

# WORKMEN'S COMPENSATION POLICY

**WHEREAS** the Insured carrying on the Business described in the Schedule and no other for the purpose of this insurance by a proposal and declaration which shall be the basis of this contract and is deemed to be incorporated herein has applied to **the Uni.Asia General Insurance Berhad** (hereinafter called "The Company") for the insurance hereinafter contained and has paid or agreed to pay the Premium as consideration for such insurance.

**NOW THIS POLICY WITNESSETH** that if any time during the period of insurance any employee in the Insured's immediate service shall sustain personal injury by accident or disease arising out of and in the course of his employment by the Insured in the Business and if the Insured shall be liable to pay compensation for such injury either under the Law(s) set out in the Schedule or at Common Law then subject to the terms exceptions and conditions contained herein or endorsed hereon The Company will indemnify the Insured against all sums for which the Insured shall be so liable and will in addition be responsible for all costs and expenses incurred with its consent in defending any claim for such compensation.

**PROVIDED ALWAYS** that in the event of any change in the Law(s) or the substitution of other legislation therefor this Policy shall remain in force but the liability of the company shall be limited to such sum as the Company would have been liable to pay if the law(s) had remaining unaltered.

## **LAW(S): AS AMENDED UP TO THE DATE OF THE COMMENCEMENT OF THIS POLICY**

Workmen's Compensation (Ordinance 1952) (Federation of Malaya)  
Workmen's Compensation (Amendment) Ordinance 1956 (Federal of Malaya)  
Workmen's Compensation Ordinance 1956 (Colony of Sarawak)  
Workmen's Compensation Ordinance 1955 (Colony of North Borneo)  
Workmen's Compensation (Amendment) Ordinance 1967 (Colony of North Borneo)  
Workmen's Compensation Enactment 1957 (State of Brunei)  
Workmen's Compensation (Amendment) Act 1976  
Modification of Laws (Workmen's Compensation (Extension and Modification) Order 1981  
Workmen's Compensation (Amendment) Act 1996  
Workmen's Compensation (Foreign Workers Compensation Scheme (Insurance) Order 1998)  
And any subsequent amendments to the said Act and Enactments made effective prior to the date of issue of the Policy.

## **EXCEPTIONS**

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

- (a) Any losses, damages, costs or expenses of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss :

War, invasion, act of foreign enemy, hostilities, or war-like operations (whether war be declared or not), civil war. Permanent or temporary dispossession resulting from confiscation, commandeering or requisition by any lawfully constituted authority. Mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military, or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or state of siege.

Losses, damages, costs or expenses of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to the above are also excluded.

If the Company allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance, the burden of proving the contrary shall be upon the Insured.

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

- (b) The Insured's liability to employees of contractors to the Insured
- (c) any employee who is not a "workmen" within the meaning of the Law(s)
- (d) Any liability of the Insured's which attaches by virtue of an agreement but which would not have attached in the absence of such agreement.

- (e) Any sum which the Insured would have been entitled to recover from any party but for an agreement between the Insured and such party.
- (f) Any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
  - (i) nuclear weapons material
  - (ii) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel and for the purpose of this exception combustion shall include any self sustaining process of nuclear fission.

#### CONDITIONS

1. This policy and the Schedule shall be read together as one contract any word or expression to which a specified meaning has been attached in any part of this Policy or of the Schedule shall bear such specific meaning wherever it may appear.
  2. Every notice or communication to be given or made under this Policy shall be delivered in writing to the Company.
  3. The Insured shall take reasonable precautions to prevent accidents and disease and shall comply with all statutory obligations.
  4. In the event of any occurrence which may give rise to a claim under this Policy the Insured shall as soon as possible give notice thereof to the Company with full particulars. Every claim writ summons and process shall be notified or forwarded to the Company immediately on receipt. Notice shall also be given to the Company immediately the Insured shall have knowledge of any impending prosecution inquest or fatal enquiry in connection with any such occurrence as aforesaid.
  5. No admission offer promise or payment shall be made by or on behalf of the Insured without the consent of the Company which shall be entitled if it so desires to take over and conduct in his name the defence or settlement of any claim or to prosecute in his name for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Company may require.
  6. The First premium and all renewal premiums that may be accepted are to be regulated by the amount of wages and salaries and, other earnings paid by the Insured to employees during each period of insurance. The name of every employee together with the amount of wages salary and other earnings shall be properly recorded and the Insured shall at all times allow the Company to inspect such records and shall supply the Company with a correct account of all such wages, salaries and other earnings paid during any period of insurance within one month from the expiry date of such period of insurance. If the amount so paid shall differ from the amount on which premium has been paid the difference in premium shall be met by a further proportionate payment to the Company or by a refund by the Company as the case may be.
  7. The Company may cancel this Policy by sending fourteen days notice by registered letter to the Insured at his last known address and in such event the premium shall be adjusted in accordance with Condition 6.
  8. All differences arising out of this Policy shall be referred to the decision of an Arbitrator to be appointed in writing by the parties in difference or if they cannot agree upon a single Arbitrator to the decision of two Arbitrators one to be appointed in writing by each of the parties within one calendar month after having been required in writing so to do by either of the parties or in case the Arbitrators do not agree of an Umpire appointed in writing by the Arbitrators before entering upon the reference. The Umpire shall sit with the Arbitrators and preside at their meeting and the making of an Award shall be a condition precedent to any right of action against the Company. If the Company shall disclaim liability to the Insured for any claim hereunder and such claim shall not within twelve calendar months from the date of such disclaimer have been referred to arbitration under the provisions herein contained then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable hereunder.
  9. The due observance and fulfilment of the terms conditions and endorsements of this Policy so far as they relate to anything to be done or not to be done by the Insured and the truth of the statements and answers in the proposal shall be conditions precedent to any liability of the Company to make any payment under this Policy.
- N.B. For your own protection please read this policy and its conditions and if the policy be not filled in correctly or according to your intention return same to the office for alteration.

**ENDORSEMENT / CLAUSES / WARRANTIES**  
(Not included in the Policy unless specified in the Schedule)

**WARRANTY 2**

This Policy does not indemnify the Insured in respect of any claim arising in connection with the use of wood-working 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, standing machines, mechanically-driven portable tools applied to the work by hand other than pendulum and swing saws.

**WARRANTY 4**

This Policy does not indemnify the Insured in respect of any claim arising in connection with erecting or fitting or repair away from the shop or yard of the Insured.

**WARRANTY 7**

This Policy does not indemnify the Insured in respect of any claim arising in connection with the carting or delivery of goods or livestock other than by hand or handcart.

**ENDORSEMENTS / CLAUSES / WARRANTIES**  
(Not included in the Policy unless specified in the Schedule)

**WARRANTY 15**

This Policy does not indemnify the Insured in respect of any claim arising in connection with:

- (a) the construction, alteration or repair of buildings involving the use of at any stage of mechanically driven machinery other than mortar mills, stone crushers, concrete mixers and friction hoists controlled by a mortar with a lifting capacity not exceeding 10 cwt and hoisting directly from one position only.
- (b) any work of demolition (except the demolition of buildings not exceeding 30 ft. In highest point of the foundation to the highest point of the building, including chimneys, when such demolition is carried out by workmen in the direct employ of the Insured and forms part of a contract for reconstruction, alteration or repair).
- N.B. Replacement of damaged parts such as old timber or broken tiles does not come within the meaning of demolishing and reconstructing in respect of buildings or height.
- (c) construction, alteration or repair of towers, steeples, blast furnaces, chimney shafts, viaducts, bridges, docks, railways, canals or tunnels, wells over 20 ft. In depth or any well sinking, other than artesian or tube wells.
- (d) blasting operations, quarrying or sand or gravel getting.

**WARRANTY 25**

This policy does not indemnify the Insured in respect of any claim arising in connection with work on

- (a) gas holders
- (b) Towers
- (c) Steeples
- (d) Bridges over 30 ft
- (e) Viaducts
- (f) Blast furnaces
- (g) Colliery overhead winding gear
- (h) Roofs of Railway stations and aeroplane sheds exceeding 30 ft. In height from ground level

**WARRANTY 60**

It is hereby understood and agreed that subject otherwise to the Terms, Exceptions and Conditions of the Policy the indemnity herein granted is extended to cover the legal liability of the Insured to Workmen in the employment of subcontractors performing work for the Insured while engaged in the business and occupation in respect of which the within policy is granted, but only so far as regards claims under:

Workmen's Compensation (Ordinance 1952) Federation of Malaya  
Workmen's Compensation (Amendment) Ordinance 1956 (Federation of Malaya)  
Workmen's Compensation Ordinance 1956 (Colony of Sarawak)  
Workmen's Compensation 1955 (Colony of North Borneo)  
Workmen's Compensation (Amendment) Ordinance 1967 (Colony of North Borneo)  
Workmen's Compensation Enactment 1957 (State of Brunei)  
Workmen's Compensation (Amendment) Act 1976

**WARRANTY 64**

This Policy does not indemnify the Insured in respect of any claim arising in connection with work on board ships.

**ENDORSEMENTS / CLAUSES / WARRANTIES**  
(Not included in the Policy unless specified in the Schedule)

**WARRANTY 76**

In consideration of premium being paid on the total earnings of all employees not being Workmen within the meaning of the:

Workmen's Compensation (Ordinance 1952) (Federation of Malaya)  
Workmen's Compensation (Amendment) Ordinance 1956 (Federation of Malaya)  
Workmen's Compensation (Amendment) Act 1976

It is hereby agreed that the Company will not on the event of any accident arising out of and in the course of employment to any such employee whilst engaged in the service if the Insured as set forth in the Schedule raise the defence that such employee is not a workman within the meaning of the aforesaid Ordinance.

Subject otherwise to the terms and conditions of the within Policy.

**WARRANTY 78**

This Policy does not indemnify the Insured in respect of any claim arising in connection with racing pace making or speed trials.

**WARRANTY 80**

This Policy does not indemnify the Insured in respect of any claim arising in connection with tree felling or sawing or carting in connection therewith.

**WARRANTY 85**

This Policy does not indemnify the Insured in respect of any claim arising in connection with:

- (a) The use of explosives
- (b) The making of sewers or the other excavations exceeding in any part a depth 10ft from the surfaces
- (c) Tunnelling

**WARRANTY 97**

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.

**WARRANTY 100**

This Policy does not indemnify the Insured in respect of any claim arising in connection with the handling of any unit exceeding 5 cwt in weight when completed for use.

**WARRANTY 180**

This Policy does not indemnify the Insured in respect of any claim arising in connection with tree-felling or sawing and carting in connection therewith with the exception of light felling work incidental to maintenance or the destruction of pests and diseases.

**WARRANTY 181**

This Policy does not indemnify the Insured in respect of any claim arising in connection with the climbing of trees for nuts or toddy collection.

**WARRANTY 192**

This Policy does not indemnify the Insured in respect of any claim arising in connection with felling sawing or carting of trees other than light trees not exceeding 20 ft in height to be used for scaffolding or carrying poles.

**ENDORSEMENTS / CLAUSES / WARRANTIES**  
(Not included in the Policy unless specified in the Schedule)

**WARRANTY 194**

In consideration of premium being paid on the total payment to Contractors who contract to provide labour only it is hereby agreed that in the event of accidents sustained by such Contractors or workmen engaged by such Contractors whilst working under contract with the Insured in connection with the work in respect of which this is granted the Company will not raise the defence that there is no contract of service between the Insured and such contractors or workmen engaged by such Contractors.

**WARRANTY 197**

In consideration of premium being paid on total payments made to the Company the Company agrees that the defence will not be raised to a claim to compensation under the Workmen's Compensation Law mentioned in the within Policy and subsequent amendments passed prior to the date of this endorsement that the Contractor is not a workman within the meaning of the said Workmen's Compensation Laws.

Provided always that such compensation shall only be payable where the Contractor or his dependents as the case maybe agreed to accept it in full satisfaction and discharge of all claims against the Insured.

**WARRANTY 204**

This Policy does not indemnify the Insured in respect of any claim arising in connection with any work in jungle.

**WARRANTY 223**

This Policy does not indemnify the Insured in respect of any claim arising in connection with any work in harvesting.

**WARRANTY 230**

It is hereby understood and agreed that this Policy is extended to indemnify any Principal (hereinafter called the Principal) against liability under the Law(s) or at Common Law 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

- (1) The Company shall not be liable \*at Common Law 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.
- (2) The Principal shall as though he were the Insured observe fulfil and be subject to the terms exceptions and conditions of this Policy insofar as they can apply.
- (3) 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 exceptions and conditions of this Policy.

**WARRANTY 231**

Notwithstanding anything stated to the contrary in this policy and subject to condition 6 being deleted it is understood and agreed that if the wages herein stated are less than the actual wages (as defined in the Workmen's Compensation Ordinance currently in force) paid or payable to the Workmen hereby insured corresponding to the period of insurance, the liability of the Company in respect of any claim under this Policy shall be proportionately reduced and the Insured shall be considered as his own insurer for the difference.

**WARRANTY 232 – PREMIUM WARRANTY**

It is a fundamental and absolute Special Condition of this contract of insurance that the premium due must be paid and received by Insurers within sixty (60) days from the inception date of this Policy.

If this condition is not complied with then this contract is automatically cancelled and the Company shall be entitled to the pro rate premium for the period they have been on risk.

**ENDORSEMENTS / CLAUSES / WARRANTIES**  
(Not included in the Policy unless specified in the Schedule)

**ENDORSEMENT A**

It is hereby understood and agreed that in that in the event of any workmen employed by the within Insured or by the Insured's Contractors as referred in Endorsement "B" hereon or any dependent of such workmen bringing or making a claim under the Workmen's Compensation Ordinance in force in Malaysia against any officer of the Government of Malaysia or any state thereof for personal injury or disease sustained whilst at work on any contract covered by the terms and conditions of the within policy which the Insured may be carrying out for the said officer or Government against such claim, and indemnify the said officer or Government against such claim, and any cost, charges and expenses in respect thereof. Provided always that the Company shall be entitled to have the sole conduct and control of all proceedings connected with claims covered by this endorsement. Nothing in this endorsement shall be construed as affecting the insured's right to recover damages in any other way under the said Ordinance.

**ENDORSEMENT B**

It is hereby understood and agreed that the Indemnity herein granted is to cover the legal liability of the Insured to workmen in the employment of contractors performing work for the Insured while engaged in the business and occupation in respect of which the within Policy is granted but only so far as regards claims under the Workmen's Compensation Ordinance in force in Malaysia.

**VICARIOUS LIABILITY ENDORSEMENT**

If any person under a contract of service or apprenticeship with the Insured shall sustain bodily injury by accident or disease caused during the period of insurance and arising out of and in the course of his employment by the Insured in the Business stated in the Schedule the Company will at the request of the Insured indemnify any other employee of the Insured engaged in such Business against liability at law to pay compensation and claimant's cost and expenses in respect of such injury and will in addition pay all costs and expenses incurred with its written consent. Provided that the employee claiming to be indemnified shall be as though he were the Insured observe fulfil and be subject to the terms conditions and the exceptions of the Policy insofar as they can apply.

**WORK AWAY RISK ENDORSEMENT**

This policy is extended to include the Insured's liability as within defined in respect of accidents arising out of the engagement of the actual progress of work undertaken by the Insured or the persons in the service of the Insured in the course of Business within the Territorial Limits but away from the defined premises.

Subject to the terms conditions and exceptions of the Policy.

**COMMON LAW LIABILITY ENDORSEMENT**

It is understood and agreed that notwithstanding anything stated to the contrary herein this Policy indemnifies the Insured against all sums for which the Insured shall be liable at Common Law up to a maximum limit of MR1,000,000.00 as compensation for personal injury by accident for disease sustained by one or more employees in any once accident or occurrence. The Company will in addition be responsible for all costs and expenses incurred with its written consent in defending any claims for such compensation.

**COMMON LAW EXCLUSION CLAUSE**

The Company's liability under this Policy is limited to payment of compensation for injury payable under the Law(s) set out in this Policy. In no event shall the Company's liability extended to payment of compensation or damaged at or under the Common Law or the provisions of Section 7 of the Civil Law Ordinance 1956.