify the Insured in respect of any claim arising in connection with fitting, installing, repairing or testing away from the premises of the Insured.
- W98 This Policy does not indemnify the Insured in respect of any claim arising in connection with castings exceeding 1 ton in weight.
- W100 This Policy does not indemnify the Insured in respect of any claim arising in connection with the handling of any unit exceeding 550 pounds in weight when completed for use.
- W102 This Policy does not indemnify the Insured in respect of any claim arising in connection with the employment of stevedores.
- W105 This Policy does not indemnify the Insured in respect of any claim arising in connection with the use of the vessel for any commercial purpose.
- W106 This Policy does not indemnify the Insured in respect of any claim arising in connection with the work involving welding or in connection with salvage operations.
- W108 This Policy does not indemnify the Insured in respect of any claim arising in connection with excavations in any part of a depth of 3 metres from the surface.

Subject otherwise to the Terms of this Policy.

#### IMPORTANT NOTICE

The Employees' Compensation Ordinance requires an employer to take out an insurance policy covering ALL employees engaged in his business with a Minimum Amount of insurance coverage. The Insured should ensure that this Policy complies with the Ordinance requirements. A subsequent change in number of employees may result in a higher amount of insurance coverage being required under the Ordinance. In this event, the Insured should consult the Company immediately.