

## **PLANT ALL RISKS**

In consideration of, and conditional upon, the prior payment of the premium by or on behalf of the Insured the Company agrees to indemnify or compensate the Insured by payment or, at the option of the Company, by replacement, reinstatement or repair as provided hereinafter subject to the terms, exceptions and conditions contained herein or attached hereto or as amended by endorsement hereon.

Where more than one insurance company or insurer participates in this insurance the percentage share of each insurer will be expressed in the schedule of this policy and the liability of each insurer individually shall be limited to the percentage share set against its name.

### **General Conditions**

#### **1 Change of Interest**

The policy shall be void with respect to any item thereof in regard to which there may be any alteration after the commencement of this insurance whereby the Insured's interest ceases and until the Company by endorsement herein declares the insurance to be continued. Where the interest ceases except by death or operation of law this condition will not apply provided notice has been given to the Company as soon as practical after such alteration.

#### **2 Other Interest**

Nothing contained herein shall give any rights against the Company to any person other than the Insured. The extension of the Company's liability in respect of any person other than the Insured shall give no right of claim hereunder to such person, the intention being that the Insured shall in all cases at his discretion claim for and on behalf of such persons and the receipt of the Insured in any case shall absolutely discharge the Company's liability hereunder.

#### **3 Notification**

The Insured or his representative shall on the happening of any event likely to result in a claim under this policy

- i) Give notice thereof to the Company as soon as reasonably possible.
- i) Send to the Company without delay full details in writing of the event giving rise to the claim.
- iii) Preserve any damaged or defective insured property.

In respect of (i) and (ii) above time shall be the essence of this condition.

#### **4 Due Observance**

The due observance and the fulfilment of the terms, conditions, and endorsements of this policy in so far as they relate to anything to be done or complied with by the Insured shall be conditions precedent to any liability of the Company to make any payment under this policy. If any claim made shall be fraudulent or intentionally exaggerated or any false declaration or statement made in support thereof then this



policy shall be void and the Company shall not be liable to make any payments hereunder.

## **5 Contribution**

If at the time of any loss or damage covered by this policy there shall be any other insurance (other than marine insurance) covering damage effected by or on behalf of the Insured, the Company shall not be liable for more than its rateable proportion of such damage. If such other insurance is subject to any condition of advantage to the insurer, this policy shall be subject to such condition in similar manner. The Company shall not be liable for damage which is or would be (but for the existence of this policy) insured by any marine policy.

## **6 Arbitration**

Should any difference arise between the Company and the Insured as to the amount of any claim under this policy the same shall be referred to arbitration in accordance with the statutory provisions for the time being in force applicable thereto and the obtaining of any award shall be condition precedent to any right of action against the Company.

## **7 Subrogation**

The Company shall be entitled if it so desires to prosecute in the name of the Insured for its own benefit any claim for indemnity or otherwise against any third party and shall have full discretion in the conduct of any proceedings or settlement of any claim and the Insured shall wherever possible give all such information and assistance as the company may require.

## **8 Prescription**

The Company shall not be liable for any loss of or damage to the insured property after the expiration of twelve months or such further time as the Company may allow from the happening of such loss or damage unless the claim is the subject of a pending court action or arbitration.

If any claim is made under this policy and rejected and an action or suit be not commenced by the Insured within twelve months after such rejection, all benefits under this policy in respect of such claim shall be forfeited.

## **9 Misdescription**

This policy shall be voidable in the event of misrepresentation, Misdescription or non-disclosure of any material particular.

## **10 Company's rights after an event giving rise to a claim**

The Company shall be entitled in the name of the Insured to have the absolute conduct and control of all or any proceedings it may consider necessary for the purpose of tracing, recovering or of securing reimbursement in respect of the insured property lost or damaged and the Insured shall at the Company's expense furnish all such assistance as may reasonably be required by the Company in connection with such proceedings.



The Insured shall not be entitled to abandon any property to the Company whether taken possession of by the Company or not.

**11 Average (except where stated as first loss value or agreed value)**

The sum insured stated against each item of insured property must at all times be equal to the installed new replacement value unless otherwise stated. If the property is at the commencement of any loss or damage to such property by an indemnifiable event of greater value than the sum insured thereon then the insured shall be considered as being their own insurer for the difference and shall bear a rateable share of the loss accordingly. Every item if more than one shall be separately subject to this condition.

**12 Cancellation**

Unless otherwise agreed this policy or any portion thereof may be cancelled by the Company or the Insured giving 30 days' notice in writing to the other party.

**13 Payment of premium**

The premium is due in advance and, if not received by the Company by due date, this insurance shall be deemed to have been cancelled at midnight on the last day of the preceding period of insurance unless the Insured can show that failure to make payment was due to an error on the part of the Insured's bank or other paying agent where premiums are paid by debit order.

In respect of premiums paid by debit order, if the premium is not paid on the date that it was due to be paid the Company will re-debit in the following month and should the outstanding premium not be paid when re-debited, the policy will be cancelled from the date the first unpaid premium was due to be paid.

**14 Reasonable precautions**

The Insured shall in all circumstances take all reasonable precautions for the maintenance and safety of the insured property and for the prevention of loss or damage and that only steady and competent employees are employed and that all buildings ways works plant and machinery are substantial and sound and in proper order and fit for the purpose for which they are used and that all acts of parliament and all by-laws and directions made by statutory or local authority are duly observed and complied with. If any defects or conditions of working which render the risk more than usually hazardous be discovered the Insured shall immediately notify the Company and take steps to remedy the said defects or conditions and shall in the meantime cause such additional precautions to be taken as circumstance require.

**15 Automatic reinstatement**

The sum insured by this policy shall not be reduced by any claim hereunder and the Insured hereby agrees to pay the premium for the amount of the claim for the period pro rata from the date of occurrence of the loss or damage to the next renewal date of the policy or expiry date of the contract.

**16 Suspension of insurance**

If any insured property be discovered in a condition which in the opinion of the Company is unsafe or worsens the risk, the Company reserves the right to suspend



the insurance in respect of such insured property by verbal or written notice to the Insured.

**17 Interest of banks or other financial institutions**

Where a bank or other financial institution has an interest in any of the property insured hereunder, their interests are deemed to be noted, provided that such interest is subject to;

The policy being in force at the time of loss or damage;

The Insured complying with all the requirements of the policy following loss or damage;

The Insured advising the Company of the interest in the property at the time of loss or damage.

**18 Jurisdiction**

This insurance is governed by the laws of the Republic of South Africa and the courts of the Republic of South Africa shall have jurisdiction in all matters arising hereunder.

**19 Territorial limits**

The Republic of South Africa and to the extent permitted by the relevant insurance acts, Namibia, Lesotho, Swaziland, Botswana, Zimbabwe, Mozambique and Malawi.



## General Extensions

### 1 Claims Preparation Costs

The costs and expenses necessarily and reasonably incurred in producing and certifying any particulars or details required by the Company in connection with an indemnifiable event but limited to:

- a) Additional Costs incurred by the Insured's employees
- b) Additional fees incurred by the Insured's usual auditors
- c) Costs of materials used in furnishing the Company's requirements
- d) 15% of the claim up to a maximum of R50 000 for a, b and c above

### 2 Automatic Additions

The policy is extended to provide indemnity at the Insured's premises or site for additional equipment of a similar nature to that specified in the Plant Inventory provided that:

- a) Successful installation commissioning and normally accepted operating standards have been achieved
- b) The Total Sum Insured of such Additional Equipment does not exceed 15% of the Total Sum Insured on the schedule
- c) The Insured undertakes to advise the Company of such additions within 30 (thirty) days of purchase or change
- d) The Insured agrees to pay the appropriate premium effective from the date of purchase

### 3 Clearance Costs

Costs necessarily and reasonably incurred by the Insured in respect of demolition or dismantling of equipment and/or removal of debris and in providing, erecting, maintaining hoardings required during demolition, dismantling, debris removal and reconstruction following an indemnifiable loss or damage to such equipment including any costs arising from the activities of any Public Authority in dealing with the consequences of an insured peril having operated provided that the total amount recoverable does not exceed 15% of the total amount of the claim but limited to a maximum of R50 000.



## Warranty

Where the word warranty appears in the policy, it is deemed to have meaning as implied in an insurance context. Any breach of any warranty will result in the Insurer having no liability in terms of the policy.

### Hirers warranty clause

It is hereby warranted that:

The Insured shall without exception ascertain the status, integrity, credibility or other relevant details to confirm the bona fides of any hirer. The details must include:

- a) full name and address, ID number
- b) phone, facsimile, home, work and cell numbers
- c) confirmation of banking details

Failing which in the event of a loss arising from theft and or disappearance of the insured property attributed to any hirer the insurance of such loss will become void.

### Roadworthiness clause

Adherence to Laws and Regulations

It is warranted that cover is excluded under any of the following circumstances:

- a) if any vehicle, driver or operator, at the time of any incident that gives rise to a claim in terms of this policy, is found to violate any condition or regulation contained in the Road Traffic Act of 1996 (as amended) or any relevant traffic ordinance in terms of valid vehicle licences, clearance certificates, operators permits, drivers licences, professional driving permits, and permits for handling and transporting toxic and dangerous materials
- b) if the insured vehicle do not comply with or meet any of the requirements for roadworthiness, as specified in the Road Traffic Act of 1996 (as amended) or any relevant amendment or replaced statute, or any provisional or local proclamation or statute which is applicable to the insured vehicle. This provision will also apply in the event that it is found that the vehicle were overloaded as defined in part 4 of the National Road Traffic Regulations 1999 promulgated pursuant to the provisions of Section 75 of the National Road Traffic Act 93 of 1996.



## General Exceptions

This insurance shall not provide indemnity in respect of:

- 1 (a) Loss of or damage to property related to or caused by:
- i) Civil commotion, labour disturbances, riot, strike, lockout or public disorder or any act or activity which is calculated or directed to bring about any of the above;
  - i) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
  - iii) a) mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or Cause which determined the proclamation or maintenance of martial law or state of siege.  
b) insurrection, rebellion or revolution;
  - iv) any act (whether on behalf of any organization, body or person, or group of persons) calculated or directed to overthrow or influence any state or government, or any provincial, local or tribal authority with force, or by means of fear, terrorism or violence;
  - v) any act which is calculated or directed to bring about loss or damage in order to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against any state or government, or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public, or any section thereof;
  - vi) any attempt to perform any act referred to in clause(iv) or (v) above.
  - vii) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in clause (i), (ii), (iii), (iv), (v) or (vi) above;

If the Company allege that by reason of clause (a) (i), (ii), (iii), (iv), (v), (vi), or (vii) of this exception, loss or damage is not covered by this insurance, the burden of proving the contrary shall rest on the Insured.

- (b) loss or damage caused directly or indirectly by or through or in consequence of any occurrence for which a Fund has been established in terms of the War Damage Insurance Compensation Act, 1976 (No 85 of 1976) or any similar Act operative in any of the territories to which this insurance applies.
- (c) Notwithstanding any provision of this policy including any exclusion, exception or extension or other provision not included herein which would otherwise override a general exception, this policy does not cover loss of or damage to property or expense of whatsoever nature directly or indirectly caused by, arising out of or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any sequence to the loss, damage or expense.

For the purpose of this general exception 1 (c) an act of terrorism includes, without limitation, the use of violence or force or the threat thereof whether as an act



harmful to human life or not, by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government or any other person or body of persons, committed for political, religious, personal, ethnic or ideological reasons or purposes including any act committed with the intention to influence any government or for the purpose of inspiring fear in the public or any section thereof.

If the Company alleges that, by reason of clause 1(c) of this exception, loss or damage is not covered by this policy, the burden of proving the contrary shall rest on the Insured.

- 2 This insurance does not cover legal liability, loss (including consequential loss), damage, cost or expense caused directly by any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

Nuclear material, nuclear fission or fusion, nuclear radiation, nuclear waste from the use of nuclear fuels or nuclear explosives or any nuclear weapon.

- 3 This insurance does not cover loss, damage, cost or expense of whatsoever nature directly or indirectly caused, resulting from or in connection with nuclear energy or radioactivity of any kind including but not limited to any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

- i) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- ii) the radioactive, toxic, explosive or other hazardous or contamination properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- iii) any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

- 4 This insurance does not cover any claim(s) in any way caused or contributed to by an act of terrorism involving the use or release or the threat thereof of any nuclear weapon or device or chemical or biological agent.

For the purpose of this exception 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 organisation(s) or government(s), committed for political, religious, ideological or ethnic purposes or reasons including the intention to influence any government and/or to put the public, or any section of the public, in fear.

If the Company alleges that, by reason of this exception, any claim is not covered by this policy, the burden of proving the contrary shall rest on the Insured.

- 5 Any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to the extent contributed to by, the hazardous nature of asbestos in whatever form or quantity.





6 Sanction Limitation and Exclusion Clause

The Company shall not be deemed to provide cover nor shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Company to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America irrespective of enactment in the jurisdiction where indemnity or benefit is provided or payment made.

7 Computer Losses

Notwithstanding any provision of this policy including any special exception or extension or other provision not included herein which would otherwise override a general exception this policy does not cover:

- a) loss or destruction of or damage to any property whatsoever (including a computer) or any loss or expense whatsoever resulting or arising therefrom
- b) any legal liability of whatsoever nature
- c) any consequential loss

directly or indirectly caused by or contributed to by or consisting of or arising from the incapacity or failure of any computer, correctly or at all,

- i) to treat any date as the correct date or true calendar date or correctly or appropriately to recognise manipulate interpret process store receive or to respond to any data or information, or to carry out any command or instruction, in regard to or in connection with any such date or;
- ii) to capture save retain or to process any information or code as a result of the operation of any command which has been programmed into any computer, being a command which causes the loss of data or the inability to capture save retain or correctly to process such data in regard to or in connection with any such date or;
- iii) to capture save retain or process any information or code due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and or programmes;
- iv) to capture save retain or to process any data as a result of the action of any computer virus, or other corrupting, harmful or otherwise unauthorised code or instruction including any Trojan horse, time or logic bomb or worm or any other destructive code, media or programme or interference.

A computer includes any computer, data processing equipment, microchip, integrated circuit or similar device in computer or non-computer equipment or any computer software, tools, operating system or any computer hardware or peripherals and the information or data electronically or otherwise stored in or on any of the above, whether the property of the Insured or not.



Special Extension to the above General Exceptions

- A Loss or destruction of or damage to the insured property by fire, explosion, lightning, earthquake or by the special perils referred to in (B) below or indemnified by the Glass, Employer's Liability, Stated Benefits, Group Personal Accident or Motor section is not excluded by this General Exception.
- B The special perils that are not excluded for the purpose of this special extension are damage caused by:
- i) storm, wind, water, hail or snow excluding damage to property
    - a) arising from its undergoing any process necessarily involving the use or application of water;
    - b) caused by tidal wave originating from earthquake or volcanic eruption;
    - c) in the underground workings of any mine;
    - d) in the open (other than buildings structures and plant designed to exist or operate in the open);
    - e) any structure not completely roofed;
    - f) being retaining walls;
  - ii) aircraft and other aerial devices or articles dropped therefrom;
  - iii) impact by animals, trees, aerals, satellite dishes or vehicles excluding damage to such animals, trees, aerals, satellite dishes or vehicles or property in or on such vehicles.

These special perils do not cover wear and tear or gradual deterioration.

- C The above General Exception also does not apply to consequential loss as insured by any Business Interruption indemnity provided by this policy to the extent that such consequential loss results from damage to insured property by the perils referred to in (A) above.
- D This Special Extension will not insure any loss, destruction, damage or consequential loss if it would not have been insured in the absence of this Computer Loss General Exception and this Special Extension.
- E This Special Extension shall not apply to any Public Liability indemnity.



### **Section 1: Material Damage - Own Plant and Equipment** (Own use or hired out)

The insurance granted by this section of the policy is in respect of physical loss of or damage to the insured property as described in the plant inventory or schedule occurring within the territorial limits from any cause other than those excluded herein.

### **Section 2: Hire in cost following an identifiable loss and/or damage to the items insured under Section 1 or Section 3 (a)**

The insurance granted by this section of the policy is in respect of hire in cost incurred by the Insured during the indemnity period as specified in the schedule for the hire of similar substitute plant and equipment of equal performance and capacity consequent upon indemnifiable damage occurring to the insured property listed under Section 1 of the policy or insured in terms of Section 3 clause (a)

### **Section 3: Legal liability (Material Damage only) and Continuing Hire Charges**

In respect of:

- a) Plant hired during the normal course of the business
- b) Plant hired in following indemnifiable loss/damage under Section 1

#### **Insuring clause (a)**

The insurance granted by this section of the policy is in respect of the Insured's legal liability under the terms of hiring agreement entered into to pay compensation for loss or damage to the plant hired in but always subject to the limits, terms, conditions and exceptions of the policy.

#### **Insuring clause (b)**

The insurance granted by this section of the policy is in respect of the Insured's legal liability under the terms of the hiring agreement entered into to pay continuing hire charges following loss or damage to the plant hired in indemnifiable under Section 3 (a).

In addition to Section 3 (a) and (b) the Company will where legal proceedings have been defended with the Company's written consent pay all legal expenses that the Insured may be liable for.

#### **Exceptions to Sections 1 and 3 (a)**

The Company will not indemnify the Insured in respect of:

- 1 The amount specified in the schedule or plant inventory as the deductible in respect of each and every occurrence of physical loss of or damage to insured property.
- 2 Loss or damage to any item of insured property caused by any initial and/or uninterrupted train of events arising solely from the mechanical or electrical breakdown of the item of insured property



Should:

- a) the item of insured property suffer extraneous loss or damage as insured by this policy consequent upon such mechanical or electrical breakdown then any costs incurred in the rectification of such extraneous damage are not excluded.
  - b) any other indemnifiable loss or damage give rise to electrical/mechanical breakdown or failure then such breakdown is not excluded.
- 3 Loss or damage to expendable or exchangeable parts and attachments such as but not limited to bits; drills; pulverizing and crushing surfaces; screens sieves; ropes; belts; batteries; tyres and other components regularly replaced unless caused by an indemnifiable loss or damage to the insured property such indemnity will be limited to a reasonable amount representing the residual value of such expendable or exchangeable parts and attachments excluding drills bits and drill strings which are excluded in their entirety.
  - 4 Loss or damage to fuel lubricants or coolant unless as a consequence of an indemnifiable loss or damage to the insured property.
  - 5 Loss or damage from wear and tear gradual deterioration rust or other atmospheric action resulting from ordinary usage or working but indemnifiable loss or damage resulting from the aforementioned is not excluded.
  - 6 Loss or damage to waterborne vessels or craft or plant thereon.
  - 7 Loss or damage arising from faults or defects known to the Insured or his responsible employees at the time this insurance was effected or during the currency of this insurance and not disclosed to the company.
  - 8 Loss or damage arising from tandem or multi-lifting operations unless specifically requested by the Insured or his representative and agreed to by the Company and all such operations to be under the control of a qualified engineer.
  - 9 Loss or damage caused by or arising from the wilful act or wilful neglect of the Insured's responsible employees.
  - 10 Damage discovered during routine servicing unless associated with a specific event or loss of any insured property by disappearance or shortage discovered on the taking of an inventory or stocktaking.
  - 11 Loss or damage occurring whilst any item of insured property is undergoing tests of any kind deliberately overloaded or is being used in a manner or for any purpose other than that it was designed for.
  - 12 Loss or damage whilst underground unless otherwise agreed by endorsement.
  - 13 Consequential loss or liability of any nature whatsoever loss of use or depreciation other than as specifically provided elsewhere within the policy.
  - 14 Liquidated damages or penalties or penalties for delay or detention or in connection with guarantees of performance or efficiency.



- 15 Loss or damage arising from detention confiscation destruction or requisition by customs or other officials or authorities.
- 16 Loss of the insured property due to abandonment of any nature.

### **Basis of Indemnification**

#### **Sections 1 and 3 (a)**

##### **1 Partial Loss**

If the insured property suffers loss or damage the basis of indemnification shall be the costs and expenses reasonably and necessarily incurred to restore the damaged property to its working condition immediately before the occurrence of the damage including the costs of dismantling re-erection as well as ordinary freight and customs dues provided that:

- a) Extra charges for airfreight express delivery overtime Sunday and holiday rates are limited to 50% of the costs and expenses that would normally have been incurred.
- b) The value of damaged parts which can be used in any way whatsoever will be deducted.
- c) The costs of any alteration addition improvement or overhaul carried out at the time of repair are not recoverable under this policy.
- d) If without the consent of the Company temporary repairs are carried out by the Insured in the interests of safety or to minimise further loss or damage to the insured property the costs of such temporary repairs will be borne by the Company.

In the event that the temporary repairs aggravate the loss or cause additional loss or damage to the insured property then the cost of temporary repairs and any additional costs so incurred or consequences arising there from will be for the account of the Insured.

- e) Where damage is restricted to a part or parts of an insured item, the Company shall not be liable for an amount greater than the value of such parts which are lost or damaged as allowed for within the sum insured.
- f) Recovery expenses reasonably and necessarily incurred to recover the damaged property will be limited to 15% of the sum insured of the item with a maximum of R50 000 any one loss.

##### **2 Total Loss**

In the event that the insured property is totally lost or destroyed the amount payable shall be the cost of removing the damaged property (limited to 15% of the loss) less the value of the remains plus

- i) The cost of replacing or reinstating on the same site property of equal performance capacity and age but not superior to or more extensive than the insured item insofar as is practicable or



- ii) The local open market value of the insured item immediately before the damage took place such value to be calculated by deducting reasonable equitable depreciation from the installed new replacement value of the item (always subject to a minimum value of 25% of the installed New Replacement Value but subject proportionally where applicable in terms of Condition 11) whichever is the lower.

The insured item will be regarded as totally destroyed if the repair costs as defined in partial loss equal or exceed the value as defined in 2 (ii) above immediately before the accident.

### **Memo to Basis of Indemnification Section 1 and 3 (a) - Average**

- i) Should the basis of insurance on this policy be related to a Market Value Sum Insured then should the Insured Property be of greater Market Value at the time of any loss than the Sum Insured hereon then the Insured shall be considered as being their own insurer for the difference and shall bear a rateable proportion of the loss accordingly.
- ii) Should the basis of insurance be related to First Loss or Agreed Value Sums Insured then payment in the event of loss or damage will only be made up to such sums insured or the Market Value whichever is the lower unless special arrangement by endorsement has been made.

In all cases of Sums Insured reflecting anything other than New Replacement Value any reference to payment in settlement of a minimum % value of the installed New Replacement Value is deleted.

### **Section 2**

Consequent upon indemnifiable loss or damage (that for the application of the deductible) been admitted under Section 1 and 3 (a) of the policy the amount payable as indemnity under Section 2 of the policy shall be the additional cost necessarily and reasonably incurred by the Insured from the date of the loss for the cost of hiring similar equivalent substitute plant for the period commencing after the number of days specified in the schedule as the time excess and ending not later than the period specified in the schedule as the indemnity period less any cost that may cease or be reduced in consequence of the indemnifiable loss or damage. Payment under this section of the policy will be paid proportionately over the period of the loss in the ratio that the sum insured bears to the indemnity period and will cease one day after completion of repairs or seven days after cash settlement in lieu of repairs or replacement or the end of the indemnity period which ever is the earlier. Any cost in this respect rising from extended outage caused by alterations; addition; improvement or overall carried out at the same time of repairs are excluded. The sum insured stated in the schedule will be regarded as a first loss sum insured.

The basis of indemnification under this section of the policy is as stated but with the following available options (a) or (b) of indemnification necessarily and reasonably incurred up to the amounts specified.

Should similar equivalent substitute plant be unavailable then with the Insurers consent

- (a) the insured hiring costs may be paid out proportionally not exceeding the daily limit up to but not exceeding the amounts necessary to honour any outstanding normal lease or hire installments shortfall on the affected item during the period of repair (less a, b, c and d of Memo 3 where applicable) or



- (b) the insured may hire in higher capacity substitute plant at a higher daily cost until such time as the sum insured is exhausted.

### **Section 3 (b)**

Consequent upon indemnifiable loss or damage (that for the application of the deductible) been admitted under Section 3 (a) of the policy the amount payable is limited to the Insured's liability in terms of the hiring agreement to pay continuing hiring charges for the period commencing after the number of days specified in the schedule as the time excess and ending not later than the period specified in the schedule as the indemnity period. Payment under this section of the policy will be paid proportionately over the period of the loss in the ratio that the sum insured bears to the indemnity period. The sum insured stated in the schedule will be regarded as a first loss sum insured.

### **Memo 1**

It is a condition precedent to liability that in respect of Section 1 and 3(a) of the policy that plant hired out be hired under conditions no more onerous than the standard form of contract of the Contractors Plant Hire Association as may be in use at the time of hire.

### **Memo 2**

The insurance granted under Sections 1, 2 and 3 of the policy shall not be applicable to vehicles used predominantly for road transportation such as but not limited to tipper trucks, mechanical horses, trailers and low bed trailers. Vehicles such as but not limited to dump trucks, water carriers, TLB's and other similar site vehicles shall not be excluded whilst being used on public roads in or around a contract site.

### **Memo 3**

Where the policy is based on the plant hired in – out and the premium is:

- a) Based upon the value of the plant hired in/out there is no adjustment.
- b) Based upon
  - i) fees charged for the hire in of the plant, or
  - ii) fees received for the hired out of plant,

the premium shall be regarded as a deposit premium. At the end of the period of the insurance the premium will be adjusted up or down in accordance with the declaration save for any minimum deposit premium.

As a consequence of (b) ii unless otherwise agreed to by endorsement the cover afforded by the policy is restricted to loss or damage arising to the plant hired out whilst under the control of the hirer or in transit to/from the hirer.

### **Memo 4**

#### **Repatriation Clause**

Losses occurring outside South Africa.



Should indemnifiable loss or damage occur to Insured Property beyond the borders of South Africa the amount payable by the Company will not exceed the costs that would have arisen had the loss occurred within the borders of South Africa unless otherwise stated.

#### **Memo 5 – Credit Shortfall Extension**

If any total loss settlement under Section I is less than the amount owing to the financier under a current installment sale or lease agreement, the Company will pay the insured an additional amount equal to the shortfall less:

- (a) any arrears installment or rentals including interest payable on such arrears
- (b) all refunds of premium for cancellation of any insurance cover relating to the Insured Property
- (c) The increased installments or rentals that would have been paid had there been no residual capital value at the end of the finance period, calculated to the month in which the claim is settled.
- (d) The first amount payable under Section I.

Provided always that

- (i) the amounts payable shall not exceed the maximum indemnity less the first amount payable under Section I
- (ii) this endorsement shall not apply to an agreement whereby the amount of any single installment other than the final residual amount after the initial payment differs by more than 10 % from any other installment
- (iii) If such shortfalls is as a result of a re-advance under an installment sale or refinancing in terms of a lease the insurance by this extension shall be void.

Provided that the Company be notified, at inception of the policy or any renewal thereof, of the property insured and the amounts of any credit shortfall per item. Consequent upon this the sum(s) insured should be representative of the insured value plus the amount of credit shortfall per item (inclusive of VAT) these figures should be adjusted annually.

#### **Section 4: Public Liability (if stated in the Schedule to be included)**

This Section shall apply to:

- a) Plant insured by this section
- b) Plant insured by this section that is hired in (if so stated) but excluding losses arising from plant hired in that is defective
- c) Plant insured by this section that is hired out (if so stated) but only insofar as the plant is defective

The Company will indemnify the Insured against all sums for which the Insured shall become legally liable to pay and in consequence of:

- 1 accidental death of or bodily injury to or illness or disease contracted by any person.
- 2 accidental loss of or damage to property occurring during the Period of Insurance within the territorial limits in direct connection with the usage of any plant belonging to or in the care custody and control of the Insured in the performance of the Contract(s) at the Contract(s) Site(s).

Save for any difference in deductible this extension will be regarded as null and void should there be in force a Contract Works Public Liability Policy with a Cross Liability Clause covering the same performance of the Contracts. The liability of the Company under this section for compensation in respect of any one occurrence or number of





occurrences arising directly or indirectly from any one source or original cause shall not exceed the limit of indemnity for any one accident as stated less any deductible payable by the Insured.

- 3 In addition the Company will pay all legal costs and expenses
  - i) recovered by any claimant against the Insured
  - ii) incurred with the written consent of the Company

### **Specific Conditions**

- 1 No admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company
- 2 The Company may so far as any accident is concerned pay to the Insured the Limit of Liability for any one accident (but deducting therefrom in such case any sum or sums already paid as compensation in respect thereof) or any lesser sum for which the claim or claims arising from such accident can be settled and the Company shall thereafter be under no further liability in respect of such accident under this section.

### **Specific Exceptions**

The Company shall not be liable in respect of:

- 1 Liability in respect of damage to any property or land or building caused by vibration or the removal or weakening of support or injury or damage to any person or property occasioned by or resulting from such damage unless separately agreed by means of an endorsement.
- 2 Liability in respect of:
  - a) injury to or illness of any person under contract of service or apprenticeship with the Insured if such liability is in respect of injury or illness arising out of and in the course of the employment of such person by the Insured.
  - b) any sums payable by the Insured under Legislation relating to occupational injury or illness.
- 3 Loss or Damage to Property
  - a) belonging to the Insured or in his care custody and control
  - b) which forms or should form the subject of insurance under Section 1 of the Plant All Risks Policy

For the purpose of the exception the term "care custody and control" shall not apply to:

- 1) premises and structures (including contents) fixed plant and machinery temporarily occupied or used by the Insured for the purpose of the insured contract
- 2) property not hired by or on loan to the Insured but for which the Insured has agreed to provide storage facilities



- 3) directors employees and visitors clothing and personal effects
- 4) vehicles (including the contents thereof) under the care custody or control of the Insured for the purpose of parking
- 4 Liability assumed by the Insured by agreement and which would not have attached in the absence of such agreement but this exception shall not apply to:
  - a) The condition of any contract or sub contract
  - b) Agreement for the Hire or Loan of Construction Plant (including CPHA) or supply of material(s) or consumables
  - c) Agreements with or indemnities given to any central or local government or authority Statutory Body and Transnet Ltd
  - d) Agreement with Public Supply Authorities
- 5 Liability in respect of any payment under a penalty clause or as liquidated damages
- 6 Liability in respect of injury illness loss or damage caused by or in connection with or arising from technical or professional advice given by the Insured or by any person acting on behalf of the Insured
- 7 Liability in respect of injury loss or damage caused by or in connection with or arising from the ownership possession or use by or on behalf of the Insured of any vehicle or trailer

This exception shall not apply to:

- a) Mechanical plant machinery and equipment or claims arising beyond the limits of any carriageway or thoroughfare or in connection with the loading or unloading of any vehicle or trailer
  - b) Claims arising out of the use of any vehicle or part thereof as a tool of trade or arising in connection with anything therein or thereon manufactured by or attached thereto
- 8 Claims arising by or through or in connection with the ownership possession or use under the control of the Insured of any aircraft or watercraft (other than watercraft which are not self-propelled or are less than three tones nett mass on inland waterways)
  - 9 Seepage pollution or contamination provided always that this exception shall not apply where seepage pollution or contamination is caused by sudden unexpected happening

## **Specific Extensions**

### **1 Legal Defence Costs**

If the Insured so request the Company will indemnify any employee or partner of or director of the Insured against costs and expenses not exceeding the amount stated in the schedule incurred by such person with consent of the Company in the defence of any criminal action brought against such person in the course of his occupation with the



Insured arising from any alleged contravention of the statutes as herein defined during the period of insurance

Provided that:

- a) in the case of an appeal the Company shall not indemnify such person unless senior counsel approved by the Company shall advise that such appeal should in his opinion succeed
- b) the Company shall not indemnify such person in respect of any fine or penalty imposed by the magistrate or judge nor any loss consequent thereon
- c) such person shall as though he were the Insured observe fulfill and be subject to the terms exceptions and conditions of the policy and this section thereof in so far as they can apply

The Statutes

The Machinery and Occupational Safety Act no. 6 of 1983 (as amended)

The Mines and Works Act no. 27 (as amended)

The Electricity Act no. 40 of 1958 (as amended)

and/or any other Act or Ordinance pertaining to the supply of Electricity all read in conjunction with the Criminal Procedure Act no. 51 of 1997 (as amended)

## **2 Wrongful Arrest and Defamation Discharge and Dismissal**

The defined events are extended to include damages:

- a) resulting from wrongful arrest (including assault in connection with such wrongful assault)
- b) in respect of defamation

Provided that the limits of indemnity as stated shall not exceed R10 000 under each of (a) and (b) and R50 000 in any one (annual) period of insurance.

## **3 Joint Insured**

The Company will treat as the Insured

- a) any other company person or party (including any owner of plant or other property hired by or on loan to the Insured) with whom the Insured enters into an agreement for the purpose of the contract but only to the extent that it is a requirement of such agreement
- b) any officer or employee of the Insured in respect of liability for which the Insured would have been entitled to indemnify if the claim had been made against the Insured
- c) the personal representative of the Insured and any person or party treated as the Insured in respect of liability incurred by such person or party

Provided always that all persons or parties so treated as the Insured shall as though they were the Insured observe fulfill and be subject to the terms exceptions and conditions of the policy



#### 4 Gratuitous Advice

Indemnity:

The Insured is indemnified by this section in accordance with the Operative Clause for and in consequence of unintentional failure of the Insured to perform the legal duty to exercise due care to another person or party in providing technical information or advice to such person or party.

#### Exceptions

This section does not cover liability arising from:

- 1 incidents which form part or in whole the subject of indemnity under or excluded from any section of this policy
- 2 the insolvency of the Insured
- 3 financial services and/or cost estimates provided by or on behalf of the Insured
- 4 design formula specification treatment or advice given by or on behalf of the Insured in exchange for a fee
- 5 liquidated multiple or exemplary damages penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clause or warranties
- 6 defamation

#### Section 5: Road Risk Liability (if stated in the Schedule to be included)

##### Liability to Third Parties

##### Defined Events

Any accident caused by or through or in connection with any vehicle described in the schedule, or in connection with the loading and/or unloading of such vehicle, in respect of which the Insured and/or any passenger becomes legally liable to pay all sums, including the claimant's costs and expenses in respect of

- i) death of or bodily injury to any person, but excluding death of or bodily injury to any person in the employ of the Insured arising from and in the course of such employment or being a member of the same household as the Insured
- ii) damage to property other than property belonging to the Insured or held in trust by or in the custody or control of the Insured or being conveyed by, being loaded onto or being off-loaded from such vehicle.

The Company will also, in terms of and subject to the limitations of and for the purposes of this section,

- i) pay all costs and expenses incurred with their written consent, and will be entitled at their discretion to arrange for representation at any inquest or inquiry in respect of any death which may be the subject of indemnity under this section, or for defending in any magistrate's court any criminal proceedings in respect of any act causing or



relating to any event which may be the subject of indemnity under this section, provided that the total of the Company's liability under both this extension and Section 5 will not exceed the limit of indemnity stated to apply to Section 5.

- ii) indemnify any person who is driving or using such vehicle on the Insured's order or with the Insured's permission provided that
  - a) such person will, as though he were the Insured, observe, fulfil and be subject to the terms, exceptions, conditions and warranties of this insurance in so far as they can apply
  - b) such person driving such vehicle has not been refused any motor insurance or continuance thereof by any insurer
  - c) indemnity will not apply in respect of claims made by any member of the same household as such person
    - a) such person is not entitled to indemnity under any other policy except in respect of any amount not recoverable thereunder
    - i) indemnify the Insured in respect of liability arising from the towing by a vehicle (other than for reward) of any other vehicle or trailer (including liability in connection with the towed vehicle or trailer), provided the Company will not be liable for damage to the towed vehicle or trailer or to property therein or thereon

### Exceptions

The Company will not be liable under this section in respect of:

- 1 any amount of compensation or any amount of a claim that falls within the scope of any compulsory motor vehicle insurance in terms of a relevant Act or Regulation. This exception will apply whether or not such compulsory insurance is in force or has been effected
- 2 death of or injury to any person being carried in or upon or entering or getting onto or alighting from a vehicle
- 3 liability arising from the operation, demonstration or use, for purposes other than for maintenance and/or repair of the vehicle, of any tool or plant forming part of or attached to or is used in connection with a vehicle or anything manufactured by or contained in any such tool or plant. This exception does not apply to forklift trucks
- 4 Any loss, damage, injury or death occurring whilst any vehicle described in the schedule of insurance is being used in a restricted area that is part of an aerodrome or airport provided for the take-off or landing of aircraft on the surface, aircraft parking aprons including the associated service roads and ground equipment parking areas and those parts of passenger terminals within the customs examination area
- 5 any amount of compensation, costs and expenses incurred for clean-up and remedial procedures to remove or repair the effects of spillage or leakage (irrespective whether such spillage or leakage is as a result of a vehicle accident or not) of any substance (hazardous or non-hazardous) in or on or conveyed by the Insured vehicle



## Limits of Indemnity

Unless otherwise stated, the liability of the Company under this section in respect of any one occurrence will not exceed the limits of indemnity as stated in the schedule.

## Memoranda

### Description of Use

The policy is applicable for the Insured's business purposes relevant to the nature of the Insured's business activities, excluding:

- a) hiring out the vehicles to carry passengers
- b) using the vehicles to carry fare-paying passengers
- c) using the vehicles for motor sport activities such as racing, rallying or speed trials
- d) using the vehicles to carry or transport explosives
- e) using the vehicle to carry any load or transport any number of passengers that exceed the vehicle manufacturers specifications.
- f) using the vehicle for any purpose in connection with the motor trade other than in the normal course of business. The policy includes indemnity to the Insured for any vehicle in the custody or control of any recognised member of the motor trade while such vehicle is being repaired, overhauled or maintained.

## Warranties

**If the Company alleges that by reason of non-compliance of any of the Warranties, liability for loss and/or damage is not provided for by this policy, the burden of proof to the contrary will be the responsibility of the Insured.**

It is hereby warranted that:

### 1 General

The Company will not be liable for any losses, damages or injuries as a result of any accident or other defined event under the following circumstances:

- a) while the vehicle is being used with the general knowledge and consent of the Insured for any use other than the uses described under the Description of Use.
- b) while the vehicle is being driven by the Insured or by any other person with the general knowledge and consent of the Insured while intoxicated or under the influence of intoxicating liquor or drugs.
- c) while the vehicle is being driven by the Insured or by any other person not being fully licensed to drive such vehicle. It must be noted that the licence to drive the vehicle by any person is directly related to compliance with the relevant licensing laws in all territories referred to under Warranty 1(b), including whether a drivers licence is not required by law or in respect of a driver learning to drive.



## 2 Contractual Liability

The Company will not be liable for any claim arising from contractual liability, unless the Insured is responsible for liability notwithstanding such contractual agreement.

## 3 Adherence to Laws and Regulations

- a) all benefits that may be derived by this section with respect to any claim will be forfeited if any vehicle, driver or operator, at the time of any incident that gives rise to a claim in terms of this policy, is found to violate any condition or regulation contained in the Road Traffic Act of 1996 (as amended) or any relevant traffic ordinance in terms of valid vehicle licences, clearance certificates, operators permits, drivers licences, professional driving permits, and permits for handling and transporting toxic and dangerous materials
- b) all benefits that may be derived by this section in respect of any claim will be rejected if the insured vehicle do not comply with or meet any of the requirements for roadworthiness, as specified in the Road Traffic Act of 1996 (as amended) or any relevant amendment or replaced statute, or any provisional or local proclamation or statute which is applicable to the insured vehicle. This provision will also apply in the event that it is found that the vehicle were overloaded as defined in part 4 of the National Road Traffic Regulations 1999 promulgated pursuant to the provisions of Section 75 of the National Road Traffic Act 93 of 1996.

## Section 6: Personal Accident

### Insured Person:

Any person that is employed by the Insured whilst operating a plant that is insured under Section 1 of this policy.

### Defined events

If an Insured Person sustains any bodily injury directly as a result of violent, accidental, external and visible means, the Company will pay to the Insured the sum insured stated hereunder provided the injury is the only and direct cause of death or disablement and occurred within 12 (twelve) months of the date of the accident.

### Definitions:

- 1 Bodily Injury: Identifiable physical injury which:
  - a) is sustained by the Insured Person during the Period of Insurance
  - b) is caused by an Accident, and solely and independently of any other cause, occasions the Death or Disability of the Insured Person within 12 (twelve) months from the date of the Accident.
- 2 Accident: a sudden, unexpected, specific event which occurs at an identifiable time and place during the Period of Insurance.
- 3 Permanent Total Disability: Permanent total incapacity from following usual occupation or any other occupation for which the Insured Person is suited by knowledge or training and which lasts twelve months and at the expiry of that period is beyond hope of improvement.



4 Permanent Disability: Those disabilities set out under the Permanent Disability scale in the Schedule of Compensation hereunder.

**Compensation**

Death

Permanent disablement

**Benefit**

R50 000

such percentage of R50 000 as is specified for the particular Disability

Description of Permanent Disablement	Percentage of Compensation
Total and permanent disablement arising from any job or occupation	100
Total and permanent loss of both hands and feet or any one hand or one foot	100
Total and permanent loss of sight in one eye and total and permanent loss of one hand or one foot	100
Total and permanent loss of sight in one or both eyes	100
Total and permanent loss of hearing or speech	50
Total and permanent loss of hearing in one ear	15
Total and permanent loss of one hand	50
Total and permanent loss of arm from the shoulder	75
Total and permanent loss of the forearm	65
Total and permanent loss of one foot	50
Total and permanent loss of the leg above the knee	75
Total and permanent loss of the leg from or below the knee	65
Total and permanent loss of thumb (both phalanges)	25
Total and permanent loss of one thumb (one phalanx)	10
Total and permanent loss of the index finger (three phalanges)	10
Total and permanent loss of the index finger (two phalanges)	8
Total and permanent loss of the index finger (one phalanx)	4
Total and permanent loss of any finger except the thumb and index finger	5
Total and permanent loss of big toe	5
Total and permanent loss of any other toe	1





Any permanent, temporary disablement not mentioned above, except the loss of feeling, taste or smell

A part determined by us in consultation with our medical advisor and not contradictory to the conditions as stated above.

### Notes

- a) Permanent total loss of the use of a limb will be treated as loss by separation.
- b) Where the injury is not specified we will apply a percentage of disablement which is consistent with the provisions of this table.
- c) The aggregate of all percentages payable for permanent disablement in respect of any one accident shall not exceed 100% of the amount payable under permanent disablement.

### Provisos

It is declared and agreed that

1. Compensation shall not be payable under more than one of compensation benefits for death or permanent disablement in respect of the same accident.
2. Compensation for all categories is limited to the insured amounts stated in the policy schedule.
3. The aggregate of all percentages payable for permanent disablement in respect of any one accident shall not exceed 100% of the amount payable under permanent disablement.

### Special conditions

- a) The insurance and any further liability will stop immediately once any claim is paid for which the compensation stated in the table of permanent disablement is 100% of the basic amount insured for that item.
- b) Notice must be given to the Company in writing as soon as practicable of any occurrence which may give rise to a claim under this policy, but in any event within 60 days of such occurrence failing which the claim will prescribe.
- c) After incurring Bodily Injury for which Compensation may be payable under this policy, the Insured Person shall, as early as possible place himself under the care of a duly qualified Medical Practitioner and when reasonably required by the Company so to do, submit to medical examination and undergo any treatment specified. The Company shall not be liable to make any payment unless this Condition is complied with to their satisfaction. The Company shall not be liable for any part of any claim which in the opinion of their medical adviser arises from the unreasonable or willful neglect or failure of an Insured Person to seek and remain under the care of a qualified member of the medical profession.
- d) Death and disablement, are only covered if incurred within a period of 12 (twelve) months of the date of the accident.



- e) Compensation paid for permanent disablement will be deducted from compensation payable for death if arising from the same accident.

### **Specific exceptions**

The Company will not be liable for any claim for bodily injury, death, disablement or disappearance resulting from:

- a) any physical infirmity, condition or disability which existed prior to inception of this section;
- b) any deliberate misconduct by the Insured Person, or caused by an insured person being insane or under the influence of drink or drugs (unless prescribed by and taken in accordance with the directions of or administered by a member of the medical profession other than themselves);
- c) committing suicide, attempted suicide or any act of intentional self-injury;
- d) an accident originating from or attributable to:
  - i) taking part in any riot, civil commotion, labour disturbance, strike or lockout or public disorder or any act or activity which is calculated or aimed to bring it about;
  - ii) any act which is calculated or aimed at bringing about destruction or damage or bodily injury in order to further any political aim, objective or cause, or at bringing about any social or economic change or in protest against any State or government or any provincial, local or tribal authority or for the purpose of inspiring fear in the public or any section thereof;
  - iii) bodily injury arising after an Insured Person has reached the age of 75 (seventy five).
  - iv) directly or indirectly arising out of venereal disease or Acquired Immune Deficiency Syndrome (AIDS) or Aids related complex (ARC) howsoever this syndrome has been acquired, or may be named, Human Immunodeficiency Virus (HIV and/or any HIV related illness) including derivatives or variations thereof, howsoever caused.
  - v) directly or indirectly caused by or contributed to, by or arising from ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exception only, combustion shall include any self-sustaining process of nuclear fission.
  - vi) arising directly or indirectly from war, invasion act of foreign enemy hostilities or warlike operations (whether war be declared or not) civil war, mutiny, insurrection, rebellion, revolution, military or usurped power