

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
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10. INSURANCES AND BOND 保險及履約保證

Contents

1. 10.1 Employees' Compensation Insurance 僱員補償保險
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. 10.4 Maintaining insurances 維持投保
5. 10.5 Remedy for failure to insure 未能投保的補救
6. 10.6 Compliance with insurance conditions 遵從保險條款
7. 10.7 Reporting incidents 通報事故
8. 10.8 Insurances not affecting liability 保險不解除的責任
9. 10.9 Insurances of materials prior to delivery 物料到工地前的保險
10. 10.10 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險
11. 10.11 Surety bond or cash security 履約保證或押金

10.1 Employees' Compensation Insurance 僱員補償保險

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, for the full period of construction, defects liability and/or maintenance.

10.1.1 上家承包商須自行或促使他人，按僱員補償條例之規定，投購及維持僱員補償保險，以承保分包商及其各層再分包商，由於他們任何一位所僱用之任何僱員，在整個施工、保修及/或保養期內，因受僱於本分包工程或因涉及本分包合同，在受僱期間，因意外或疾病而導致死亡或身體損傷，給他們造成的法律責任、費用及索償。

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 (whether on site or off-site) as if they were employees. 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.

10.1.2 保險單須特別加簽，以承保分包商或其各層再分包商所任用之任何自僱人士或獨資經營者，因任用於本分包工程或涉及本分包合同（無論在工地內或外），在任用期間，因意外或疾病而導致死亡或身體損傷，猶如他們為僱員一樣。或者，上家承包商須確保另行投購個人意外保險計劃，使所有自僱人士或獨資經營者享有與僱員根據僱員補償條例所享有的相同保障。

10.1.3 As soon as the Sub-Contractor becomes aware of any persons 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.

10.1.3 分包商一經知道所僱用或任用於本分包工程或涉及本分包合同之任何人士，因意外或疾病而導致死亡或身體損傷，則無論死亡或身體損傷會否構成賠償責任，均須按條例訂明的方式通知勞工處處長，並給予上家承包商及承保人有關通知之副本。

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 in accordance with the insurance policy or synopsis in Appendix A hereto, include the Sub-Contractor and his sub-sub-contractors of all tiers as one of the insured, and include the Sub-Contract Works, relevant temporary work and unfixed materials as part of the Insured Properties to enjoy the same coverage, for the periods of insurance stated in the Particulars of Agreement.

10.2.1 上家承包商須自行或致使他人，按本分包合同附件A所附的保險單或保險擇要，投購及維持一份工程一切險及第三者責任險，加入分包商及其各層再分包商為被保險人之一，並加入本分包工程、有關的臨時工程及未安裝物料為受保財產之一，在協議特定事項所規定的保險期內，享有同樣的保障。

10.2.2 The Third Party Liability section of the insurance shall have 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.

10.2.2 保險之"第三者責任險"部份須有一"交叉責任"條款，視任何或所有的被保險人為分別及獨立的被保險人，並說明承保人同意放棄承保人可能有的代位追討任何受保人的權利。

10.2.3 If the Sub-Contractor considers that the 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.

10.2.3 若分包商認為，保險的承保範圍不足以承保其合同或法律責任，並要求增加承保範圍或減低免賠額，則因而需繳付的額外保費須由分包商單獨承擔。

10.2.4 In the event of loss or damage covered by the Material Damage section of the insurance, the Sub-Contractor shall, immediately after any inspection required by the insurers has been carried out, remove and dispose of any debris, repair or replace any materials damaged, destroyed, lost or stolen, restore work damaged, destroyed or lost, and

continue with the carrying out and completion of the Sub-Contract Works with due diligence.

10.2.4 若發生保險之“物質損失保險”部份所承保的損失或破壞，在進行了承保人所要求的任何查核工作後，分包商須立即清走及處置任何殘骸，維修或更換任何被損壞、毀滅、損失或盜竊之物料，回復被破壞、毀滅或損失之工程，及努力繼續進行和完成本分包工程。

10.3 Taking out insurances 投保

10.3.1 Evidence of the aforesaid 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.

10.3.1 投購有上述保險之證據，須在開始任何實物工作前，向分包商提供。保單、加簽及保費收據等的副本須隨後盡快向分包商提供。

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.

10.4.1 上家承包商須自行或促使他人，維持及按需要延續各項保險，使其在規定的保險期內仍有全效。延續加簽、續保保單（就全年保單而言）及保費收據須在每個延續或續保日後14天內，向分包商出示以供查核。

10.4.2 If the period of insurance is 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.

10.4.2 若保險期由於分包商或其應負責的人士之過失而須延續，分包商須負責因延續而導致的任何額外保費；此外，上家承包商則須負責。

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

If the Client-Contractor at any time fails upon request to produce any receipt showing that any of the insurances is in full force then, without prejudice to his other rights and remedies, the Sub-Contractor may 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 from the Client-Contractor the premium paid plus administrative charges at the percentage stated in the Particulars of Agreement. This shall be deemed to be a Variation.

若上家承包商在任何時間，經要求下，未能出示收據，顯示任何一項保險仍有全效，則分包商，在不影響他的其他權利和補救方法的同時，可以聯名方式並代表雙方對未有投保的任何風險、損失或破壞投保，並有權從上家承包商取回已付保費另加按協議特定事項所規定的百分率計算的行政費。此安排將被視為一項變更。

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.

分包商須，盡一切努力和自行承擔費用，遵從上述保險之條件及條款和承保人關於防止意外、遞交及理賠和追討損失之所有合理要求，並須自行承擔未能遵從所引致的費用。

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.

一旦發生上述保險所承保的危險，分包商於知道後，須立即通知承保人及上家承包商有關事故的詳情。

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.

10.8.1 上述保險的存在並不影響或減低分包商在本分包合同下的責任或職責。

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.

10.8.2 若沒有保險保障之情況下，原應負責之人士，須負責有關保險不作賠償之免賠額、損失、破壞、費用、成本及支出。

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

Unless covered by the insurance in Appendix A hereto, 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.

除非受到本分包合同附件A的保險所保障，為物料送抵工地前之損失或破壞的風險投購保險，乃分包商自己的事宜。

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

Unless covered by the insurance in Appendix A hereto, 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.

除非受到本分包合同附件A的保險所保障，對分包商或其應負責的人士所擁有或租用的施工機械及臨時建築物之損失或破壞的風險投購保險，乃分包商自己的事宜。

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 Particulars of Agreement for the due performance of this Sub-Contract under

the terms of a Bond in the form as Appendix B 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.

10.11.1 分包商須獲得保險公司或銀行與分包商，按本分包合同附件B式樣的履約保證書，及按協議特定事項所規定的金額，共同和分別有約束性地向發包方保證，分包商會完全履行本分包合同。擔保人須經上家承包商批准，而取得擔保的費用由分包商承擔。履約保證書須在上家承包商批准後提交給上家承包商保管。

10.11.2 If the Sub-Contractor so elects or if the Sub-Contractor fails to submit an approved Bond before the first payment under Clause 6.16 is due to be processed, a cash security equal to the amount of the Bond may be deposited to or withheld by the Client-Contractor to serve the purpose of the Bond. 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.

10.11.2 若分包商如此選擇，或若分包商未能於處理第6.16條的首次付款前提交經批准之履約保證書，上家承包商可提取或扣起一筆相等於履約保證金額之押金以作履約保證之用。若分包商其後提交經批准的履約保證書，分包商可從上家承包商取回押金。

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 both 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.

10.11.3 當某分包工程分部的充分竣工證書發出及索償(如有)獲得解決時，履約保證或押金的金額須按當時估計的分包工程分部價值對分包結算價之比率減少。當最後的分包工部份的充分竣工證書發出及索償(如有)獲得解決時，履約保證書或押金結餘須不附利息發還給分包商。

保險及履約保證 (last edited 2011-09-09 12:16:41 by KCTang)