

合同協議	協議特定事項	1. 釋義	2. 工地	3. 工程	4. 工期	5. 合同基礎	6. 價款	7. 質量	8. 分包商的文件	9. 一般責任	10. 保險及履約保證	11. 終止	12. 爭議解決	附件
------	--------	-------	-------	-------	-------	---------	-------	-------	-----------	---------	-------------	--------	----------	----

10. INSURANCES AND BOND 保險及履約保證

Contents

1. 10.1 Employees' Compensation Insurance 僱員賠償保險
2. 10.2 Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險
3. 10.3 Taking out insurances 投保
4. 10.8 Reporting incidents 通報事故
5. 10.10 Insurances of materials prior to delivery 物料到工地前的保險
6. 10.11 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險
7. 10.1 Employees' Compensation Insurance 僱員賠償保險
8. 10.2 Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險
9. 10.3 Taking out insurances 投保
10. 10.4 Maintaining insurances 維持投保
11. 10.5 Remedy for failure to insure 未能投保的補求
12. 10.6 Compliance with insurance conditions 遵從保險條款
13. 10.7 Reporting incidents 通報事故
14. 10.8 Insurances not affecting liability 保險不解除的責任
15. 10.9 Insurances of materials prior to delivery 物料到工地前的保險
16. 10.10 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險
17. 10.11 Surety bond or cash security 履約保證或押金

舊稿

10.1 Employees' Compensation Insurance 僱員賠償保險

- a. 本分包工程的僱員賠償保險，由協議特定事項說明的一方負責投保。所投保險的免賠額(墊底費)，由分包商負責。
- b. 有關保險之墊底由總承包商負責。
- c. 分包商所屬員工若在地盤內因工作而受傷，應即時通知總承包商之地盤負責人備案，並須於3天內親自往地盤辦事處呈報工傷。
- d. 分包商所屬僱員若因工傷需暫支糧款，一律由分包商負責。
- e. 在履行此合約期間，分包商屬下員工或其分包商屬下之員工在地盤範圍內因工受傷後根據僱員補償法例規定暫支糧款，一概均由總承包商負責借糧予受傷工人。待受傷工人工傷完結並得勞工處發出「補償評估證明書」後。總承包商會根據經雙方覆實的「工傷借糧確認信」之金額代分包商向有關保險公司申索回一切依法例所作出之借糧款項

10.2 Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險

- a. 本分包工程的工程一切險及第三者責任險，由協議特定事項說明的一方負責投保。所投保險的免賠額(墊底費)，由責任方負責。

10.3 Taking out insurances 投保

- a. 總承包商購買工程全保及勞工保險，並將保單給予分包商副本。
- b. 工程全保不包括分包商之機械及生財工具，分包商應自行購買。

10.8 Reporting incidents 通報事故

- a. 如分包商工人遇事受傷，分包商須在意外發生後24小時內通知上家承包商，以便向保險公司申報。分包商須於意外發生後三日內填妥指定的表格，呈交受傷工人過去12個月的入息證明文件，並按上家承包商指定的程序呈報工傷。
- b. 如分包商延遲遞交所需文件，上家承包商可向分包商收取協議特定事項說明的費用。
- c. 分包商必須負責因延遲遞交文件而引起的糾紛及損失。
- d. 分包商必須先代付其工人在受傷期內香港法例所規定的暫付生活費，以及收到相關通知後15天內須支付的僱員補償。否則，分包商須全數負責因而引致的任何額外費用。上家承包商在收到保險賠償後，必須按前述條文把分包商代付的款項付還分包商。
- e. 總承包商將向上家承包商就處理每宗僱員補償申索收徵收協議特定事項說明的行政費。上家承包商可在付予分包商的工程款項扣除該等費用。

10.10 Insurances of materials prior to delivery 物料到工地前的保險

- a. 分包方負責供應的物料到工地前的保險，由分包方負責投。

10.11 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險

- a. 上級承包方負責提供的施工機械及臨時建築物的保險，由上級承包方負責。
- b. 分包方負責提供的施工機械及臨時建築物的保險，由分包方負責。

新稿

10.1 Employees' Compensation Insurance 僱員賠償保險

10.1.1 The Client-Contractor shall, either by himself or cause others to, take out and maintain an employees' compensation insurance in compliance with the provisions of the Employees' Compensation Ordinance to cover the legal liabilities, costs and claims against the Sub-Contractor and his sub-sub-contractors of all tiers in respect of death or bodily injury by accident or disease sustained by any employees employed by any of them arising out of and in the course of their employment on the Sub-Contract Works or in connection with this Sub-Contract whether on site or off-site, for the full period of construction, defects liability and/or maintenance.

10.1.2 The insurance policy shall be especially endorsed to cover the death or bodily injury by accident or disease sustained by any self-employed persons or sole proprietors engaged by the Sub-Contractor or his sub-sub-contractors of all tiers upon the Sub-Contract Works or in connection with this Sub-Contract as if they were employees employed by them. Alternatively, the Client-Contractor shall ensure that separate personal accident insurance plans are taken out to provide cover commensurate with that enjoyed by an employee under the Employees' Compensation Ordinance to all self-employed persons or sole proprietors.

10.1.3 As soon as the Sub-Contractor becomes aware of any employees, self-employed persons or sole proprietors employed or engaged upon the Sub-Contract Works or in connection with this Sub-Contract sustaining death or bodily injury by accident or disease, he shall notify the Commissioner for Labour in the manner prescribed by the Ordinance, with a copy of the notice to the Client-Contractor and the insurers, irrespective of whether the death or bodily injury gives rise to any liability to pay compensation.

10.2 Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險

10.2.1 The Client-Contractor shall, either by himself or cause others to, take out and maintain a Contractors' All Risks and Third Party Liability Insurance and include the Sub-Contractor or his sub-sub-contractors of all tiers as one of the insured.

10.2.2 The Material Damage section of the insurance shall comply with the following requirements:

- (a) The Insured Property shall include the Sub-Contract Works under this Sub-Contract and the materials supplied by the Client-Contractor for incorporation into the Sub-Contract Works and shall

include temporary work and all unfixed materials delivered to, placed on or adjacent to the Insured Property and intended therefor (excluding construction plant and temporary buildings which are owned or hired by the Sub-Contractor).

(b) It shall cover physical loss of or damage to any part of the Insured Property during the period of construction until 14 days after substantial completion of that part notwithstanding any use or occupation by the principals or others prior to substantial completion, and also cover loss of or damage to such property arising during the period of defects liability and/or maintenance from a cause occurring during construction prior to completion or occasioned by any of the insured in the course of their carrying out of remedial work or outstanding work.

(c) The sum insured shall be equal to the full reinstatement value of the Insured Property plus:

- (i) the percentage of professional fees in case of reinstatement as stated in the Sub-Contract Agreement to cover the costs and expenses in respect of architects', surveyors' and engineers' fees necessarily incurred in the reinstatement of the Insured Property consequent upon its loss or damage but not for preparing any claim; and
- (ii) an amount not less than the amount for the removal of debris as stated in the Sub-Contract Agreement to cover the costs and expenses necessarily incurred by the Insured with the consent of the Insurers in dismantling and removing debris of the portion or portions of the Insured Property destroyed or damaged by any peril thereby insured against.

(d) It shall contain an escalation clause to cover the possible increase in the reinstatement value of the Insured Property by the percentage as stated in the Sub-Contract Agreement.

10.2.3 The Third Party Liability section of the insurance shall comply with the following requirements:

(a) It shall cover the legal liability, costs and claims against any or all of the joint-insured in respect of:

- (i) accidental death, bodily injury, illness or disease suffered by any person, other than employees of the insured contractors;
- (ii) accidental loss or damage to physical property, other than those insured under the Material Damage section until 14 days after substantial completion;
- (iii) loss of or damage to property real or personal including damage to property, land or buildings due to collapse, subsidence, vibration, weakening or removal of support or lowering of ground water;
- (iv) loss of or damage to any building, structure or property belonging to the principals in the care, custody or control of the insured contractors (alternatively, this paragraph (iv) may be covered by the Material Damage section of the insurance); and
- (v) accidental death, bodily injury, illness or disease suffered by any employee of the principals visiting the Site on occasional basis,

arising out of the performance of the works by the insured contractors.

(b) It shall remain in force for the full period of construction, defects liability and/or maintenance.

(c) There shall be a "Cross-Liability" clause to cover any and all of the insured as separate and distinct parties with stipulation that the insurers agree to waive all subrogation rights which the insurers may have against any of the insured.

(d) The limit of indemnity shall not be less than the amounts stated in the Sub-Contract Agreement.

10.2.4 The amount of excess in respect of each and every occurrence of loss or damage shall not be bigger than the respective amount or, whichever is greater in monetary value, bigger in percentage term than the respective percentage of loss or damage stated in the Sub-Contract Agreement.

10.2.5 If the Sub-Contractor considers that the above-mentioned insurance coverage is inadequate to cover his contractual or legal liabilities and requires that the coverage be increased or the amounts of excesses be reduced then the additional premium so payable shall be solely for the account of the Sub-Contractor.

10.2.6 In the event of loss or damage covered by the Material Damage section of the insurance, the Sub-Contractor shall remove and dispose of any debris, repair or replace any materials damaged, destroyed, lost or stolen, restore work destroyed, damaged or lost, and proceed with the carrying out and completion

of the Sub-Contract Works with due diligence immediately after any inspection required by the insurers has been carried out.

10.3 Taking out insurances 投保

10.3.1 The policies of the aforesaid insurances shall contain the usual terms and conditions, subject only to non-negotiable exclusions imposed by the insurance market.

10.3.2 It shall be acceptable if the aforesaid insurances are not exclusively for the Sub-Contract Works, the Sub-Contractor and his sub-sub-contractors of all tiers, or if the aforesaid insurances are in the form of a company master policy or an annual policy, provided they have been stated or endorsed to specifically include the Sub-Contract Works, the Sub-Contractor and his sub-sub-contractors of all tiers, and they provide cover no less than those required under this Sub-Contract.

10.3.3 Evidence of insurance covers shall be provided to the Sub-Contractor before commencement of any physical work. Copies of the policies, endorsements and premium receipts shall be provided to the Sub-Contractor as soon as practicable afterwards.

10.4 Maintaining insurances 維持投保

10.4.1 The Client-Contractor shall, either by himself or cause others to, maintain and extend as necessary the insurances to be in full force for the required periods of insurance. Extension endorsement, renewal policy (in the case of annual policy) and premium receipt shall be produced to Sub-Contractor for inspection within 14 days after each extension or renewal date.

10.4.2 If the period of insurance shall be extended through default of the Sub-Contractor or parties for whom he is responsible, the Sub-Contractor shall be responsible for any additional premiums for the extension, otherwise, the Client-Contractor shall be responsible.

10.5 Remedy for failure to insure 未能投保的補求

If the Client-Contractor shall at any time fail upon request to produce any receipt showing that any of the insurances is in full force then the Sub-Contractor may without prejudice to other rights and remedies in the joint name and on behalf of both parties insure against any risk, loss or damage with respect to which the default shall have occurred, and shall be entitled to recover the premium paid plus 15% administrative charges from the Client-Contractor. This shall be deemed to be a Variation.

10.6 Compliance with insurance conditions 遵從保險條款

The Sub-Contractor shall with all due diligence and at his own cost conform to the terms and conditions of the aforesaid insurances and all reasonable requirements of the insurers in connection with the prevention of accidents, the submission and settlement of claims, the recovery of losses and shall bear at his own cost the consequences of any failure to do so.

10.7 Reporting incidents 通報事故

In the event of the occurrence of the perils covered by the aforesaid insurances, the Sub-Contractor shall notify the insurers and the Client-Contractor of the details of the incident immediately upon he becomes aware of it.

10.8 Insurances not affecting liability 保險不解除的責任

10.8.1 The presence of the aforesaid insurances shall not prejudice or reduce the Sub-Contractor's liability or responsibility under this Sub-Contract.

10.8.2 The party who would have been liable in the absence of the insurance cover shall be responsible for the amounts of excesses, losses, damage, fees, costs and expenses not compensated by the insurances.

10.9 Insurances of materials prior to delivery 物料到工地前的保險

The taking out of insurances against risks of loss or damage to materials occurring prior to their delivery to the Site shall be the Sub-Contractor's own concern.

10.10 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險

The taking out of insurances against risks of loss or damage to construction plant and temporary buildings owned or hired by the Sub-Contractor or persons for whom he is responsible shall be the Sub-Contractor's own concern.

10.11 Surety bond or cash security 履約保證或押金

10.11.1 The Sub-Contractor shall obtain the guarantee of an insurance company or bank to be jointly and severally bound with the Sub-Contractor to the Client-Contractor in the sum stated in the Sub-Contract Agreement for the due performance of this Sub-Contract under the terms of a Bond in the form as Appendix A hereto. The surety shall be to the approval of the Client-Contractor and the cost of obtaining the Bond shall be borne by the Sub-Contractor. The Bond shall be submitted to the Client-Contractor for custody following approval by the Client-Contractor.

10.11.2 If the Sub-Contractor so elects or if the Sub-Contractor fails to submit an approved Bond before the first Payment Certificate is issued, a cash security equal to the amount of the Bond may be held by the Client-Contractor to serve the purpose of the Bond and the amount of the cash security is recoverable by the Client-Contractor from the Sub-Contractor. If the Sub-Contractor subsequently submits an approved Bond, the amount of the cash security is recoverable by the Sub-Contractor from the Client-Contractor.

10.11.3 Upon the issue of a Substantial Completion Certificate of a Sub-Contract Works Section and the settlement of all claims (if any), the amount of the Bond or cash security shall be reduced pro-rata to ratio of the value of that Sub-Contract Works Section to the final Sub-Contract Price currently estimated. Upon the issue of the Substantial Completion Certificate of the last Sub-Contract Works Section and the settlement of all claims (if any), the Bond or the balance of the cash security shall be released to the Sub-Contractor without interests.

保險及履約保證 (last edited 2011-05-19 14:19:44 by KCTang)