



INSURANS ISLAM TAIB GENERAL TAKAFUL

CERTIFICATE FOR PUBLIC LIABILITY TAKAFUL SCHEME

NOTICE

The Participant must give prompt and immediate notice to Insurans Islam TAIB General Takaful Sendirian Berhad of any claim with full particulars of the accident and injuries sustained. Failure to do so may result in disclaim of liability.

PUBLIC LIABILITY TAKAFUL CERTIFICATE

(Effective 01st July 2020)

WHEREAS the Participant named in the Schedule hereto and carrying on the business described in the Schedule for the purpose of this Takaful, by a proposal and declaration which shall form the basis of this contract and is deemed to be incorporated herein, has applied to Insurans Islam TAIB General Takaful Sendirian Berhad (Hereinafter referred to as "IITGT") for the Takaful hereinafter contained and has paid or agreed to pay the takaful contribution stated in the said Schedule as consideration for such Takaful.

Now this Certificate witnesseth that subject to the terms, exceptions, limits and conditions contained herein or endorsed hereon, IITGT will indemnify the Participant against:

- A. All sums which the Participant shall become legally liable to pay as damages or compensation in respect of:
- 1) Bodily injury to or illness of any person.
 - 2) Loss of or damage to property of any person.

Occurring within the Territorial Limits specified in the Schedule during the Period of Takaful as a result of an accident and happening or caused in connection with the business.

Business means:

- i. The ownership, maintenance or use of the premises which are specified in the Schedule;
- ii. Operations of the Participant which are specified in the Schedule including related activities;
- iii. The provision and management of canteen, social, sports and welfare organisations for the benefit of employees;
- iv. First aid, fire and ambulance services in relation to the above-mentioned premises and operations; and
- v. Private work carried out by any employee of the Participant for any individual or organisation qualifying as a Participant as specified in the Schedule.

With regard to directors or non-manual employees of the Participant who are normally resident within the Territorial Limits specified in the Schedule, the indemnity will extend to cover their activities within the scope of their duties while temporarily engaged elsewhere but excluding United States of America, its territories or possessions, or Canada.

- B. All costs and expenses of litigation:
- 1) Recovered by any claimant against the participants;
 - 2) Incurred with the written consent of IITGT.

In respect of a claim against the Participant for damages or compensation to which the indemnity expressed in this Certificate applies, bodily injury means death, injury, illness or disease of or to any person, and property damage means actual and/or physical damage to tangible property.

Accident means a fortuitous event or circumstance which is sudden, unexpected and unintentional including resultant continuous intermittent or repeated exposure to substantially the same general harmful conditions arising out of the same fortuitous event or circumstance.

LIMITS OF INDEMNITY

This Certificate does not cover :-

Provided always that the liability of IITGT for damages or Compensation and all costs and expenses of litigation in respect of any accident or series of accidents occurring in connection with or arising out of one (1) event shall not in the aggregate exceed the amount specified in the Schedule as the Limit of Indemnity per occurrence nor shall the liability in the aggregate in respect of all events occurring during the Period of Takaful exceed the amount specified in the Schedule Aggregate Limit of Indemnity of the Period of Takaful.

All bodily injury and property damage during the Period of Takaful resulting from an occurrence shall be deemed to have taken place wholly during the Period of Takaful in effect at the time of the commencement of the first of such bodily injury or property damage resulting from such occurrence.

In the event of any bodily injury or property damage arising from continuous or intermittent or repeated exposure to substantially the same general harmful conditions including but not limited to continuous, intermittent or repeated inhalation, ingestion, or application of any substance and/or where the Participant and IITGT cannot agree as to when the bodily injury or property damage took place, then:

- a) Bodily injury will be deemed to have taken place when the claimant first consulted a qualified medical practitioner in respect of such injury; and
- b) Property damage will be deemed to have taken place when it first became evident to the claimant, even if the cause was unknown.

EXCLUSIONS

This Takaful does not apply to:

- a) Bodily injury or property damage arising out of deliberate, wilful or intentional non-compliance with any statutory provisions or disregard of the Participant's technical or administrative management instructions relating to safety and prevention of accidents.
- b) Bodily injury or property damage expected or intended from the standpoint of the Participant. This exclusion does not apply to bodily injury resulting from the use of reasonable force to protect persons or property.
- c) Bodily injury or property damage due to war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, insurrection, rebellion, revolution mutiny or usurped power, riot, strike, lockout, military or popular rising, civil commotion, martial law or loot, sack or pillage in connection therewith, confiscation or destruction by any government or public authority or any act or condition incidental to any of the above.
- d) Bodily injury or property damage arising out of earthquake, earth-tremor, volcanic eruption, flood, storm, tempest, typhoon, hurricane, tornado, cyclone or other similar convulsions of nature and atmospheric disturbance.
- e) Bodily injury or property damage or any legal liability of any nature directly or indirectly caused by or contributed by or arising from:
 - i. Ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - ii. The radioactive, toxic explosive or other hazardous properties of any explosive nuclear assembly or any nuclear component thereof;
 - iii. Any nuclear reactor, nuclear power station or plant, premises of facilities whatsoever related to or concerned with the production of nuclear energy or production or storage or handling of nuclear fuel or nuclear waste; or
 - iv. Any other premises or facilities eligible for takaful or insurance by any local nuclear pool and/or association.
- f) Bodily injury or property damage for which the Participant is obligated to pay compensation by reason of the assumption of a liability in a contract or agreement which liability would not attach in the absence of such contract or agreement.
- g) Any obligation of the Participant under laws relating to workmen's compensation, disability benefits, occupational injury or illness unemployment compensation or any similar law.
- h) Bodily injury to an employee of the Participant or other person under contract of service or apprenticeship with the Participant arising out of and in the course of the relationship with the Participant, or to spouse, child, parent, brother or sister of that employee or other person as a consequence of such bodily injury to the employee or other person.

These exclusions apply whether the Participant may be liable as an employer or in any other capacity, and to any obligation to share compensation because of the injury.

- i) Bodily injury or property damage caused by or in connection with or arising from the ownership, possession or use by or on behalf of the Participant of any trailer or motor vehicle for which compulsory motor liability takaful or insurance is required to be taken. However, this exclusion does not apply to liability in respect of the loading, unloading collection of goods on to or from such trailer or motor vehicle.
- j) Bodily or property damage arising out of the ownership, maintenance, use, operation, loading, unloading or entrustment to others of any aircraft or watercraft owned or operated by or rented or loaned to the Participant.
- k) Bodily injury or property damage arising out of the transportation of materials and/or hazardous/dangerous/noxious substances outside the Participant's premises.
- l) Bodily injury or property damage arising out of the rendering of or failure to render any service of a professional nature, including but not limited to, the rendering of or failure to render:
 - i. Medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith;
 - ii. Any services or treatment intended to be conducive to health;
 - iii. The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;
 - iv. Professional services by architects, engineers, surveyors, accountants, lawyers, insurance agents or brokers; or
 - v. Data processing services.
- m) Bodily injury or property damage arising out of the actual alleged or threatened discharge, dispersal, release, seepage or escape of pollutants, or any loss, cost or expense arising out of any direction or request, whether governmental or otherwise, that the Participant evaluates, tests for, monitors, cleans up, removes, controls, contains, treats, detoxifies or neutralises pollutants.
- n) Bodily injury or property damage arising out of asbestiform talc, asbestos, diethylstilbestrol, dioxin, intra-uterine device, oral contraceptive, swine-flu vaccine, tobacco or tobacco products, urea formaldehyde or any liability due to the effects of acquired immune deficiency syndrome or hepatitis B.
- o) Any liability arising out of loss of pure financial nature such as loss of goodwill or loss of market.
- p) Any liability arising out of all personal injuries such as libel, slander, defamation, false arrest, wrongful eviction, wrongful detention and mental injury anguish or shock resulting therefrom.
- q) Any liability arising out of infringement of plans, copyright, patent, trade name, trade mark, registered design.
- r) Any liability in respect of fines, penalties, punitive damages, exemplary damages, treble damages or any other damages resulting from the multiplication of compensatory damages.

- s) Property damage to Participant's product arising out of it or part of it.
Participant's product:
- i. Means any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by the Participant's others trading under the Participants name; or a person or organisation whose business or assets the Participant has acquired;
 - ii. Means containers (other than motor vehicles), materials, parts of equipment furnished in connection with such goods or products;
 - iii. Includes warranties or representations made at any time with respect to the fitness, quality, durability, or performance of any of the items included in the first two (2) subdivisions of this section and instruction or advice on the nature, use or storage of the Participant's work provided by or on behalf of the Participant; and
 - iv. Does not include vending machines or other property rented to or located for the use of others but not sold.
- t) Property damage to the Participant's work arising out of it or any part of it. Participant's work:
Participant's product:
- i. Means work or operations performed by or on behalf of the Participant;
 - ii. Means materials, parts or equipment furnished in connection with such work or operations; and
 - iii. Includes warranties or representations made at any time with respect to the fitness, quality, durability, or performance of any of the items included in (i) or (ii) above, and instruction or advice on the nature, use or storage of the Participant's work provided by or on behalf of the Participant.
- u) Liability claimed for any loss, cost or expenses incurred by the Participant or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of the Participant's product, or the Participant's work; if such product or work is withdrawn or recalled from the market or from use by any person or organisation because of a known or suspected defect, deficiency, inadequacy or
- v) Bodily injury or property damage occurring away from premises owned or rented by the Participant and arising out of the Participant's product or the Participant's work except:
- i. Products that are still in the Participant's physical possession; or
 - ii. Work that has not yet been completed or abandoned.
- w) Property damage to:
- i. Property owned, rented or occupied by the Participant;
 - ii. Premises the Participant sells, gives away or abandons, if the property damage arises out of any of those premises;
 - iii. Property loaned to the Participant;
 - iv. Personal property being loaded or unloaded (onto or from any aircraft, watercraft, motor vehicle) by the Participant if the property damage arises out of the loading or unloading;
 - v. That particular part of any property on, at or with which the Participant or any contractors or subcontractors working directly or indirectly on the Participant's behalf are performing operations, if the property damage arises out of those operations; or
 - vi. That particular part of any property that must be restored, repaired or replaced because the Participant's work was incorrectly performed on it;
 - vii. Property damage to land, buildings or other structure caused by vibration, pile-driving, subsidence, or demolition or resulting from removal or weakening of support or claims arising in consequence of such property damage.

PERSONS COVERED

The indemnity provided hereunder also extends to protect:

- i. Where the Participant is an individual, the Participant's and the Participant's spouse, but only with respect to the conduct of the Participant's business;
- ii. Where the Participant is a partnership or joint venture, the Participant's members, partners in the Participant's partnership or joint venture, and their spouses but only with respect to the conduct of the Participant's business; or
- iii. Where the Participant is an organisation other than a partnership or joint venture, the Participant's executive officers and directors but only with respect to their duties as the Participant's officers or directors. The Participant's stockholders are also protected but only with respect to their liability as stockholders.

Provided however, that all such persons or parties shall observe, fulfil and be subject to the terms, conditions and exclusions of this Certificate as though they were the Participant.

Each of the following is also a Participant:

- 1) The Participant's employees, other than the Participant's executive officers, but only for acts within the scope of their employment by the Participant. However, none of these employees is covered for:
 - a) Bodily injury to the Participant or to a co-employee while in the course of his or her employment; or
 - b) Bodily injury arising out of his or her providing or failing to provide professional health care or other professional services; or
 - c) Property damage to property owned or occupied by or rented or loaned to that employee, any of the Participant's other employees or any of the Participant's partners or members in case of a partnership or joint venture.
- 2) Any person or organisation having proper temporary custody of the Participant's property if the Participant dies, but only with respect to liability arising out of the maintenance or use of that property and until the Participant's legal representative has been appointed.
- 3) The Participant's legal representative if the Participant dies, but only with respect to duties as such. That representative will have all the Participant's rights and duties under this Certificate.

No person or organisation is a Participant with respect to the conduct of any current or past partnership or joint venture that is not shown as a named Participant in the Schedule.

Each person or party indemnified hereunder is separately indemnified in respect of claims made against any of them by any other person or party (other than the named Participant) subject to IITGT total liability not exceeding the Limits Indemnity stated in the Schedule regardless of the number of:

- i. Participants;
- ii. Claims made or suits brought; or
- iii. Persons or organization making claims or bringing suits.

INDEMNITY TO PRINCIPAL

If any claim shall be made against any Principal with whom the Participant shall have entered into a contract, for bodily injury or property damage and if such claim would have been admissible under this Certificate if made against the Participant direct, then in such a case IITGT will, subject to the limits, terms and conditions of this Certificate, indemnify the Principal against his legal liability for such claim provided that:

- a) IITGT shall retain solely the conduct and control of the claim; and
- b) IITGT shall not be liable to grant indemnity hereunder when the Principal has himself or by his employees been guilty of any negligence or other default.

INDEMNITY TO PRINCIPAL

IITGT will be liable for damages or compensation and related costs and expenses of litigation payable under the terms and conditions of this Certificate, only to the extent the aggregate of such amounts arising out of one (1) occurrence exceeds the amount of Excess specified in the Schedule. The Participant shall bear for his own account the damages and compensation and related cost and expenses up to the amount of the said Excess per occurrence.

JURISDICTION CLAUSE

This Takaful will not indemnify:

- a) Any claims for damages or compensation for bodily injury or property damage unless the suit is initiated in or initial judgment obtained from a court of competent jurisdiction within Brunei.
- b) Costs and expenses of litigation related to the claim unless these are incurred in and recoverable in terms of the judgment, within Brunei.

All claims under this Certificate shall be determined in accordance with the laws of the country where the accident occurred within the Territorial Limits specified in the Schedule.

CONDITIONS

- 1) This Certificate and Schedule shall be read together as one (1) contract and any word or expression to which a specific meaning has been attached in any part of this Certificate or of the Schedule, shall bear such meaning wherever it may appear.
- 2) Condition Paramount : The due observance and fulfilment of the terms and conditions of this Certificate in so far as they relate to anything to be done or not to be done by the Participant, and the truth of all statements and information supplied to IITGT by the Participant will be conditions precedent to any liability of IITGT to make any payment under this Certificate.
- 3) Every notice or communication to be given or made under this Certificate shall be delivered in writing to IITGT's head office or to the Participant at the address shown in the Schedule as the case may be. If the notice is mailed, proof of mailing shall be sufficient proof of notice. Notice to agent does not constitute notice to IITGT.
- 4) All statements made in the proposal for this Certificate and any material submitted therewith or required thereby are the basis of this Certificate. The Participant shall give notice immediately of any fact, event or circumstance which materially changes the aforesaid information and IITGT may amend the terms of this Certificate where it deems appropriate.
- 5) This Certificate contains all the agreements between the participant and IITGT concerning the Takaful afforded. The Participant first named in the Schedule is authorised to make changes to the terms of this Certificate with IITGT consent. This Certificate's terms can be amended or waived only by endorsement issued by IITGT and made a part of this Certificate.
- 6) IITGT may examine the Participant's books and records in so far as they relate to this Takaful at any time until three (3) years after expiry of the Certificate or one (1) year after the final settlement of all claims arising under the Certificate whichever be later. IITGT may also at any time make an inspection or survey of the business without undertaking any responsibility to do so or as a consequence thereof.
- 7) The Participant shall take all reasonable care to prevent accidents and shall maintain the premises, plant and everything used in the business covered in proper repair, employ only competent employees and comply with all statutory obligations and regulations imposed by any authority. The Participant shall forthwith make good or remedy any defect or danger which becomes apparent, take reasonable action at its own expense to trace, recall or modify any product containing such defect of danger, and take such additional precautions as the circumstances may require.

- 8) Where any part of the takaful contribution is calculated on estimates, the Participant shall within one (1) month from the expiry of each Period of Takaful furnish such details as IITGT may require and the contribution for such period shall be adjusted subject to any minimum contribution stated in the Schedule.
- 9) If at the time any claim arises under this Certificate there is any other takaful or insurance covering the same liability, then IITGT shall not be liable under this Certificate to pay or contribute more than its rateable proportion of any such claim and costs and expenses in connection therewith.
- 10) (a) The Participant must notify IITGT immediately of any occurrence which may result in a claim. Such notice should include:
 - i. How, when and where the occurrence took place;
 - ii. The names and addresses of any injured persons and witnesses; and
 - iii. The nature and location of any injury or damage arising out of the occurrence.(b) The Participant must:
 - i. Notify IITGT of any impending prosecution or fatal accident enquiry;
 - ii. Give prompt notice to IITGT of any claim or suit brought against the Participant;
 - iii. Immediately send IITGT copies of any demand, letter, writ, claim, process, notice, summons or legal paper received in connection with the claim or suit;
 - iv. Retain unaltered and unrepaired any machinery, plan, appliances or things in any way causing or connected with any event which might give rise to a claim under this Certificate for such time as IITGT may reasonably require.
- 11) (a) No admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the Participant without the written consent of IITGT. Upon IITGT request, the Participant must:
 - i. Authorise IITGT to obtain records and other information;
 - ii. Cooperate with IITGT in the investigation, settlement or defence of the claim or suit; and
 - iii. Assist IITGT in the enforcement of any right against any person or organisation which may be liable to the Participant because of injury or damage to which this Takaful may also apply.(b) IITGT will have the right, but in no case the obligation to take over and conduct in the name of the Participant, the defence of any claim and will have full discretion in the conduct of any proceedings and in the settlement of any claim and having taken over the defence of any claim, may relinquish the same. All amounts expended by IITGT in the defence, settlement or payment of any claim will reduce the Limits of Indemnity in accordance with the aforementioned clause. In the event that IITGT, in its sole discretion, chooses to exercise its right pursuant to this condition, no action taken by IITGT in the exercise of such right will serve to modify or expand in any manner, IITGT liability or obligations under this Certificate beyond what the IITGT liability or obligations would have been had it not exercised its rights under this condition.
- 12) IITGT may in the case of any claim or number of claims in respect of or arising out of any occurrence, pay to the Participant, the amount of applicable Limit of Indemnity or any lesser amount for which the claim or claims can be settled and IITGT will thereafter be under no further liability in respect thereof.
- 13) If IITGT shall disclaim liability to the Participant for any claim hereunder and such claim shall not within twelve (12) calendar months from the date of such disclaimer have been made the subject matter of suit in a court of law then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable hereunder.
- 14) IITGT shall not be liable to make any payment under this Certificate in respect of any claim if such claim shall be in any manner fraudulent or supported by any statement or device whether by the Participant or by any person on behalf of the Participant and/or if the Takaful has been continued in consequence of any material misstatement or the non-disclosure of any material information by or on behalf of the Participant.
- 15) The Participant and IITGT shall make every effort to amicably resolve, by direct informal negotiations, any disagreement or disputes arising or relating to this Certificate. If the Participant and IITGT are unable to amicably resolve any disagreement or dispute within thirty (30) business days from the date when the negotiation failed, either party shall notify in writing for the disagreement or dispute to be referred for resolution by arbitration in accordance with the provisions of the Brunei Darussalam Arbitration Order, 2009. The arbitration tribunal shall consist of a single arbitrator, such person to be agreed between the Participant and IITGT, or failing agreement, to be nominated in accordance with the Arbitration Order, 2009. The applicable rules of arbitration shall be the UNCITRAL Rules of Arbitration. The seat and place of arbitration shall be Brunei Darussalam and the language of arbitration shall be English. All rights and obligations of the Participant and IITGT under this Certificate shall continue in full force and effect pending the final outcome of such arbitration. Any reference to arbitration under this clause shall be a submission to arbitration within the meaning of the Arbitration Order, 2009 for the time being in force in Brunei Darussalam.
- 16) In the event of any payment under this Certificate, if the Participant has rights to recover all or part of any payment IITGT has made under this Certificate, those rights are transferred to IITGT to the extent of its payment. The Participant must not do anything to impair such rights, and at IITGT's request, the Participant will bring suit or transfer those rights to IITGT and assist IITGT in enforcing them.
- 17) The Participant's rights and duties under this Certificate may not be transferred without IITGT written consent except in the case of the Participant's death.

18. CANCELLATION OF CERTIFICATE

The Participant or IITGT may cancel this Certificate at any time during the Period of Takaful.

a. Cancellation by the Participant:

- The Participant may cancel this Certificate at any time, by returning the Certificate to IITGT if no claim has occurred or was made during the Period of Takaful.
- After returning the Certificate, the Participant will be entitled to a refund of the balance of the takaful contribution on a pro-rata basis for the period the Certificate was not in force.
- IITGT will not return the Wakalah fee to the Participant unless the cancellation was made by the Participant due to unforeseen circumstances* and subject to IITGT's discretion and approval, which shall not be unreasonably withheld. In such event, no cancellation fee will be imposed on the Participant who makes the cancellation.

b. Cancellation by IITGT:

- IITGT may also cancel this Certificate by giving the Participant fourteen (14) days' notice by registered letter to the Participant at his last known address.
- The Participant will be entitled to a pro-rata refund of the contribution for the remaining period calculated on a pro-rata basis fourteen (14) days from the date of the notice to the expiry date of the Certificate.

***Note: Unforeseen circumstances means event of death, insanity (as certified by qualified medical practitioner) and bankruptcy declared by the courts of Brunei Darussalam**

19. TABARRU'

Tabarru' is an agreement by a participant to relinquish as donation, a sum of contribution that he or she agrees to pay into a Takaful fund.

Participants give sixty-five per cent (65%) of their contributions as *Tabarru'* with the purpose of providing mutual indemnity to Takaful participants, where the *Tabarru'* acts as mutual help and joint guarantee should any fellow participants suffer from a defined loss.

20. WAKALAH

Wakalah refers to a contract in which a party, as principal (*Muwakkil*) authorises another party as his agent (*Wakil*) to perform a particular task, in matters that may be delegated, either voluntary or with imposition of a fee.

The Participant will make contribution to the Takaful Fund as *Tabarru'*. Then all the participants in a group will appoint or authorise IITGT as their agent (*Wakil*) to manage the Takaful Fund for the purpose of executing Takaful activities such as underwriting, risk management and claims management. In this *Wakalah* arrangement, IITGT will charge a fee of thirty-five per cent (35%) from the contribution that has been determined and agreed upon in the proposal form.

21. DISTRIBUTION OF SURPLUS

The surplus will be determined at the end of financial period and the surplus (if any) from the Takaful Fund will be allocated to Participants' Fund and IITGT with the proportion of seventy per cent (70%) to the Participants' Fund and thirty per cent (30%) to IITGT. The surplus in the Participants' Fund will then be declared and distributed to the eligible Participants. Based on *Ju'alah* concept, IITGT is entitled for the surplus distribution from the Takaful Fund as fee for the good performance of IITGT in managing the Takaful Fund.

For the participants who have incurred claims or received benefit, their portion of surplus will not be distributed back to them and shall be credited back as *Tabarru'* to the Takaful Fund.

For the participants who have surrendered their Certificate before financial year end, they are entitled for the surplus. The surplus will be calculated based on their contribution and participation period in the Takaful Fund.

22. TREATMENT OF SMALL PAYMENT AMOUNT

For any amount due and payable to the Participants from refund/surrender/maturity/termination/claim that is B\$5.00 (Brunei Dollars: Five) and below, IITGT will donate to charity which will be utilised as 'amal jariah' on behalf of the participants.