



# Insurance Claims & Coverage Construction – Mind the Gap: a tale of two contracts

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# Your speakers today



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# What we will cover

**1. Introduction / welcome**

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**2. Case study: hyperloop**

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**3. Insurance: contractor's priorities, potential pitfalls and solutions**

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**4. Questions**

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1

Introduction / welcome



2

Case study: hyperloop

# Case Study: hyperloop, financing, construction

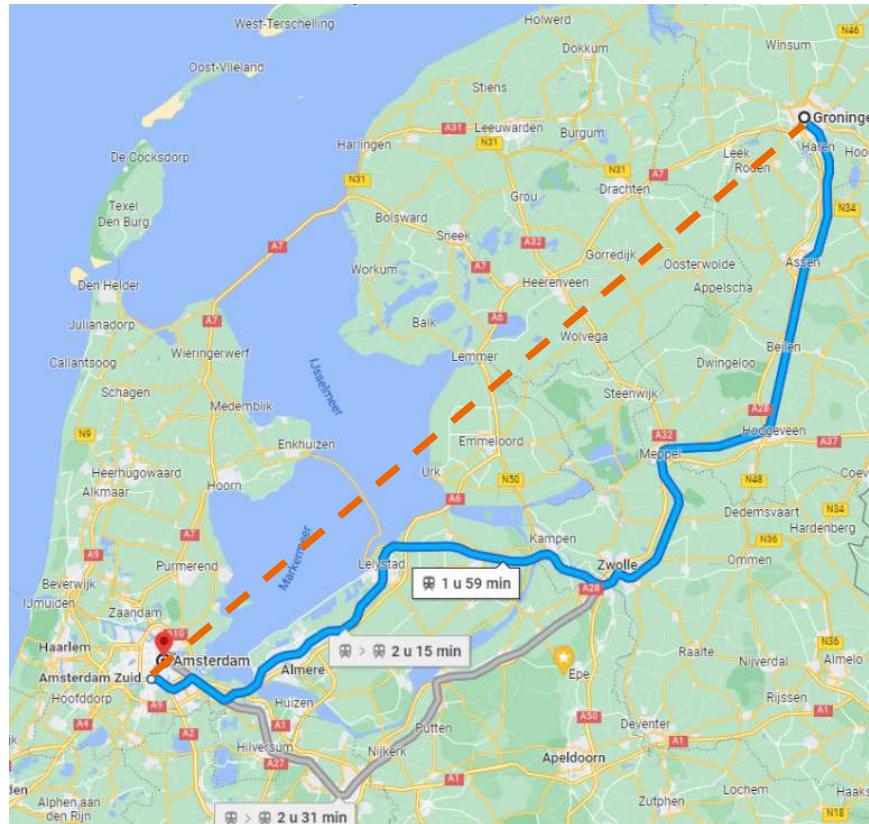
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## – What is Hyperloop?

- Ultra-high-speed ground transportation system for passengers and cargo proposed as a concept by Elon Musk in 2013.
- The system consists of sealed and partially evacuated tubes, connecting mobility hubs in large metropolitan areas, and pressurized vehicles, usually called pods, which can move at very high speeds, thanks to contactless levitation and propulsion systems as well as to the low aerodynamic drag.
- With this system the door-to-door travel time on medium-range distances can be considerably reduced

# Case Study: hyperloop Amsterdam - Groningen



## Climate – Neutral

# City to City

## Ultra-High Speeds, 15 minutes, saving 2 hours

## Case Study: hyperloop | financing, construction and commission | Contractual set up

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- SPV with wealthy sponsors and external lenders
- 10 year concession
- Income of SPV | ticket sales
- FIDIC Silver BOOK contract
  - Design, Build and Maintain
  - Subcontractors, responsible for the “Loop technology” and other parts of the works
  - Full Fitness for Purpose obligation
  - Dutch law applicable

## Case Study: hyperloop | Risk strategy

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Risk

Evaluate/Mitigate

Share

Allocate

Insure

Price



3

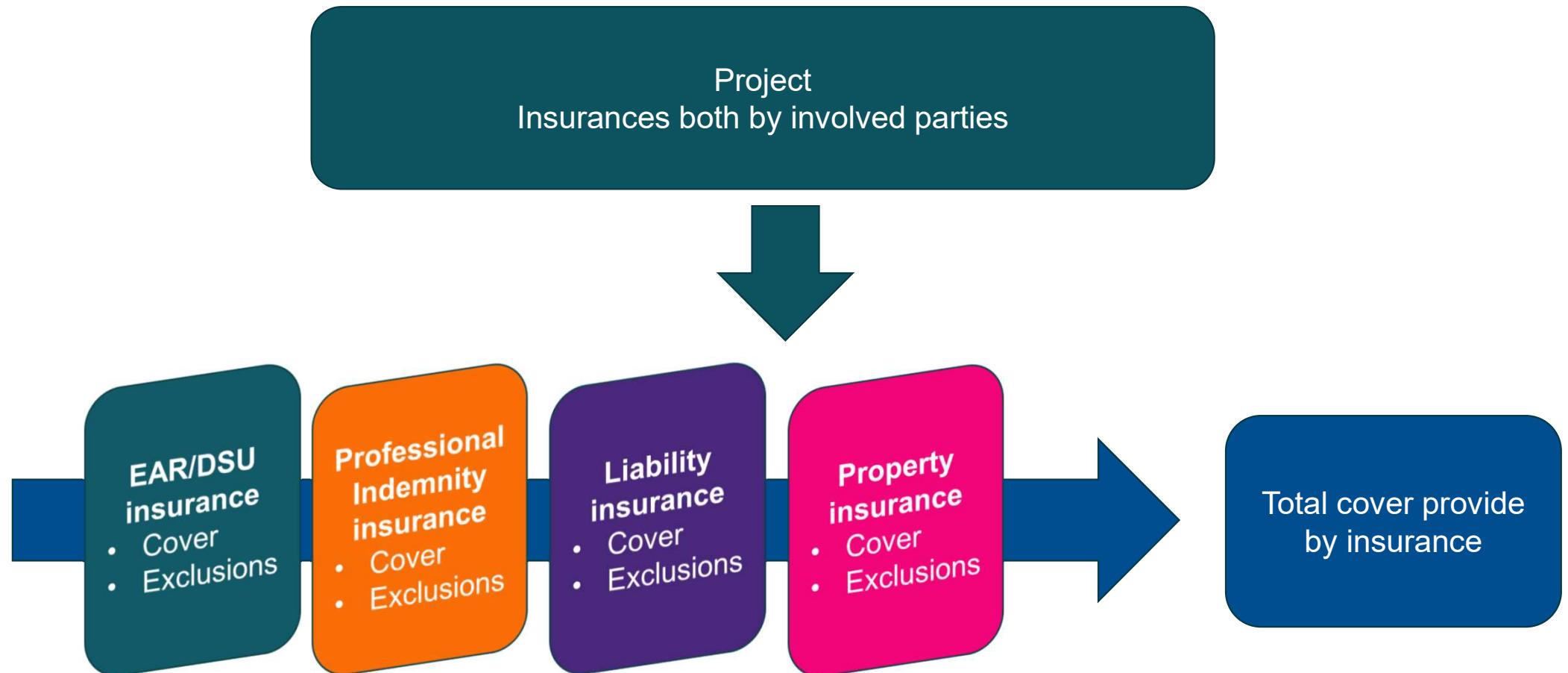
Insurance: contractor's priorities,  
potential pitfalls and solutions

## Insurance as a (partial) solution

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- Two sets of contracts with their own terms
- Insurance risk is covered by different markets with their own dynamics
  - Damage related policies
  - Professional indemnity
- Hard market realities

# Hyperloop | Insurance cover / the contractors priorities



## Where Insurance Does Not Cover all the Ground – some examples

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- Erection all risks insurance
  - defects exclusions
- DSU Insurance
  - concurrent causes of delay
- PI Insurance
  - issues with fitness for purpose/ strict liability
  - costs of reworking a design where defect discovered before construction
  - mitigation costs coverage
  - Covers PROFESSIONAL activities – not pure workmanship

# Speed of Payment

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- Timely notification
- Need for insurer buy in to mitigation costs
- Difficulties in retrieval and presentation of contract data to support claims
- Reducing the risk:
  - Pre loss dialogue
  - Setting up of site records
  - Prompt notification
  - Post loss collaboration and transparency

## Spats between Markets - examples

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- Overlapping coverages
- Confusion over coverage for subcontractors
- Attachment of professional indemnity claims to policy years
- Possible solutions:
  - Understanding at placement
  - Clear vision when dealing with subcontractors – where do they retain liability
  - Procedures for notification

## Other potential pitfalls

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- Defects vs. damage
- Design vs. workmanship
- Loss resulting from concurrent causes
- Liability vs. fitness for purpose
- First party financial loss vs. repair of damage
- Mitigation
- Number of deductibles / policy limits
- Double insurance, GL vs. PI, order of the policies



So where does this leave the Concessionnaire and the Contractor??

4 Questions



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