

## Equipment All Risks Policy

**Whereas** the Insured named in the Schedule hereto has by a proposal and declaration shall be the basis of this Contract and is deemed to be incorporated herein has applied to **Etiqa Insurance Berhad** (hereinafter referred to as "the Company") for an insurance in the terms hereinafter contained.

In consideration of the payment by the Insured of the premium during the Period of Insurance stated in the Schedule or any subsequent period for which the Insured shall pay and the Company shall agree to accept the renewal premium and Subject to the Terms, Provisos, Exclusions and Conditions contained herein or endorsed hereon (hereinafter collectively referred to as "the Terms of this Policy"):-

1. The Company will indemnify the Insured against loss of or damage to the Property specified in the Schedule and its standard accessories and spare parts whilst thereon by
  - (a) accidental collision or overturning
  - (b) fire external explosion self-ignition or lightning
  - (c) burglary housebreaking or theft
2. At its own option the Company may pay in cash the amount of the loss or damage or may repair, reinstate or replace the Property or any part thereof or its accessories or spare parts but the liability of the Company shall not exceed the value of the parts lost or damaged and the reasonable cost of fitting or repairing such parts.
3. If the Property is disabled by reason of loss or damage insured under this Policy the Company will bear the reasonable cost of protection and removal to the nearest repairers and of delivery within the country where the loss or damage was sustained up to a limit of RM500.

Provided always that the maximum liability of the Company in respect of any item shall not in any case exceed the Sum Insured against such item and that the maximum liability of the Company shall not in any case exceed the Total Sum Insured.

### Exclusions

The Company shall not be liable in respect of:-

1. Any loss or damage sustained:-
  - (a) Outside the Territorial Limit stated in the Schedule
  - (b) Whilst the Property is being used on a Road as defined in the Road Traffic Ordinance for the time being in force in the Territory stated in the Territorial Limit
  - (c) Whilst in transit (including the process of loading and unloading)
  - (d) Whilst the Property is operated by any person other than an Authorised Operator.
  - (e) Whilst the Equipment is used otherwise than for the purpose for which it is designed or adapted.
  - (f) Whilst the Property is operated by an Authorised Operator who is under the influence of intoxicating liquor or drugs.
2. Any consequential loss or legal liability whatsoever.
3. The amount of Excess as stated in the Schedule.
4. Loss or damage caused by:-
  - (a) any latent or mechanical defect, mechanical derangement, mechanical or electrical failures, breakages, depreciation, atmospheric conditions or any other gradually operating cause.
  - (b) mechanical or electrical breakdown or wear and tear.
  - (c) abnormal testing or intentional overloading of equipment or any experiment involving the imposition of abnormal conditions.
  - (d) loss or damage caused by overloading or strain.
5. Loss or damage caused by the willful or dishonest act of the Insured's employees or with the connivance of the Insured or the dishonest act of any person to whom the Property is entrusted.
6. Loss of accessories and spare parts unless the Property is stolen at the same time.

7. Loss of or damage to:-
  - (a) Tyres or wheels or tracks unless the Property is also damaged at the same time.
  - (b) The canopy unless caused by or resulting from the overturning of the Property.
8. Loss or damage caused by or arising out of or contributed to by or traceable to earthquake, volcanic eruption, subterranean fire, flood, typhoon, hurricane, landslip, subsidence or sinking of soil/earth, or other convulsion of nature.
9. Loss or damage occasioned by or through or in consequence, directly or indirectly, of any of the following occurrences, namely:-
  - (a) War, invasion, act of foreign enemy, hostilities or warlike operation (whether war be declared or not) or civil war
  - (b) Mutiny, strike, riot, civil commotion assuming the proportion of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, conspiracy, 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.
  - (c) Any Act of Terrorism  
For this purpose an "act of terrorism" means an act including but not limited to the use of force or violence and/or the threat thereof of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purpose including the intention to influence any government and/or put the public or any section of the public in fear.
10.
  - (a) Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss directly or indirectly caused by or contributed to by or arising from ionizing, radiations or contamination by radioactivity from any nuclear radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exception combustion shall include any self-sustaining process of nuclear fission.
  - (b) Any accident, loss, damage or liability directly or indirectly caused by or contributed to by arising from nuclear weapons material.

### Conditions

This Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule shall bear such specific meaning wherever it may appear.

1. Every notice or communication to be given or made under this policy shall be delivered in writing to the Company. No change in this Policy shall be valid unless approved by an Authorised Representative of the Company and such approval be endorsed herein.
2. The Insured shall take all reasonable steps to safeguard the property insured from loss or damage and to maintain it in efficient condition and the Company shall have at all times free and full access to examine the property or any part thereof or any Operator or employee of the Insured. In the event of any accident which may give rise to a claim under this policy the property shall not be left unattended without proper precautions being taken to prevent further loss or damage and if the Property be operated before the necessary repairs are effected any extension of the damage or any further damage shall be excluded from the scope of the indemnity granted by this Policy.
3. Upon the happening of any loss or damage giving rise or likely to give rise to a claim under this Policy the Insured shall give immediate notice to the: -
  - (a) Police and take all practical steps to trace and recover the lost or damaged Property Insured if the loss or damage arises from theft or any attempt thereat.
  - (b) Company in writing or not later than fifteen (15) days from the date of occurrence the circumstances of the claim and within six (6) weeks after the happening of such event deliver to the Company a statement in writing such details, particulars and proofs as may be reasonably required by the Company.
4. The Insured shall not incur any expense in making good any loss or damage without the written consent of the Company and shall not negotiate, pay settle, admit or repudiate any claim without the like consent.
5. The Company shall be entitled to undertake in the name and on behalf of the Insured the absolute conduct control and settlement of any proceedings and to take proceedings at its own expense and for its own benefit but in the name of the Insured to recover compensation or secure indemnity from any third party in respect of anything covered by this Policy.

6. If any claim under this Policy shall be in any respect fraudulent or if any fraudulent means or devices are used by the Insured or anyone acting on his behalf to obtain any benefit under this policy hereunder shall be forfeited.
7. If at the time any claim arises under this Policy there is any other insurance covering the same loss or damage the Company shall not be liable to pay or contribute more than its rateable proportion or any such or damage.
8. If the property insured by this insurance shall at all the time of any loss be of greater value than the Sum Insured hereby, then the Insured shall be considered as being his own insurer for the difference, and shall bear a rateable proportion of the loss accordingly. Every item, if more than one, of the Policy shall be separately subject to this Condition.
- 9.. This Insurance may be terminated at any time at the request of the Insured, in which case the Company will retain the customary short period of rate for the time the policy has been in force. This Insurance may also be terminated at the option of the Company by sending fourteen (14) days notice by registered letter or courier to the Insured at his last known address, in which case the Company shall be liable to repay on demand a rateable proportion of the premium for the unexpired term from the date of cancellation.
10. If any difference arises as to the amount of any loss or damage such difference shall independently of all other questions 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 disinterested persons as Arbitrators, of whom one shall be appointed in writing by each of the parties within two (2) calendar months after having been required so to do in writing by the other party. In case either party shall refuse or fail to appoint an Arbitrator within two (2) calendar months after receipt of notice in writing requiring an appointment, the other party shall be at liberty to appoint a sole Arbitrator; and in case of disagreement between the Arbitrators, the difference shall be referred to the decision of an Umpire who shall have been appointed by them in writing before entering on the reference, and who shall sit with the Arbitrators and preside at their meetings. The death of any party shall not revoke or affect the authority or powers of the Arbitrator, Arbitrators or Umpire respectively; and in the event of the death of an Arbitrator or Umpire, another shall in each case be appointed in his stead by the party of Arbitrators (as the case may be) by whom the Arbitrator or Umpire so dying was appointed. The costs of the reference and of the award shall be at the discretion of the Arbitrator, Arbitrators or Umpire making the award. And it is hereby expressly stipulated and declared that it shall be a condition precedent to any right or action or suit upon this policy that the award by such Arbitrator, Arbitrators or Umpire of the amount of the loss or damage if disputed shall be first obtained.
11. The due observance and fulfillment of the terms, conditions and endorsements of the policy in so far as they relate to anything to be done or complied with by the Insured and the truth of the statements and answers in the said proposal and declaration shall be conditions precedent to any liability of the Company to make any payment under this Policy.

## Clauses

The Following Clauses Are Applicable To This Policy:-

### **PREMIUM WARRANTY**

It is fundamental and absolute special condition of this contract of insurance that the premium due must be paid and received by the Company within sixty (60) days from the inception date of this policy/endorsement/renewal policy.

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

Where the premium payable pursuant to this warranty is received by an authorised agent of the Company, the payment shall be deemed to be received by the Company for the purpose of this warranty and onus of proving that the premium payable was received by a person, including an insurance agent, who was not authorised to receive such premium shall lie on the Company.

Subject otherwise to the term and conditions of this policy.

### **DATE RECOGNITION CLAUSE**

It is noted and agreed that this Policy is hereby amended as follows:-

- A. The Company will not pay for any loss or damage including loss of use with or without physical damage or any consequential loss directly or indirectly caused by, consisting of, or arising from, the failure or inability of any computer, data processing equipment, media microchip, operating systems, microprocessors (computer chip), integrated circuit or similar device, or any computer software, whether the property of the Insured or not, and whether occurring before, during or after the year 2000 that results from the failure or inability of such device and/or software as listed above to :
1. correctly recognize any date as its true calendar date;
  2. capture, save, or retain, and/or correctly manipulate, interpret or process any data or information or command or instruction as a result of treating any date other than its true calendar date; and/or
  3. capture, save, retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software being a command which causes the loss of data or the inability to capture, save, retain or correctly process such data on or after any date.
- B. It is further understood that the Company will not pay for the repair or modification of any part of any part of any electronic data processing system or any device and/or software as listed above in A.
- C. It is further understood that the Company will not pay for any loss or damage including loss of use with or without physical damage or any consequential loss directly or indirectly arising from any advice, consultation, design, evaluation, inspection, installation, maintenance, repair or supervision done by or for others to determine, rectify or test any potential or actual failure, malfunction or inadequacy described in A above.
- D. It is further understood that the Company will not pay for any consequential loss resulting from any continuing inability of the computer and equipment described in A above to correctly recognize any date as its true calendar date after the lost or damage property has been replaced or repaired.

Such loss or damage or any consequential loss referred to in A, B, C, or D above, is excluded regardless of any other cause that contributed concurrently or in any other sequence to the same.

### **PROPERTY DAMAGE CLARIFICATION CLAUSE**

Property damage covered under this Policy shall mean physical damage to the substance of property.

Physical damage to the substance of property shall not include damage to data or software, in particular any detrimental change in data, software or computer programs that is caused by a deletion, a corruption or a deformation of the original structure.

Consequently the following are excluded from this Policy:-

- A. Loss of or damage to data or software, in particular any detrimental change in data, software or computer programs that is caused by a deletion, a corruption or a deformation of the original structure, and any business interruption losses resulting from such loss or damage.  
Notwithstanding this exclusion, loss of or damage to data or software which is the direct consequence of insured physical damage to the substance of property shall be covered.
- B. Loss or damage resulting from an impairment in the function, availability, range of use or accessibility of data, software or computer programs, and any business interruption losses resulting from such loss or damage.

### **THEFT BY DECEPTION**

The Company shall not be liable for any loss or damage caused by or attributed to the act of cheating by any person within the meaning of the definition of the offence of cheating set out in the Penal Code. Cheating as defined in the Penal Code is as follows:-

“Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he was not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “CHEAT”.

### **CRIMINAL BREACH OF TRUST**

The Company shall not be liable for any loss or damage caused by or attributed to the act of criminal breach of trust by any person within the meaning of the definition of the offence of criminal breach of trust set out in the Penal Code. Criminal breach of trust as defined in the Penal Code is as follows:-

“Whoever, being in any manner entrusted with property or with any dominion over property dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person to do, commits “criminal breach of trust”.

### **MARKET VALUE**

In the event of a loss or damage to the Insured Property herein which is not stock in trade or merchandise, the limit of indemnity shall be the insured value or the market value of the Insured Property, whichever is the lower, subject to the deduction of any excess and amount which the Insured is required to bear under the Policy.

The term market value shall mean the value of the Insured Property herein at the time of damage or loss less due allowance for betterment, wear and tear and/or depreciation.

In the event of a dispute, the market value of the Insured Property shall be determined by a valuation obtained by the Company from the manufacturer, authorised sole agent or agent, authorised broker or authorised distributor of the cost of replacement or reinstatement of the Insured Property damaged or loss as it was at the time of the occurrence of such loss or damage.

In the event that there is, at the time of damage or loss, no manufacturer, authorised sole agent or agent, authorised broker or authorised distributor for the property insured, the valuation obtained from a Loss Adjuster licensed under the Insurance Act, 1963 and to be mutually appointed by both parties.

The valuation of the Insured Property by the manufacturer, authorised sole agent or agent authorised broker or authorised distributor or Loss Adjuster licensed under the Insurance Act, 1963 shall be conclusive evidence in respect of the market value of the Insured Property in any legal proceedings against the Company.

### **EXCESS CLAUSE**

It is hereby declared and agreed that the Company shall not be liable for the first AMOUNT AS SPECIFIED IN THE SCHEDULE in respect of each and every loss.

### **LIMITATIONS AS TO USE**

It is hereby declared and agreed that the Property is used in connection with the Insured's business stated in the Schedule, but excluding use:

- (a) for racing pace-making reliability trial demonstration or speed-testing
- (b) for the carriage of passengers
- (c) whilst drawing a trailer or towing any vehicles for reward

### **PART AND ACCESSORIES**

It is hereby declared and agreed that in the event of loss or damage to the Insured Property or its accessories or spare parts necessitating the supply of a part not obtainable from stocks held in the country in which the Insured Property is held for repair or in the event of the Company exercising the option to pay in cash the amount of the loss or damage the liability of the Company in respect of such part shall be limited to:-

- a. (i) the price quoted in the latest catalogue or price list issued by the Manufacturer or his Agents for the Country in which the Insured Property is held for repair or
- (ii) if no such catalogue or price list exists the price last obtained at the Manufacturer's Works plus the reasonable cost of transport otherwise than by air to the country in which the Insured Property is held for repair and the amount of the relative import duty, and
- b. the reasonable cost of fitting such part

## Important Notice

The Financial Mediation Bureau (FMB) and BNM's Customer Services Bureau (CSB) provide alternative avenues for members of the public to seek redress against unfair market practices.

### **PROCEDURE FOR COMPLAINT TO FMB**

Any Policyholder who is not satisfied with the decision of the senior management of an Insurance Company, may write to the "Mediator, Insurance Division of FMB", giving details of the dispute, the name of the Insurance Company and the Policy number.

Copies of the correspondence between the Policyholder and the Insurance Company may be sent to facilitate tracing the case file kept by the Insurance Company.

If the Mediator makes an award against an Insurance Company, the Policyholder is required to inform the Mediator whether he accepts the award within fourteen (14) days, so that the Insurance Company can be informed of the Policyholder decision.

There is no appeal procedure within the FMB. If the Policyholder does not want to accept the award, he may reject the decision of the Mediator and he is free to institute Court proceedings against the Insurance Company or refer it to Arbitration.

The FMB is not responsible for handling payment following the decision of the Mediator. The Insurance Company when informed of the acceptance of the award is required to remit the amount direct to the claimant within thirty (30) days.

At present, there is no fee or charge for the services provided by FMB. The contact address is as follows:

#### **Financial Mediation Bureau (FMB)**

**Level 25, Main Block  
Menara Takaful Malaysia  
No. 4, Jalan Sultan Sulaiman  
50000 Kuala Lumpur  
Telephone Number: 03 2272 2811  
Facsimile Number: 03 2272 1577  
E-mail: [enquiry@fmb.org.my](mailto:enquiry@fmb.org.my)  
Website: [www.fmb.org.my](http://www.fmb.org.my)**

### **PROCEDURE FOR COMPLAINT TO CSB**

Any policyholder or claimant who is not satisfied with the conduct of the Insurance Company may write to CSB, giving details of the complaint, the name of Insurance Company and Policy number or the Claim number.

Copies of the correspondence (if any) between the Policyholder or the Claimant and the Insurance Company may also be sent to facilitate tracing the case file kept by the Insurance Company.

The contact details are as follows:

**Director  
Jabatan LINK dan Pejabat Wilayah  
Level 13C  
Bank Negara Malaysia  
P. O. Box 10922  
50929 Kuala Lumpur  
Telephone Number: 03 2698 8044  
Facsimile Number: 03 2693 4051  
E-mail: [bnmtelelink@bnm.gov.my](mailto:bnmtelelink@bnm.gov.my)**

## Our Commitment To High Standard Of Customer Service

We do everything We can to ensure that You receive the high standard of service You expect. If We fall below these standards, or You are unhappy with Our service, please write to Our Head of Feedback Centre who will ensure that Your feedback is dealt with instantly.

The address is:

**Head, Customer Service  
Level 4, Tower C, Dataran Maybank  
No. 1, Jalan Maarof  
59000 Kuala Lumpur, Malaysia  
Telephone Number: 1300 13 8888 or +603 2780 4500  
Facsimile Number: 03 2785 3093  
E-mail: [cmu@etiqa.com.my](mailto:cmu@etiqa.com.my)**