

MACHINERY CONSEQUENTIAL LOSS INSURANCE

Whereas the Insured named in the Schedule hereto has made to Santam Limited (hereinafter called "the Company") a written proposal by completing a Questionnaire which together with any other statements made in writing by the Insured for the purpose of this Policy is deemed to be incorporated herein,

Now this Policy witnesses that in respect of events occurring during the period of insurance and in consideration of the Insured having paid to the Company the premium mentioned in the Schedule the Company will indemnify the Insured in the manner and to the extent hereinafter set forth,

Provided always that the due observance and fulfilment of the terms, conditions and exceptions of this 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 proposal(s) shall be conditions precedent to the right of the Insured to recover hereunder,

The Schedule shall be deemed to be incorporated in and form part of this Policy and the expression "this Policy" wherever used in this contract shall be read as including the Schedule. 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 meaning wherever it may appear.

1 OBJECT OF INSURANCE

- 1.1 If at any time during the period of insurance stated in the Schedule the business carried on by the Insured at the premises specified in the Schedule be interrupted or interfered with in consequence of an *Accident* (as hereinafter defined) of any machinery specified in the schedule of machinery, then the Company will in respect of each item in the Schedule indemnify the Insured against the amount of loss resulting from such interruption or interference, however the liability of the Company during any one year of insurance shall in no case exceed in respect of each item the sum expressed in the Schedule to be insured thereon or in the whole the sum insured hereby or such sum or sums as may hereafter be substituted therefore by memorandum signed by or on behalf of the Company.
- 1.2 *Accident* shall mean sudden, unforeseen physical loss or damage to the machinery specified in the schedule of machinery occurring whilst the machinery is:
- 1.2.1 ready for commercial operation; in the case of newly installed plant once it has been commissioned and the testing period has been completed successfully;
- 1.2.2 at work or at rest, or dismantled for the purpose of cleaning, overhauling, or of being shifted within the premises, or in course of subsequent re-erection;
- 1.2.3 on the premises specified in the Schedule.
- 1.3 Resulting from:
- 1.3.1 fortuitous working accidents such as maladjustment, loosening of parts, failures or faults in protective devices, entry of foreign bodies;
- 1.3.2 tearing apart due to centrifugal forces;
- 1.3.3 shortage of water in steam boilers or pressure vessels;
- 1.3.4 over-pressure, except when caused by occurrences excluded under para 1.4.3, or implosion;
- 1.3.5 short-circuit, over-voltage or over-current, except when caused by occurrences excluded under para 1.4.3;
- 1.3.6 defects or faults in design, material or manufacturing and faults in erection;
- 1.3.7 faulty operation, lack of skill, carelessness, malevolence of employees;
- 1.3.8 storm;
- 1.3.9 any other accident not hereinafter excluded.
- 1.4 *Excluded* are direct or indirect losses causing interruption or interference which are due to damage caused by:
- 1.4.1 corrosion, erosion, wasting or wearing of any part of machinery caused by ordinary use of working and any other continuous chemical or atmospheric influence, undue deposits of rust, mud, boiler scale or other deposits;

- 1.4.2 breakdown caused by test, intentional overloading or experiments involving the imposition of abnormal conditions;
 - 1.4.3 fire, explosion, lightning, whether direct or indirect, extinguishing of fire, subsequent demolition, dismantling and clearance of debris, scheduled interruptions of the public power supply, interruption of electricity due to shortage of primary energy at the power stations;
 - 1.4.4 earthquake, seaquake, tsunami, subsidence, landslide, rockfall, flood, inundation, hurricane, typhoon, cyclone, volcanic eruption;
 - 1.4.5 theft, burglary;
 - 1.4.6 damage arising out of wilful act, wilful negligence by the Insured or its management;
 - 1.4.7 any faults or defects existing at the time of commencement of the present insurance within the knowledge of the Insured or its management.
- 1.5 Not insured are direct or indirect losses causing interruption or interference which are due to damage to:
- 1.5.1 exchangeable tools of all kinds, such as drills, crushers, patterns for casting, knives, saw blades, stones, stamps;
 - 1.5.2 conveyor belts, sieves and hoses, rubber, textile and plastic linings and bands, brushes and tyres; ropes, chains and belts, parts made of glass, porcelain or ceramics;
 - 1.5.3 foundation blocks, brick lining of furnaces, ovens and containers, firing grids, burner nozzles;
 - 1.5.4 fuels, filter fillings, cooling media, cleaning products, lubricants, oil fillings;
 - 1.5.5 catalysts, chemicals, contact agents;
 - 1.5.6
 - i) loss, destruction or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss
 - ii) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising 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 exclusion only combustion shall include any self-sustaining process of nuclear fission;
 - 1.5.7 any loss, destruction, damage or legal liability directly or indirectly caused by or contributed to by or arising from nuclear weapons material.

2 SUMS INSURED

2.1 *Gross profit*

The sum insured on gross profit shall be based on figures for the past financial year adjusted for the trend of the business and shall be adjusted annually.

2.1.1 *Gross profit* is the amount by which the aggregate value of the turnover and the closing stock exceeds the aggregate value of the opening stock and the amount of the specified working expenses.

The values of the opening and closing stocks shall be arrived at in accordance with the Insured's normal accounting methods.

2.1.2 Specified *working expenses* are those costs which vary directly with the turnover and in respect of which therefore no indemnity will be required, eg purchases (less discounts), packing, freight, energy cost etc.

2.1.3 *Turnover*. The money paid or payable to the Insured for goods sold and delivered and for services rendered in course of business carried out at the premises.

2.2 *Wages*

2.2.1 If a sum is set out against this item in the Schedule the Policy cover is extended to include indemnity for wages.

2.2.2 The sum insured on wages shall be equal to all remuneration not treated as salaries in the books including payments pertaining to wages such as: bonuses, holiday pay, social insurances etc.

2.3 *Spoilage*

If a sum is set out against this item in the Schedule the policy cover is extended to include the cost of replacing and/or recovering material spoiled in the course of processing and/or the cost incurred in cleaning the affected machinery.

3 Periods

3.1 *Indemnity period*. A period not exceeding the indemnity period limit stated in the Schedule, commencing with the occurrence of the Accident and during which the results of the business are affected in consequence of the accident, provided always that the Company shall not be liable for the amount of loss suffered during the

3.2 *Time excess period*. The excess period runs from the occurrence of the accident. When an interruption or interference exceeds the time excess period, the indemnity is reduced in the same proportion as the time excess period bears to the indemnifiable period of interruption.

4 Basis of indemnity

- 4.1 The amount payable as indemnity under item no. 1 of the Schedule is limited to the loss of gross profit due to reduction in turnover and increase in cost of working and shall be:
- 4.1.1 *In respect of reduction in turnover:* the sum produced by applying the rate of gross profit to the amount by which the turnover during the indemnity period shall, in consequence of the Accident, fall short of the standard turnover,
- 4.1.2 *In respect of increase in cost of working:* the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in turnover which but for that expenditure would have taken place during the indemnity period in consequence of the Accident, but not exceeding the sum produced by applying the rate of gross profit to the amount of the reduction thereby avoided,
- 4.2 less any sum saved during the indemnity period in respect of such of the charges and expenses of the business insured under this item as may cease or be reduced in consequence of the Accident,
- 4.2.1 provided that if the sum insured by this item be less than the sum produced by applying the rate of gross profit to the annual turnover, the amount payable shall be proportionately reduced.
- 4.3 The words and expressions used in paras 4.3.1 - 4.3.3 shall have the meaning usually attached to them in the books and accounts of the Insured and are defined as follows:
- 4.3.1 *Rate of gross profit:* the portion of gross profit earned to the turnover during the financial year immediately before the date of the Accident.
- 4.3.2 *Annual turnover:* the turnover during the twelve months immediately before the date of the Accident.
- 4.3.3 *Standard turnover:* the turnover during that period in the twelve months immediately before the date of the Accident which corresponds with the indemnity period.
- 4.4 Adjustments shall be made to the above figures (para 4.3.1 to 4.3.3) as may be necessary to provide for the trend of the business for variations in or special circumstances affecting the business either before or after the Accident or which would have affected the business had the Accident not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Accident would have been obtained during the relative period after the Accident.
- 4.5 If during the indemnity period goods shall be sold or services shall be rendered elsewhere than at the premises for the benefit of the business either by the Insured or by others on his behalf the money paid or payable in respect of such sales or services shall be brought into account in arriving at the turnover during the indemnity period.
- 4.6 The Company shall however not be liable for any increase in loss of gross profit due to
- 4.6.1 bodily injury,

4.6.2 circumstances which are in no causal connection with the accident, eg delay incurred in obtaining import licences, entry permits, foreign exchange etc.

4.6.3 extensions or improvements of the plant affected after the occurrence of the accident,

4.6.4 lack of capital,

4.6.5 any restrictions or reconstruction methods imposed by any public authority.

5 Premium adjustment

5.1 Not later than four months after expiry of the Policy year the Insured may declare that the gross profit earned during the period of insurance is, as certified by the Insured's Auditor, less than the sum insured under Item no. 1; a return premium shall be made proportionate to the reduction in sum insured.

5.2 If any claims occurred during the Policy year the amount of such claims shall be added to the revised gross profit as certified by the Insured's Auditor before calculating the proportion of return premium.

6 Reinstatement

6.1 Payments in respect of claims made under any item of the Schedule of the Policy reduces the sum insured unless the insured pays to the Company pro rata an additional premium on the amount of the payment from the date of the occurrence of the loss to the end of the policy period.

6.2 Such additional premium shall be disregarded for the purpose of any adjustment of the premium.

7 General conditions

7.1 The Insured shall take all reasonable steps to maintain the machinery listed in the schedule of machinery in efficient working order and to ensure that no item is habitually or intentionally overloaded. The Insured shall fully observe the manufacturers' instructions for operating, inspection and overhaul as well as government, statutory, municipal and all other binding regulations in force concerning the operation and maintenance of the plant and machinery.

7.2 The Company's representatives shall at all reasonable times have the right to inspect and examine the machinery and the Insured shall provide the officials of the Company with all details and information necessary for the assessment of the risk.

In case of accident the Company's representatives shall have immediate access to all machinery and the right to take over and to control all necessary repairs.

7.3 In the event of any

7.3.1 material change in the original risk such as changes of standby or spare machinery etc,

7.3.2 alteration, modification or addition to any item of machinery,

7.3.3 departure from prescribed operating conditions, whereby the risk of interruption or interference increases,

7.3.4 changes in the Insured's interest (such as discontinuation or liquidation of the business or being placed in receivership),

taking place, the Policy shall be avoided unless its continuance be agreed by endorsement signed by the Company.

7.4 In the event of any occurrence giving rise or likely to give rise to a claim under this Policy coming to the knowledge of the Insured the Insured shall:

7.4.1 give immediate notice thereof to the Company by telephone or telegram and send written confirmation thereof within forty-eight hours of the event to the Company;

7.4.2 do and concur in doing and permit to be done all things which may be reasonably practicable to minimise or check any interruption of or interference with the business or to avoid or diminish the loss;

7.4.3 discontinue the use of any damaged machinery unless the Company authorises otherwise (the Company shall not be liable in respect of any interruption or interference arising out of the continued use of any damaged machinery without the prior authority of the Company until such machinery shall have been repaired to the satisfaction of the Company);

7.4.4 so far as may be reasonably practicable without causing any increase in the period of interruption or interference take precautions to preserve any things which might prove necessary or useful by way of evidence in connection with any claim;

7.4.5 in the event of a claim being made under this Policy not later than thirty days after the expiry of the indemnity period or within such further time as the Company may in writing allow, deliver to the Company in writing a statement setting forth particulars of the claim together with details of all other insurances covering the Accident or any part of it or consequential loss of any kind resulting there from. Also produce and furnish to the Company such books of account and other business books such as invoices, balance sheets and other documents proofs information explanation and other evidence as may reasonably be required by the Company for the purpose of investigating or verifying the claim together with if required a statutory declaration of the truth of the claim and of any matters connected therewith.

No claim under this Policy shall be payable unless the terms of this condition have been complied with and in the event of non-compliance therewith any payment on account already made shall be repaid to the Company forthwith.

7.5 The Insured shall at the expense of the Company do and concur in doing and permit to be done all such acts and things as may be necessary or required by the Company in the interest of any rights or remedies, or of obtaining relief or indemnity from parties (other than those insured under this Policy) to which the Company shall be or would become entitled or subrogated upon their paying for or making good any loss or damage under this Policy, whether such acts and things shall be or become necessary or required before or after the Insured's indemnification by the Company.

- 7.6 All differences arising out of this Policy shall be referred to the decision of an arbitrator to be appointed in writing by the parties in difference or if they cannot agree upon a single arbitrator to the decision of two arbitrators, one to be appointed in writing by each of the parties, within one calendar month after having been required in writing so to do by either of the parties, or, in case the arbitrators do not agree, of an umpire to be appointed in writing by the arbitrators before entering upon the reference. The umpire shall sit with the arbitrators and preside at their meetings. The making of an award shall be a condition precedent to any right of action against the Company.
- 7.7 If a claim is in any respect fraudulent, or if any false declaration is made or used in support thereof, or if any fraudulent means or devices are used by the Insured or anyone acting on his behalf to obtain any benefit under the Policy, or if a claim is made and rejected and no action, suit, or reference to arbitration is commenced within three months after such rejection or, in case of arbitration taking place as provided herein, within three months after the arbitrator or arbitrators or the umpire have made their award, all benefit under this Policy shall be forfeited.
- 7.8 This insurance may be terminated at the request of the Insured at any time, in which case the Company will retain the customary short period rate for the time the Policy has been in force. This insurance may equally be terminated at the option of the Company by ten days notice to that effect being given to the Insured in which case the Company shall be liable to repay a rateable proportion of the premium for the unexpired term from the date of cancellation less any reasonable inspection charges the Company may have incurred.
- 7.9 This insurance is not to be called upon in contribution and is only to pay any loss hereon if and so far as not recoverable under any other insurance.
- 7.10 No claim shall be payable after the expiry of twelve (12) months or such further time as the company may allow from the happening of any event unless the claim is the subject of pending legal action or is a claim in respect of the insured's legal liability to a third party.
- 7.11 No claim shall be payable unless the insured claims payment by serving legal process on the company within six (6) months of the rejection of the claim in writing and pursues such proceedings to finality.
- 7.12 No claim shall be payable or indemnifiable under this policy unless there is an indemnifiable claim under the Machinery Breakdown Policy issued by the Company to cover the machinery, the subject of this policy, for material damage.

GENERAL EXCEPTIONS

The Insurers will not indemnify the Insured in respect of:

1. War, Riot and Terrorism

(A) This Policy does not cover 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;
- ii) 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 determines the proclamation or maintenance of martial law or state of siege;
 - b) insurrection, rebellion or revolution;
- iv) any act (whether on behalf of any organisation, 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 Insurers allege that by reason of clause (i),(ii),(iii),(iv),(v),(vi) or (vii) of this Exception, loss or damage is not covered by this Policy, the burden of proving the contrary shall rest on the Insured.

(B) This Policy does not cover 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 and Compensation Act, 1976 (No. 85 of 1976) or any similar Act operative in any of the territories to which this Policy 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 organisation or government or any other person or body of persons, committed for political, religious, personal 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 Insurers allege that, by reason of clause 1.(C) of this General Exception, loss or damage is not covered by this Policy, the burden of proving the contrary shall rest on the Insured

2. **Nuclear**

This Policy does not cover any legal liability, loss, damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by or contributed to by or arising from:

- (i) ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion or use of nuclear fuel;
- (ii) nuclear material, nuclear fission or fusion, nuclear radiation;
- (iii) nuclear explosives or any nuclear weapon;
- (iv) nuclear waste in any form; regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this Exception only, combustion shall include any self-sustaining process of nuclear fission.

This exception shall not apply to Radioactive Isotopes used by or on behalf of the Insured.

3. **Computer Losses**

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

- (i) loss or destruction of or damage to any property whatsoever (including a computer) or any loss or expense whatsoever resulting or arising therefrom;
- (ii) any legal liability of whatsoever nature;
- (iii) 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:

- (a) 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
- (b) 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
- (c) to capture, save, retain or to process any information or code due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and or programmes, or
- (d) to capture, save, retain or to process any data such as a result of the action of any computer virus, or other corruption, harmful or otherwise unauthorised code or instruction, including Trojan horse, time or logic bomb or worm or any other destructive or disruptive 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 of 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 Exclusion

- 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 is not excluded by this General Exclusion.
- B The special perils that are not excluded for the purpose of this special extension are damage caused by:
 - 1. storm, wind, water or snow excluding damage to property
 - a) arising from it's 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;*

* Unless so described and specifically insured as a separate item.

- 2. aircraft and other aerial devices or articles dropped therefrom;
- 3. 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 The 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 Exclusion and this Special Extension.
- E This Special Extension shall not apply to any Public Liability indemnity.

4. **Asbestos**

Notwithstanding any provision of this Policy including any exclusion, exception or extension or other provision which otherwise override a general exception, this Policy does not cover any legal liability, loss damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to the extent contributing to by, the hazardous nature of asbestos in whatever form or quantity.

- i. the deductibles stated in the Schedule to be borne by the Insured.
- ii. confiscation nationalisation or requisition or destruction of or damage to property by or under the order of any Government de jure or de facto of any Public or Local Authority or abandonment of the Property Insured.

5. **Sanctions Limitation and Exclusion**

No (re) insurer shall be deemed to provide cover and no (re) insurer 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 that (re) insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union as well as United Kingdom or United States of America insofar as they are not in contradiction to the legislative provisions applicable to the (re) insurer concerned.

6. **Communicable Disease Endorsement**

- 1. This policy, subject to all applicable terms, conditions and exclusions, covers losses attributable to direct physical loss or physical damage occurring during the period of insurance. Consequently and notwithstanding any other provision of this policy to the contrary, this policy does not insure any loss, damage, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.

2. For the purposes of this endorsement, loss, damage, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
 - 2.1. for a Communicable Disease, or
 - 2.2. any property insured hereunder that is affected by such Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
 - 3.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
 - 3.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
 - 3.3. the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.
4. This endorsement applies to all coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

All other terms, conditions and exclusions of the policy remain the same.