

# GENERAL EXCEPTIONS, CONDITIONS AND PROVISIONS

Subject to the terms, exceptions and conditions (precedent or otherwise) and in consideration of, and conditional upon, the prior payment of the premium by or on behalf of the insured and receipt thereof by or on behalf of the insurer, the insurer specified in the schedule agrees to indemnify or compensate the insured by payment or, at the option of the insurer, by replacement, reinstatement or repair in respect of the defined events occurring during the period of insurance and as otherwise provided under the within sections up to the sums insured, limits of indemnity, compensation and other amounts specified.

Where more than one insurance company or insurer participates in this insurance, the expression "insurer" shall be amended to "insurers" wherever it appears in this policy. In this event the percentage share of each insurer will be as expressed in the schedule of this policy and the liability of each such insurer individually shall be limited to the percentage share set against its name.

Specific exceptions, conditions and provisions shall override general exceptions, conditions and provisions.

## GENERAL EXCEPTIONS

### 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 foregoing;
  - (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 A (i), (ii), (iii), (iv), (v) or (vi) above.

If the insurer alleges 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 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 insurer 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. Nuclear

Except as regards the Fidelity, Stated Benefits and Group Personal Accident sections

- (i) this policy does not cover

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

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.

- (ii) the indemnity provided by this policy shall not apply to nor include any loss, destruction, damage or legal liability directly or indirectly caused by, or contributed to by, or arising from nuclear weapons material.

## 3. Computer losses

**General exception applicable to all sections of this policy insuring damage to property or the consequences of damage to property or any liability.**

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:

- (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 to process any information or code due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and/or programmes, or

- (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 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 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 General exception 3

- A. Loss or destruction of or damage to the insured property by fire, explosion, lightning, earthquake or by the special perils referred to below or indemnified by the Glass, Employer's Liability, Stated Benefits, Group Personal Accident or Motor section is not excluded by this General exception.

The special perils that are not excluded for the purpose of this special extension are damage caused by:

1. 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) in 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, aerials, satellite dishes or vehicles excluding damage to such animals, trees, aerials, satellite dishes or vehicles or property in or on such vehicles.

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

- B. General exception 3 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 Special extension A above.
- C. 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 Losses General exception and this Special extension.
- D. This Special extension shall not apply to any Public Liability indemnity.

### 4. Sanctions

The insurer shall not be liable to provide any cover, pay any claim, provide any benefit or provide any indemnification under this policy if the Insured is listed, or is included by the respective authorities as a sanctioned, or prohibited entity or individual to do business with or indemnify, under the United Nations resolutions or any trade or economic sanctions, laws or regulations of the European Union, the United Kingdom, the United States of America or South Africa.

### 5. Cyber exclusion

Notwithstanding any provision to the contrary in this policy or any endorsement thereto, the insurance provided by this policy excludes any loss, damage, liability, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with

1. any loss of, alteration of, or damage to or a reduction in the functionality, availability or operation of a Computer System, unless subject to the provisions of paragraph 2;
2. any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data.

or any action taken in controlling, preventing, suppressing or remediating points 1 or 2 above regardless of any other cause or event contributing concurrently or in any other sequence thereto.

Any loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data, shall not be recoverable under this policy, nor shall it be considered to be physical loss or damage for the purposes of this exclusion or any other section of this policy.

Subject to the other terms, conditions and exclusions contained in this policy, this policy will cover physical damage to property insured and/or Business Interruption Loss directly resulting therefrom where such physical damage is caused by any of the following insured perils: fire, lightning, explosion, aircraft or vehicle impact, falling objects, windstorm, hail, tornado, cyclone, hurricane, earthquake, volcano, tsunami, flood, freeze or weight of snow.

If the insurer alleges that by reason of this exclusion, any loss, damage, liability, claim, cost, expense is not covered by this policy, the burden of proving the contrary will fall to the insured.

## Definitions

**Computer System** means –

any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

**Data** means –

information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

**Business Interruption Loss** means –

business interruption only and excludes contingent business interruption or other consequential losses.

## 6. Compensation for Occupational Injuries and Diseases Act (COIDA) in South Africa; Employees' Compensation Act in Namibia; or similar legislation exclusion (not applicable to the Employers Liability section)

Notwithstanding any provision of this policy including any exclusion, exception or extension or other provision which would otherwise override a General Exclusion, 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, any benefit that could be payable under the Compensation for Occupational Injuries and Diseases Act No 130 of 1993 (as amended) in South Africa; the Employees' Compensation Act 30 of 1941 (as amended) in Namibia, or any similar legislation.

This exclusion applies regardless of whether the applicable legislative Fund is unable or incapable of paying compensation, or whether or not such compensation has been claimed, paid or received in terms of the relevant Acts.

## 7. Sexual assault and molestation

The insurer shall not be liable for liability arising out of or in connection with sexual molestation in any form, be that sexual harassment; sexual assault; rape; or any other form whatsoever; howsoever that molestation might occur and irrespective the identity or occupation of the perpetrator or perpetrators.

# GENERAL CONDITIONS

Subject to the provisions of Section 55 of the Short Term Insurance Act No 53 of 1998 (as amended)

## 1. Misrepresentation, misdescription and non-disclosure

Misrepresentation, misdescription or non-disclosure in any material particular shall render voidable the particular item, section or sub-section of the policy, as the case may be, affected by such misrepresentation, misdescription or non-disclosure.

## 2. Other insurance

If, at the time of any event giving rise to a claim under this policy, an insurance exists with any other insurers covering the insured against the defined events, the insurer shall be liable to make good only a rateable proportion of the amount payable by or to the insured in respect of such event. If any such other insurance is subject to any condition of average, this policy, if not already subject to any condition of average, shall be subject to average in like manner.

## 3A. Cancellation

This policy or any section may be cancelled at any time by the insurer giving 30 days' notice in writing (or such other period as may be mutually agreed) or by the insured giving immediate notice. On cancellation by the insured, the insurer shall be entitled to retain the customary short period or minimum premium for the period the policy or section has been in force. On cancellation by the insurer, the insured shall be entitled to claim a pro rata proportion of the premium for the remainder of the period of insurance from the date of cancellation, subject to General condition 4.

## 3B. Continuation of cover (where premium is payable by bank debit order or by transmission account)

The premium is due in advance and, if it is not received by the insurer 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 an error on the part of his bank or other paying agent. Due date will be the first day of every calendar month where premium is payable monthly, and the first day of

- (a) each third
- (b) each sixth or
- (c) each twelfth calendar month following inception where premium is payable quarterly, half-yearly or annually.

## 4. Adjustment of premium

If the premium for any section of this policy has been calculated on any estimated figures, the insured shall, after the expiry of each period of twelve consecutive months from the inception date or anniversary date, furnish the insurer with such particulars and information as the insurer may require for the purpose of recalculation of the premium for such period. Any difference shall be paid by or to the insured as the case may be.

## 5. Prevention of loss

The insured shall take all reasonable steps and precautions to prevent accidents or losses.

## 6. Claims

- (a) On the happening of any event which may result in a claim under this policy the insured shall, at their own expense:
  - (i) give notice thereof to the insurer as soon as reasonably possible and provide particulars of any other insurance covering such events as are hereby insured;

- (ii) as soon as practicable after the event inform the police of any claim involving theft or (if required by the insurer) loss of property and take all practicable steps to discover the guilty party and to recover the stolen or lost property;
  - (iii) as soon as practicable after the event submit to the insurer full details in writing of any claim;
  - (iv) give the insurer such proof, information and sworn declarations as the insurer may require and forward to the insurer immediately any notice of claim or any communication, writ, summons or other legal process issued or commenced against the insured in connection with the event giving rise to the claim.
- (b) No claim (other than a claim under the Business interruption, Fidelity, Stated Benefits or Group Personal Accident section or the personal accident (assault) extension under the Money section, if applicable) shall be payable after the expiry of 24 months or such further time as the insurer 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.
  - (c) No claim shall be payable unless the insured claims payment by serving legal process on the insurer within 6 months of the rejection of the claim in writing and pursues such proceedings to finality.
  - (d) If, after the payment of a claim in terms of this policy in respect of lost or stolen property, the property (the subject matter of the claim) or any part thereof is located, the insured shall render all assistance in the identification and physical recovery of such property if called on to do so by the insurer, provided that the insured's reasonable expenses in rendering such assistance shall be reimbursed by the insurer. Should the insured fail to render assistance in terms of this condition when called upon to do so, the insured shall immediately become liable to repay to the insurer all amounts paid in respect of the claim.

## 7. Insurer's rights after an event

- (a) On the happening of any event in respect of which a claim is or may be made under this policy, the insurer and every person authorised by them may, without thereby incurring any liability and without diminishing the right of the insurer to rely upon any conditions of this policy,
  - (i) take, enter or keep possession of any damaged property and deal with it in any reasonable manner. This condition shall be evidence of the leave and licence of the insured to the insurer to do so. The insured shall not be entitled to abandon any property to the insurer whether taken possession of by the insurer or not;
  - (ii) take over and conduct in the name of the insured the defence or settlement of any claim and prosecute in the name of the insured for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim. No admission, statement, offer, promise, payment or indemnity shall be made by the insured without the written consent of the insurer.
- (b) The insured shall, at the expense of the insurer, do and permit to be done all such things as may be necessary or reasonably required by the insurer for the purpose of enforcing any rights to which the insurer shall be, or would become, subrogated upon indemnification of the insured whether such things shall be required before or after such indemnification.
- (c) In respect of any section of this policy under which an indemnity is provided for liability to third parties, the insurer may, upon the happening of any event, pay to the insured the limit of indemnity provided in respect of such event or any lesser sum for which the claim or claims arising from such event can be settled and the insurer shall thereafter not be under further liability in respect of such event.

## 8. Fraud

If any claim under this policy is in any respect fraudulent or if any fraudulent means or devices are used by the insured or anyone acting on their behalf or with their knowledge or consent to obtain any benefit under this policy or if any event is occasioned by the wilful act or with the connivance of the insured, the benefit afforded under this policy in respect of any such claim shall be forfeited.

## 9. Reinstatement of cover after loss (not applicable to stock on a declaration basis nor to any section where it is stated to be not applicable)

In consideration of sums insured not being reduced where appropriate by the amount of any loss, the insured shall pay additional premium on the amount of the loss from the date thereof or from the date of reinstatement or replacement (whichever is the later) to expiry of the period of insurance.

## 10. Breach of conditions

The conditions of this policy and sections thereof shall apply individually to each of the risks insured and not collectively to them so that any breach shall render voidable the section only in respect of the risk to which the breach applies.

## 11. No rights to other persons

Unless otherwise provided, nothing in this policy shall give any rights to any person other than the insured. Any extension providing indemnity to any person other than the insured shall not give any rights of claim to such person, the intention being that the insured shall claim on behalf of such person. The receipt of the insured shall in every case be a full discharge to the insurer.

## 12. Collective insurances

If this insurance is a collective insurance then the following amendment is made to general condition 6(a) (iv) above:

“give the leading insurer on behalf of the insurers such proof, information and sworn declaration as the insurers may require and forward to the leading insurer immediately any notice of claim or any communication, writ, summons or other legal process issued or commenced against the insured in connection with the event giving rise to the claim.”

and General condition 7 is substituted by the following:

“7. Insurer’s rights after an event

- (a) On the happening of any event in respect of which a claim is or may be made under this policy the leading insurer and every person authorised by them may, without thereby incurring any liability and without diminishing the right of the insurers to rely upon any conditions of this policy,
  - (i) take, enter or keep possession of any damaged property and deal with it in any reasonable manner. This condition shall be evidence of the leave and licence of the insured to the lead insurer on behalf of all insurers to do so. The insured shall not be entitled to abandon any property to the insurers whether taken possession of by the leading insurer or not
  - (ii) take over and conduct in the name of the insured the defence or settlement of any claim and prosecute in the name of the insured for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim. No admission, statement, offer, promise, payment or indemnity shall be made by the insured without the written consent of the leading insurer.
- (b) The insured shall, at the expense of the insurers, do and permit to be done all such things as may be necessary or reasonably required by the insurers for the purpose of enforcing any rights to which the insurers shall be or would become subrogated upon indemnification of the insured whether such things shall be required before or after such indemnification.
- (c) In respect of any section of this policy under which an indemnity is provided for liability to third parties, the insurers may, in the case of any event, pay to the insured the limit of indemnity provided in respect of such event or any lesser sum for which the claim or claims arising from such event can be settled and the insurers shall thereafter not be under further liability in respect of such event.”

## 13. POPIA: Protection of Personal Information Act, No. 4 of 2013 (as amended)

### Disclosure and processing of Personal Information

In terms of the Protection of Personal Information Act, 4 of 2013, Personal Information provided and obtained is mandatory in order to issue this policy and is collected, held and processed to improve the service provided to the Insured and to provide the Insured with access to the insurer's services and products.

The insurer, our authorised agents, advisors, business partners and service providers/contractors may collect Personal Information from the Insured directly, from the Insured's usage of the insurer's products and services, from the Insured's engagements and interactions with the insurer or from public sources, shared databases and third parties. Personal Information will not be shared with service providers that may be abroad unless where necessary or where required under certain conditions and where security measures are in place to protect the Personal Information.

The insurer may use the Insured's information or obtain information about the Insured for the following purposes:

- 13.1 Underwriting, assessing the risk, determining the premium and the policy terms
- 13.2 Assessment, investigation and processing of claims
- 13.3 Credit searches and/or verification of Personal Information
- 13.4 Claims checks
- 13.5 Fraud prevention and detection
- 13.6 Market research, statistical analysis and surveys
- 13.7 Audit and record keeping purposes
- 13.8 Verification of the Insured's identity
- 13.9 To comply with an obligation imposed by any law on the insurer.

The Personal Information may also be shared with service providers engaged to process such information on the insurer's behalf or render services to the insurer. The insurer may collect, retain, process and verify the Insured's Personal Information, insurance and/or claim information.

The Insured acknowledges that any Personal Information collected may be stored in a shared database and used for any decision pertaining to the continuance of this policy or any claim submitted. The Insured acknowledges and understands that any Personal Information may be given to any insurer or its agent and the insurer's authorised agents, advisors, business partners and service providers/contractors.

The Insured acknowledges that the information may be verified against legally recognised sources or databases.

The insurer will retain the Personal Information for so long as required or entitled by law, after the termination of this policy and as such, this consent clause will remain in force even after this policy has been terminated. The Insured may request details of their Personal Information that is held by the insurer and the Insured may also request that any errors be corrected.

To view the insurer's full privacy statement, please visit the insurer's website on [www.santam.co.za](http://www.santam.co.za)

### Definitions

**Personal Information** means information relating to the Insured as an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, such as, gender, date of birth, identity number, entity details, online identifier, social media profile, biometric information (such as signature, fingerprint or voice), e-mail and physical addresses, location information, medical and health information, occupation, employment information, financial information, credit risk, tax and VAT information, claims and insurance history, criminal history, assets and liabilities.



# GENERAL PROVISIONS

Subject to the provisions of Section 55 of the Short Term Insurance Act No 53 of 1998 (as amended)

## A. Claims preparation costs

The insurance provided by each section of this policy is extended to include costs reasonably incurred by the insured in producing and certifying any particulars or details required by the insurer in terms of General condition 6 or to substantiate the amount of any claim, provided that the liability of the insurer for such costs in respect of any one claim shall not exceed, in respect of a particular section, R25 000 or 10% of the sum insured or limit of indemnity on the item affected, whichever is the lesser amount, plus any amount stated in the schedule to each section against an item for additional claim preparation costs.

## B. Payments on account

In respect of any section where amounts recoverable from the insurer are delayed pending finalisation of any claim, payments on account may be made to the insured, if required, at the discretion of the insurer.

## C. First amount payable

Except where provided for specifically in any section, the amount payable under this policy/section for each and every loss, damage or liability shall be reduced by the first amount payable shown in the schedule for the applicable defined event.

## D. Members

Wherever the word "director" is used it is deemed to include "member" if the insured is a close corporation.

## E. Liability under more than one section

The insurer shall not be liable under more than one section of this policy in respect of liability, loss or damage arising from the same happening in respect of the same liability, loss or damage.

## F. Meaning of words

The schedules and any endorsements thereto and the policy wording shall be read together and any word or expression to which a specific meaning has been given in any part thereof shall bear such meaning wherever it may appear.

## G. Premium payment

Premium is payable on or before the inception date or renewal date as the case may be. The insurer shall not be obliged to accept premium tendered to it after inception date or renewal date as the case may be but may do so upon such terms as it at its sole discretion may determine.

## H. Holding covered

If the insurer is holding covered on a risk they will not reject a claim on the basis that the premium has not been agreed.

## I. Schedule sums insured blank

If, in a schedule of this policy, the sum insured, limit of indemnity or compensation is:

- (i) left blank or has no monetary amount stipulated against it;
- (ii) reflected as nil or not applicable or not covered or no indemnity extended;

this means the defined event or circumstance shown in the schedule is not insured by the policy.

## J. Security firms

If an employee of a security firm employed by the insured under a contract causes loss or damage, the insurer agrees, if in terms of the said contract the insured may not claim against the said security firm, not to exercise their rights of recourse against the said security firm.

The insurer shall not raise as a defence to any valid claim submitted under any section or sub-section of this policy that the insurer's rights have been prejudiced by the terms of any contract entered into between the insured and any security provider relating to the protection of the insured property.

## K. Trauma

Expenses incurred, not otherwise covered, for trauma treatment following a Disability Event by a registered professional counselor if the insured or a co-insured requires treatment due to hijacking, theft, fire or farm-attacks that occur in the insured's buildings or on the insured's premises. Provided always that the liability of the insurer under this extension shall not exceed R10 000 in total.

*Disability Event* means any event resulting in –

- (a) The loss of a limb or sense organ, or the use thereof by a person; or
- (b) A person becoming so physically or mentally impaired, whether totally or partially, or temporarily or permanently, that the person is unable to –
  - (i) continue their employment or own occupation, profession or trade;
  - (ii) participate in any employment, occupation, profession or trade that is reasonably suitable for that person given, amongst other matters, their education, skills, experience or age; or
  - (iii) carry on the functions required for normal activities of life