

## BROADFORM LIABILITY INSURANCE POLICY

The Insured named in the Schedule having applied to the Insurers for the insurance and in consideration of the payment of the premium by the Insured or on their behalf and having agreed that any proposal or other information supplied by the Insured or on their behalf will be the basis of this contract of insurance, the Insurers agree to indemnify the Insured subject to the terms, exclusions and conditions of this Policy.

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Signed and approved by.....  
SHA RISK SPECIALISTS a division of SANTAM LIMITED

at Johannesburg on .....  
(Reg. No.1918/001680/06)  
(Vat No. 4440102095)  
(FSP No. 3416)

**SCHEDULE**

|                             |  |           |
|-----------------------------|--|-----------|
| <b>INSURED</b>              |  |           |
| <b>VAT NO</b>               |  |           |
| <b>INSURERS</b>             | Santam Limited<br>Reg. No. 1918/001680/06<br>Vat No. 4440102095)   |           |
| <b>POLICY NO</b>            | 1000/  |           |
| <b>BUSINESS</b>             | .....and related activities and where appropriate, property owners and tenants, the provision of canteen, social, sports, first aid, firefighting and welfare facilities for the benefit of the Insured's staff<br><br>(AND NONE OTHER FOR THE PURPOSES OF THIS INSURANCE)   |           |
| <b>PERIOD OF INSURANCE</b>  | From: 2021<br>To: 2022<br>(both days inclusive)<br><br>plus any subsequent period for which the Insurers agree to accept a renewal premium and as subsequently endorsed hereon   |           |
| <b>TERRITORIAL LIMITS</b>   | a. Anywhere in the world but not in connection with any Business carried on by the Insured at or from premises within or any contract for the performance of work within North America<br><br>b. The Republic of South Africa, Namibia, Botswana, Lesotho, Swaziland, Zimbabwe and Malawi.<br><br>But the Republic of South Africa only in respect of Excess of Loss Motor Liability (only if stated in the Schedule to be included) |           |
| <b>RETROACTIVE DATE</b>     |  |           |
| <b>BROKER</b>               |  |           |
| <b>ANNUAL PREMIUM (ZAR)</b> | 0.00   | Exclusive |
|                             | 0.00   | VAT       |
|                             | 0.00   | Inclusive |
|                             | In terms of a ruling issued by SARS, this document together with proof of payment of premium constitutes an alternative to a tax invoice, debit note or credit note as contemplated in sections 20(7) and 21(5) of the VAT Act respectively and supercedes any policy documentation or renewal notice issued by Insurers for this purpose.   |           |

### SCHEDULE OF LIMITS OF INDEMNITY

| SECTION | CLASS  | INCLUDED | LIMIT OF INDEMNITY |                  | BASIS                        |
|---------|--|----------|--------------------|------------------|------------------------------|
|         |  |          | ANY ONE OCCURRENCE | ANNUAL AGGREGATE |                              |
| PL      | Public Liability   | Yes / No |                    |                  | CM                           |
|         | Spread of Fire   |          | Included           | Included         |                              |
|         | Care, Custody and Control                                  | Yes / No |                    |                  |                              |
|         | Lateral Support  | Yes / No |                    |                  |                              |
|         | Loss of Documents  | Yes / No |                    |                  |                              |
|         | Goods on the Hook  | Yes / No |                    |                  |                              |
|         | North American Jurisdiction                                | Yes / No |                    |                  |                              |
| PR      | Products Liability including defective workmanship         | Yes / No |                    |                  | CM                           |
|         | Products Inefficacy  | Yes / No |                    |                  |                              |
|         | Mitigation Expenses  | Yes / No |                    |                  |                              |
|         | North American Exports                                     | Yes / No |                    |                  |                              |
|         | North American Jurisdiction                                | Yes / No |                    |                  |                              |
| EL      | Employer's Liability (RSA Employees Only)                  | Yes / No |                    |                  | CM                           |
|         | Employee to Employee                                       | Yes / No |                    |                  |                              |
|         | Simrac Levy  | Yes / No |                    |                  |                              |
| SLDC    | Statutory Legal Defence Costs                              | Yes / No |                    |                  | CM                           |
| WA      | Wrongful Arrest / Defamation                               | Yes / No |                    |                  | CM                           |
| ADL     | Advertising Liability                                      | Yes / No |                    |                  | CM                           |
| CL      | Contractors Liability (CAPEX)<br>Maximum Contract Value: R | Yes / No |                    |                  | CM                           |
| MM      | Medical Malpractice (First Aid)                            | Yes / No |                    |                  | CM                           |
| GA      | Gratuitous Advice  | Yes / No |                    |                  | CM                           |
| IFC     | Infringement of Copyright                                  | Yes / No |                    |                  | CM                           |
| PEL     | Pure Economic Loss   | Yes / No |                    |                  | CM                           |
| CPHL    | Contingent Plant Hire                                      | Yes / No |                    |                  | CM                           |
| CRL     | Carrier's Liability (TP Financial Loss)                    | Yes / No |                    |                  | CM                           |
| WHM     | Warehouseman's Liability (TP Financial Loss)               | Yes / No |                    |                  | CM                           |
| XOL     | Excess of Loss   | Yes / No |                    |                  | Follows underlying insurance |
| PCC     | Pollution Clean-up Costs                                   | Yes / No |                    |                  | LO                           |
| CPC     | Claims Preparation Costs                                   | Yes / No | R 250 000          | N/A              | N/A                          |

| <b>GENERAL EXTENSIONS</b>                      | <b>INCLUDED</b> |
|--|-----------------|
| Indemnity to Others                            | Yes             |
| Cross Liability                                | Yes             |
| Acquisitions and New Business                  | Yes             |
| Claims Preparation Costs                       | Yes             |
| Standard Extended Reporting Period             | Yes             |
| Special Extended Reporting Period              | Yes / No        |
| Difference in Condition / Difference in Limits | Yes / No        |
| Special Endorsement                            | Yes / No        |

The “Basis” of the indemnity is either “claims made” or “losses occurring” as referred to in the Operative Clause and General Conditions.

### SCHEDULE OF DEDUCTIBLES

| <b>SECTION</b> | <b>CLASS</b>   | <b>DEDUCTIBLE</b> |
|----------------|--|-------------------|
| PL             | Public Liability   |                   |
|                | Spread of Fire, fire or explosion                        |                   |
|                | Care, Custody and Control                                |                   |
|                | Lateral Support  |                   |
|                | Loss of Documents  |                   |
|                | Goods on the Hook  |                   |
|                | North American Jurisdiction                              |                   |
| PR             | Products Liability                                       |                   |
|                | Defective Workmanship                                    |                   |
|                | Products Inefficacy                                      |                   |
|                | Mitigation Expenses                                      |                   |
|                | North American Jurisdiction                              |                   |
|                | North American Exports                                   |                   |
| EL             | Employer’s Liability (RSA Employees Only)                |                   |
|                | Employee to Employee                                     |                   |
|                | Simrac Levy  |                   |
| SLDC           | Statutory Legal Defence Costs                            |                   |
| WA             | Wrongful Arrest / Defamation                             |                   |
| ADL            | Advertising Liability                                    |                   |
| CL             | Contractors Liability (CAPEX)<br>Maximum Contract Value: |                   |
| MM             | Medical Malpractice (First Aid)                          |                   |
| GA             | Gratuitous Advice  |                   |
| IFC            | Infringement of Copyright                                |                   |
| PEL            | Pure Economic Loss                                       |                   |
| CPHL           | Contingent Plant Hire                                    |                   |
| CRL            | Carrier’s Liability (TP Financial Loss)                  |                   |
| WHM            | Warehouseman’s Liability (TP Financial Loss)             |                   |
| XOL            | Excess of Loss   |                   |
| PCC            | Pollution Clean-up Costs                                 |                   |
| DIC/DIL        | Difference in Conditions /<br>Difference in Limits       |                   |

**SCHEDULE OF UNDERLYING INSURANCES FOR EXCESS OF LOSS SECTION- *DN: Delete if not applicable***

| Insurer | Policy No | Section | Underlying Policy Indemnity Limit |                  |
|---------|-----------|---------|-----------------------------------|------------------|
|         |           |         | Any one Occurrence                | Annual Aggregate |
|         |           |         |                                   |                  |
|         |           |         |                                   |                  |
|         |           |         |                                   |                  |

**SCHEDULE OF PRIMARY INSURANCES FOR DIFFERENCE IN CONDITIONS/DIFFERENCE IN LIMITS EXTENSION-  
(Applicable in respect of operations in Africa outside RSA only and only in respect of Public Liability and Products Liability, excluding any extensions granted under the General Liability or Products Liability Sections)**

| Insurer | Country | Policy No | Section | Underlying Policy Indemnity Limit |                  |
|---------|---------|-----------|---------|-----------------------------------|------------------|
|         |         |           |         | Any one Occurrence                | Annual Aggregate |
|         |         |           |         |                                   |                  |
|         |         |           |         |                                   |                  |
|         |         |           |         |                                   |                  |

Where this Policy responds on a difference in conditions/scope of cover basis, this Policy will act as primary insurance for that class only, subject to a Deductible of US\$250 000 or the deductible of this Policy in respect of that class, whichever is the greater.

If no insurance of a class insured in terms of this Policy is available locally, this Policy will act as primary insurance for that class only, subject to a Deductible of US\$250 000 or the deductible of this Policy in respect of that class, whichever is the greater.

All amounts stated in this Policy are expressed exclusive of VAT. In settling claims the Insurer will add VAT at 15% to the VAT exclusive settlement to allow for a vendor Insured’s output VAT liability under section 8(8) of the VAT Act. In cases where a Deductible is expressly recovered by the Insurers from the Insured the Deductible in terms of the Policy does not constitute a consideration as defined in the VAT Act and as such has no VAT consequence.

## LIABILITY INSURANCE POLICY

### 1. GENERAL CLAUSES

General Clauses, General Conditions and General Exclusions are applicable to all Sections of this Policy unless stated otherwise.

Specific Conditions and Specific Exclusions will override General Conditions and General Exclusions where those Conditions are in conflict.

### 2 OPERATIVE CLAUSE

The Insurers will indemnify the Insured as more particularly described in the various Sections of this Policy against their legal liability to pay damages and claimants' costs in connection therewith arising out of the performance of the Business within the Territorial Limits and in accordance with the law applicable anywhere in the world but not in respect of any judgement, award or settlement made within countries which operate under the laws of the North America (or to any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part)

In respect of Section(s) marked "LO" for Losses Occurring in the Schedule of Limits of Indemnity and Deductibles, the indemnity applies in respect of Injury or Damage or other loss occurring during the Period of Insurance.

In respect of the North American Jurisdiction Extension (if included), and Section(s) marked "CM" for Claims Made, this Policy will apply only to claims first made against the Insured and notified in writing to the Insurers during the Period of Insurance.

### 3. DEFINITIONS

3.1 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 similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear

3.2 "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, owned or operated by the Insured or any other party.

3.3 "Costs and Expenses" means costs, charges and expenses incurred by the Insurers or by the Insured with the Insurers' prior written consent

3.3.1 in the defence or settlement of any claim under this Policy or any action or prosecution brought against the Insured in respect of Injury or Damage or other liability as insured in terms of this Policy.

3.3.2 in the representation at any inquest or accident inquiry in respect of Injury which may form the subject of indemnity under this Policy and/or in defending any proceedings in a Court in respect of matters which may form the subject of indemnity by this Policy.

3.3.3 for such emergency medical treatment as may appear necessary in respect of Injury which may form the subject of indemnity by this Policy.

3.4 "Cyber Act" means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

3.5 "Cyber Incident" means:

3.5.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or

3.5.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

3.6 "Damage" means

direct physical loss of or physical damage to tangible property, loss of use of tangible property which has not been lost or damaged, interference with servitude or other infringement of real or personal rights to the use of property.

3.7 "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.

3.8 "Deductible" means the first amount stated as such in the Schedule for which the Insurers are not liable to indemnify the Insured in respect of each Occurrence. The Deductible will apply cumulatively to Costs and Expenses and any other costs. In the event of a claim being indemnified under more than one Section of the Policy only the highest single deductible will apply.

3.9 "Documents" means any words, numbers, still or moving images or graphics maintained in or on any medium whether in physical, electronic, broadcast or any other form, but excluding computer operating and software programs for which the Insured is responsible in connection with the "Business".

- 3.10 "Employee" means
- 3.10.1 any person/s employed under a contract of service or apprenticeship with the Insured.
  - 3.10.2 any person/s engaged by or on behalf of the Insured to perform a contract constituting the provision of labour only for the purpose of carrying out the day-to-day operations of the Business.
  - 3.10.3 any person engaged by or seconded to the Insured (including a volunteer worker) whilst performing any function for or on behalf of the Insured.
  - 3.10.4 any person engaged or contracted by any other party to perform work (including a volunteer worker) at any premises or site of the Insured.
- 3.11 "Injury" means death, bodily or mental injury, disfigurement, loss of amenities, illness or disease of or to any person and, where directly resulting from such injuries only, mental anguish, shock, humiliation or emotional distress.
- 3.12 "Medical Malpractice" means any negligent act, error or omission in the professional medical services rendered by the Insured during the Period of Insurance in connection with the provision of first aid treatment.
- 3.13 "North America" means the United States of America (being the fifty states of the union plus the district of Columbia), Canada and any territory operating under the laws of the afore-mentioned territories.
- 3.14 "Occurrence" means an accident or event or a series of accidents or events or continuous or repeated exposure to a set of conditions which have a specific and common originating cause or source and whether concurrently or in any sequence unexpectedly or unintentionally result in liability as insured in terms of this Policy.
- 3.15 "Pollution" means the emission, discharge, release, dispersal, disposal, seepage or escape of any solid, liquid, gaseous or thermal irritant, contaminant or pollutant including vapours, smell, odours, humidity, fumes, smoke, soot or other airborne particulates; acids, alkalis, chemicals and waste; electromagnetic waves, noise, vibrations; other emission of effluent or noxious substances into or upon the land, the atmosphere or any watercourse or body of water.
- 3.16 "Product" means any tangible property after it has left the custody or control of the Insured which has been designed, formulated, specified, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured but not food or drink provided mainly to the Insured's Employees as a staff benefit.
- 3.17 "Professional Services" means any advice given, action taken, or work done by the Insured when carrying out their functions in any capacity involving special skill or knowledge in their occupation or the failure to discharge any obligations pursuant thereto.
- 3.18 "Public disorder" means a violent disturbance, more than a Riot, on an extensive scale amongst a substantial number of members of the public directed to a common purpose.
- 3.19 "Riot" means a violent, tumultuous and turbulent breach of the civil order of the community by an assembly of persons acting together and not as individuals.
- 3.20 "Strike" means the partial or complete concerted cessation of work on the part of a body of workers for the purpose of obtaining some concession from the employer or employers.



3.21 "Vehicle" means a land vehicle (including any machinery or apparatus attached thereto) whether or not subject to motor vehicle registration and whether or not self-propelled including railway locomotive and rolling stock.

#### **4. LIMITS OF INDEMNITY**

Insurers' total liability to pay damages and claimants' costs and expenses and also Costs and Expenses expended in connection therewith will not exceed the values stated for each Section in the Schedule of Limits of Indemnity in respect of any one Occurrence and where stated, in the Annual Aggregate.

In the event of any one Occurrence involving more than one entity comprising the Insured, each such entity will severally be indemnified provided that the cumulative amount of Insurers' liability for all such indemnified entities will not exceed the highest single Limit of Indemnity in the Schedule of Limits of Indemnity.

In the event of any one Occurrence giving rise to indemnity payments under more than one Section of this Policy, each Section will separately apply and be subject to its own separate limits of indemnity provided that the cumulative amount of Insurers' liability will not exceed the greatest Limit of Indemnity available under any one of the Sections affording indemnity for the Occurrence less prior payments that eroded an annually aggregated Limit of Indemnity (where applicable).

Regardless of the number of premiums paid for the renewal or replacement of this Policy, where more than one Period of Insurance applies to an Occurrence, the Limits of Indemnity will not aggregate from one Period of Insurance to the next.

Should any Limit of Indemnity in respect of any Section of the Policy be altered during the Period of Insurance, the original Limit of Indemnity will apply to any Occurrence prior to the date of such alteration.

The limits of indemnity apply in excess of the Deductible.

The indemnity in terms of Section "XOL" – Excess of Loss Liability, applies in excess of the Insured's primary liability insurance policy and only after the Limit in terms of the primary policy has been exhausted.

## 5. GENERAL EXTENSIONS

### 5.1 INDEMNITY TO OTHERS

The indemnity granted extends at the Insured's option to:

- 5.1.1 any party who enters into a written agreement with the Insured for any purpose of the Business, but only to the extent required by such agreement to grant such indemnity.
- 5.1.2 officials and/or employees of the Insured in their Business and/or private capacity arising out of the conduct of the Business.
- 5.1.3 the officers, committee and members of the Insured's canteen, social, sports, medical, firefighting, security units and welfare organisations and visiting sports teams and members thereof in their respective capacity as such.
- 5.1.4 the personal representative of any person indemnified by reason of this extension in respect of liability incurred by such person.

Provided always that all such persons or parties must observe, fulfil and be subject to the terms, Exclusions and Conditions of this Policy insofar as they can apply, as though they were the Insured.

### 5.2 CROSS LIABILITY

Each legal entity indemnified is separately indemnified in respect of claims made against any of them by any other, subject to Insurers' total liability not exceeding the stated Limit of Indemnity.

### 5.3 ACQUISITIONS AND NEW BUSINESS

The indemnity granted by this Policy extends for a period of 90 days only, after such formation and/or acquisition to any company formed and/or acquired by the Insured during the Period of Insurance of such formation and/or acquisition

Provided always that:

- 5.3.1. such company is domiciled within the Republic of South Africa;
- 5.3.2. the Retroactive Date in respect of such new company will be deemed to be the date when a newly formed and/or acquired company first purchased liability insurance of the type hereby insured on a "Claims Made" basis, subject to a declaration from the newly acquired company's previous management of no known or reported claims or circumstances likely to give rise to a claim at the date of acquisition. In the event of no such declaration, the Retroactive Date will be the date of such acquisition;
- 5.3.3 the Insured's Business activities remain unchanged;

- 5.3.4. the annual turnover of all newly formed and/or acquired companies does not exceed 5% (five percent) of the estimated annual turnover of the Insured as advised to the Insurers at inception hereof; and
- 5.3.5. The Insured must advise the Insurers in writing, of such formations and/or acquisitions before the expiry of 90 days thereof. Upon that notification the Insurers may then amend the terms of this Policy accordingly.

**5.4 CLAIMS PREPARATION COSTS (only If stated in the Schedule to be included)**

The insurance under this Policy is extended to include costs incurred by the Insured in producing and certifying any particulars or details required by Insurers, provided that the liability of Insurers for such costs will not exceed the sum stated in the Schedule of Limits of Indemnity and Deductibles in respect of any one claim.

**5.5 STANDARD EXTENDED REPORTING PERIOD  
(Only applicable to Claims Made Sections)**

In the event of the Insured becoming aware of any Occurrence or circumstance which may give rise to a claim against the Insured or of a claim made against the Insured within 30 days prior to the expiry of the Period of Insurance, the Insured will have 30 days beyond the expiry of the Period of Insurance in which to notify the Insurers, in writing, of such Occurrence, circumstance of claim made, provided that:

- 5.5.1 this General Extension is only applicable in the event that the Policy is not renewed after the expiry of the Period of Insurance;
- 5.5.2 claims first made against the Insured or any reported event by the Insured during the extended reporting period shall be treated as if they were first made or reported on the last day preceding the cancellation or non-renewal;
- 5.5.3 the Occurrence, circumstance or claim must occur prior to the expiry of the Period of Insurance for any Occurrence which occurred after the Retroactive Date and within the Period of Insurance

**5.6 SPECIAL EXTENDED REPORTING PERIOD (Only applicable to Claims Made Sections)**

At the option of the Insured and subject to all the terms, Exclusions and Conditions of this Policy, the Insurers agree to extend the period during which the Insured may report in writing an event in terms of General Condition 7.5 for a period of 36 months (hereinafter referred to as Extended Reporting Period) subject to the payment of an additional Premium as advised by underwriters.

Provided that:

- 5.6.1 this option may only be exercised in the event of the Insurers cancelling or refusing to renew this Policy;
- 5.6.2 this option must be exercised by the Insured in writing within 30 days of cancellation or non-renewal;
- 5.6.3 once exercised, the option cannot be cancelled by either the Insured or the Insurers;
- 5.6.4 the Insured has not obtained insurance equal in scope and cover to this Policy as expiring;
- 5.6.5 the Insurers will only be liable for Occurrences after the Retroactive Date but prior to date of cancellation or non-renewal;

- 5.6.6 claims first made against the Insured or any reported event by the Insured during the extended reporting period will be treated as if they were first made or reported on the last day preceding the cancellation or non-renewal;
- 5.6.7 the total amount payable by the Insurers for claims made or reported events during the extended reporting period will not have the effect of increasing the limit of indemnity applicable as on the last day preceding the cancellation or non-renewal.

**5.7 DIFFERENCE IN CONDITIONS/DIFFERENCE IN LIMITS (only if stated in the Schedule to be included) (Applicable in respect of operations in Africa outside the Republic of South Africa only and only in respect of Public Liability and Products Liability, excluding any extensions granted under the General Liability or Products Liability Sections)**

In respect of any operations of the Insured situated in Africa outside the Republic of South Africa for which separate insurance is purchased locally, the indemnity provided by this Policy is limited to the difference in scope of cover or in limit of indemnity provided by any insurer in the territory in which the operation is situated and the indemnity available in terms of this Policy.

Where this Policy responds on a difference in conditions/scope of cover basis, this Policy will act as primary insurance for that class only, subject to the Deductible as stated in the Schedule.

Where this Policy responds in excess of indemnity provided in terms of such locally purchased liability insurance:

- 5.7.1 the indemnity payable hereunder will be only up to but not exceeding such further amount as would provide the maximum indemnity in terms of this Policy;
- 5.7.2 any decision of the underlying insurer to accept a claim “ex gratia” or “without prejudice” will not be binding on the Insurers;
- 5.7.3 no conduct or decision of the underlying insurer which prejudices the Insurers in the conduct or settlement of any claim under this Policy will be binding on Insurers.

If no insurance of a class insured in terms of this Policy is available locally, this Policy will act as primary insurance for that class only, subject to a Deductible of US\$250 000 or the deductible of this Policy in respect of that class, whichever is the greater.

The above cover is restricted to operations as set out in the Schedule of Primary Insurances only. No indemnity is provided in respect of any operations outside the Republic of South Africa which have not been listed in the Schedule of Primary Insurances.

**5.8 NORTH AMERICAN JURISDICTION EXTENSION (Applicable per Section but only in respect of Sections reflected in the Schedule to be included)**

**5.8.1 INDEMNITY**

The indemnity provided by this Section is extended to apply to claims first made against the Insured during the Period of Insurance in respect of any judgment, award or settlement made in the first instance within the jurisdiction of courts of North America or brought subject to the laws of North America or to any order of court made anywhere in the world whether by way of reciprocal agreements or conventions or otherwise to enforce such judgment, award or settlement either in whole or in part.

**5.8.2 GENERAL EXCLUSIONS TO NORTH AMERICAN JURISDICTION EXTENSION**

The Insurers will not be liable for :

1. any circumstance, matter or thing which the Insured may reasonably be expected to suppose may give rise to a claim against the Insured and known by the Insured to have occurred prior to inception of this Policy;
2. any circumstance, matter or thing which occurred prior to the Retroactive Date specifically stated in the Schedule to apply to this North American Jurisdiction Extension;
3. claims in connection with or based on or arising out of Pollution, seepage, contamination and environmental impairment whether sudden, unintended, unforeseen or otherwise nor for the cost of removing, nullifying or cleaning up the effects of such Pollution, seepage, contamination or environmental impairment;
4. claims in connection with the fulfilment or payment of contractual, civil or criminal fines or penalties, non-compensatory damages including punitive, exemplary, aggravated or Constitutional damages or the multiplied portion of multiplied damages or any matters deemed uninsurable under the applicable law of the territory in which the action arose;
5. the amount shown as Deductible in the Schedule, being the amount of each and every claim for which the Insured is liable and for the purpose of this extension "claim" will be deemed to include compensatory awards, claimants costs, claimants fees and claimants expenses and Insured's Costs and Expenses.

**5.8.3 SECTION SPECIFIC EXCLUSIONS TO NORTH AMERICAN JURISDICTION EXTENSION**

The Insurers will not be liable for :

1. SECTION PL – PUBLIC LIABILITY
  - 1.1. liability arising out of the nature or condition of any Product;
  - 1.2. claims in connection with liability arising from or out of the ownership, possession or use by or on behalf of the Insured, or any other person otherwise entitled to indemnity, of any Vehicle, Mobile Equipment, aircraft or watercraft.

2. SECTION PR – PRODUCTS LIABILITY

- 2.1 claims in connection with Products which have been designed, specified, formulated, manufactured, constructed, installed, treated, serviced, altered or repaired by or on behalf of the Insured within North America.

## 6. GENERAL EXCLUSIONS

This Policy does not cover liability:

### 6.1 ASBESTOS

whether actual or alleged, 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.

### 6.2 COVID-19 / PANDEMICS / EPIDEMICS

for any loss, damage, liability, expense, fines, penalties or any other amount directly or indirectly caused by, in connection with, or in any way involving or arising out of any of the following –including any fear or threat thereof, whether actual or perceived:-

1. Coronavirus (COVID-19) including any mutation or variation thereof; or
2. Pandemic or epidemic, as declared as such by the World Health Organization or any governmental authority.

### 6.3. CYBER

6.3.1 arising from any loss, damage, liability, claim, fines, penalties, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

6.3.1.1 Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident; or

6.3.1.2 loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any Data, including any amount pertaining to the value of such Data;

regardless of any other cause or event contributing concurrently or in any other sequence thereto, unless subject to the provisions of Clause 6.3.5 of this General Exclusion.

6.3.2 In the event any portion of this General Exclusion is found to be invalid or unenforceable, the remainder will remain in full force and effect.

6.3.3 This General Exclusion supersedes any other wording in the Policy or any General Exclusion thereto having a bearing on a Cyber Act, Cyber Incident or Data, and, if in conflict with such wording, replaces it.

6.3.4 If the Underwriters allege that by reason of this General Exclusion loss sustained by the Insured is not covered by this Policy, the burden of proving the contrary will be upon the Insured.

6.3.5 However, Clause 6.3.1.1 of this General Exclusion will not apply in respect of any actual or alleged liability for and/or arising out of:

6.3.5.1 any ensuing third party bodily injury (other than mental injury, mental anguish or mental disease); or



6.3.5.2 any ensuing physical damage to or destruction of third-party property

resulting from or arising out of a Cyber Incident, unless that Cyber Incident is caused by, contributed to by, resulting from, arising out of or in connection with a Cyber Act. Nothing contained in the foregoing will provide any coverage for any action taken in controlling, preventing, suppressing or remediating a Cyber Incident or a Cyber Act.

**6.4 FINES, PENALTIES, ETC.**

for fines, penalties, punitive , exemplary, aggravated or Constitutional damages.

**6.5 KNOWN EVENTS (Applicable to Claims Made Sections Only)**

arising out of any circumstance, matter or thing which the Insured may reasonably be expected to suppose may give rise to a claim against the Insured and known by the Insured to have occurred prior to the inception of this Policy.

**6.6. LEGISLATED COMPENSATION**

for any Injury where that Injury is the subject of any legislation, regulation or decree of whatsoever nature enacted to provide compensation or indemnity for any claim by a third party in respect of any death, bodily or mental injury, disfigurement, loss of amenities, illness or disease, and/or any mental anguish, shock, humiliation, emotional distress arising therefrom, of or to any person and including but not limited to any form of worker's compensation, occupational injury compensation or road accident compensation. This exclusion applies despite anything to the contrary contained in that legislation, regulation or decree. This exclusion also applies despite under that legislation, regulation or decree, no claim for compensation or indemnity is made, or for any other reason whatsoever, no or unsatisfactory compensation or indemnity or an allegedly unsatisfactory compensation or indemnity is paid, or no insurance is in force or has been effected, or in respect of which but for this Policy, compensation or indemnity would be payable.

**6.7 MOTOR VEHICLE LEGISLATION AND EMOTIONAL SHOCK**

for Injury where such Injury:

6.7.1 is the subject of legislation enacted for the purpose of providing compensation for loss or damage wrongfully caused by the driving of a motor vehicle, or

6.7.2 is the subject of legislation controlling the use of motor vehicles or trailers:

6.7.2.1 that compels the Insured to effect insurance or otherwise furnish security, or

6.7.2.2 whereby the State or other governmental authority has accepted responsibility;  
or

6.7.3 is suffered as a result of an emotional shock by a person other than an injured party on witnessing, observing or being informed of the injury of another person as a result of the driving of a motor vehicle.

This General Exclusion applies notwithstanding that no insurance under such legislation is in force or has been effected, or that compensation is not paid for any reason whatsoever.

## **6.8 NUCLEAR RISKS**

6.8.1 for loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss.

6.8.2 for 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 purposes of this General Exclusion only, combustion includes any self-sustaining process of nuclear fission.

This General Exclusion will not apply to liability arising from the ownership, possession or use by or on behalf of the Insured, of radioactive isotopes.

The indemnity provided by this Policy will 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.

## **6.9. OWN PROPERTY**

for Damage to any property owned by any insured parties under this Policy which surrounds, is adjacent to or connected to the subject works of a contract of erection, repair or maintenance or in the custody or control of any such insured parties for the purpose of executing such a contract. For purposes of this General Exclusion, property includes without limitation any permanent works, materials, site accommodation, constructional plant, machinery or equipment.

## **6.10 POLLUTION**

6.10.1 for Injury or Damage directly or indirectly caused by Pollution provided always that this General Exclusion 6.10.1 will not apply to liability for Injury or Damage where such Pollution is caused by a sudden, unintended and unexpected Occurrence;

6.10.2 for the cost of removing, nullifying or cleaning up the effects of Pollution unless the Pollution is caused by a sudden, unintended and unexpected Occurrence.

Nothing herein will be construed as extending this Insurance to indemnify the Insured for any liability which would not have been covered under this Insurance in the absence of this General Exclusion 6.10.

## **6.11 REASONABLE PRECAUTIONS**

arising out of the deliberate, conscious and intentional disregard by the Insured's management of the need to take reasonable precautions to prevent any event or circumstance which may give rise to a claim or mitigate losses arising out of such claim.

## **6.12 RETROACTIVE DATE**

arising from any Injury or Damage or event giving rise to pure financial loss (if cover is provided for loss not related to physical damage to property) occurring or alleged to have occurred prior to the applicable retroactive date stated in the Schedule.

### 6.13 **SANCTIONS**

And Insurers will not indemnify and Insurers will not be liable to pay any claim or provide any benefit hereunder where the indemnity, claim payment or provision of such benefit is contrary to the prohibitions, restrictions, trade or economic sanctions under the United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America or South Africa or other sanctions applicable to the Insurers or its Reinsurers, irrespective of enactment in the jurisdiction where indemnity or benefit is provided or payment made.

### 6.14 **UNLAWFUL COMPETITION**

any claim or claims whether actual or alleged howsoever arising in connection with or based upon or arising from or in any way involving actual or alleged unlawful competition, unfair practices, abuse of monopoly power, cartel activities or as may otherwise arise from or be based upon or relate to any breach of a provision of the Competition Act No. 89 of 1998 as amended or any similar provision, act or regulation as may be in force in any jurisdiction or country in which the Insured's liability arose.

### 6.15 **WAR AND TERRORISM RISKS**

for loss, damage, cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

6.15.1 war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or

6.15.2 any Act of Terrorism;

6.15.3 i) any Riot, Strike or Public Disorder, or any act or activity which is calculated or directed to bring about a Riot, Strike or Public Disorder, civil commotion or unrest, labour disturbance or lockout

ii) 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 provincial, local or tribunal authority with force by means of fear, terrorism or violence;

iii) any act which is calculated or directed in order to further any political, social, economic, religious or ideological aim, objective or cause or to bring about any political, social, religious, ideological or economic change, or in protest against any State or government, or provincial, local or tribunal authority, or for the purpose of inspiring fear in the public, or any section thereof;

iv) any attempt to perform any act referred to in sub-clauses i), ii) and iii) above;

v) theft of goods directly committed as part of the acts described in sub-clauses i) to iv) above;

vi) and, in addition to the above, any other perils as may be insurable under any cover offered by the Insurers, or its successors in title, from time to time.

6.15.4 the act of controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in 6.15.1 to 6.15.3 above.

If the Insurers allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance, the burden of proving the contrary will be upon the Insured.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder will remain in full force and effect.

**6.16. SEXUAL ABUSE OR MOLESTATION**

arising out of or from or in any way connected with:-

6.16.1 actual, threatened, alleged or attempted sexual relations, sexual abuse, sexual assault, sexual victimisation, sexual contact or intimacy , sexual harrasment, coercion to engage in sexual activities, sexual exploitation, stalking, grooming, seduction, molestation, unwelcome physical contact of a sexual nature or any resulting mental or emotional injury; or

6.16.2 the employment, investigation, supervision, reporting to the proper authorities or failure to investigate, supervise or report, or the retention of any employee, assistant, volunteer or member of any facility owned, operated or maintained by the Insured or on behalf of the Insured whose conduct would be excluded by 6.16.1.

## **7. GENERAL CONDITIONS**

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

### **7.2 ADJUSTMENT OF PREMIUM**

Where the premium is based provisionally on the Insured's estimates, the Insured must keep an accurate record containing all particulars relative thereto, and must as soon as possible after expiry of the Period of Insurance, provide the Insurers with such particulars and information as the Insurers may require to enable the Premium to be adjusted and any difference paid or allowed to the Insured as the case may be, subject to any minimum Premium that may apply. Where the estimates include remuneration to Employees, the required particulars will include remuneration to all persons defined as Employee.

Premium is payable on or before the inception date or renewal date as the case may be.

The Insurers are not be obliged to accept premium tendered to it after such date but may do so upon such terms as they, in their sole discretion, may determine.

The Insurers will not indemnify the Insured against any claim notified at a time when the Insured is in breach of its premium payment obligations.

### **7.3 CANCELLATION**

This Policy or any Section may be cancelled by the Insurers by giving 31 days' written notice of such cancellation or by the Insured giving immediate written notice.

The Insured will be entitled to a pro-rata refund premium of the unexpired Period of Insurance, subject to the terms of Condition 6, provided that Insurers have not been notified of any claim under the Policy or any circumstance, matter or thing which may give rise to a claim.

### **7.4 CESSION**

Neither this Policy nor any benefit, interest or right in this Policy or to any proceeds of the Policy may be ceded without the prior written consent of the Insurer.

### **7.5 CLAIMS**

7.5.1 In respect of Sections and Extensions on a losses occurring basis

7.5.1.1 the Insured must give notice to the Insurers as soon as reasonably practicable but in any event not later than 60 days after becoming aware of any Occurrence which the Insured may reasonably be expected to suppose may give rise to a claim under this Policy and must give all such additional information as the Insurers may require.

7.5.2 in respect of Sections and Extensions on a claims made basis

7.5.2.1 the Insured must give notice to the Insurers as soon as reasonably practicable of any claim made against the Insured.

7.5.2.2 the Insured must give notice to the Insurers as soon as reasonably practicable of any Occurrence which occurred subsequent to the Retroactive Date and prior to expiry of the Period of Insurance which the Insured may reasonably be expected to suppose may give rise to a claim against the Insured. Such notice having been given, any claim arising out of any such circumstance, matter or thing will be deemed to have been made during the Period of Insurance.

7.5.3 Every claim, writ, summons or other legal process and all documents relating to the Occurrence that may give rise to a claim must be forwarded to the Insurers immediately they are received by the Insured.

7.5.4 The Insurers will be entitled to investigate all and any matters which in their absolute discretion are relevant to the foregoing and the Insured will do all things necessary to enable the Insurers to investigate as aforesaid.

## 7.6 **CONDITIONS PRECEDENT**

The due observance and fulfilment of all of the terms, Exclusions, Conditions, and provisions of this Policy insofar as they relate to anything to be done or complied with by the Insured, including the Insured's management, and the truth of the statements and answers of any proposal and declaration are conditions precedent to any liability to the Insurers to make any payment under this Policy.

## 7.7 **FRAUDULENT CLAIMS, MEANS AND DEVICES**

If any claim or part thereof under this Policy is in any way fraudulent, or if any fraudulent means or devices are used by the Insured or any other person, whether on the Insured's behalf or not, to obtain any benefit under this Policy, whether successfully, or not, or if any event is caused by or arises out of the Insured's intentional conduct, or any person acting on the Insured's behalf with the Insured's connivance; and/or

If any fraudulent information and/or documentation, whether created by the Insured or any other party is provided by the Insured or any other person, whether on the Insured's behalf or not, in substantiation or support of any claim under this Policy and whether or not the claim, or any component thereof, itself is fraudulent; and/or

If the quantum, in whole or part, of any claim is exaggerated by any degree whatsoever by the Insured or any other person, whether on the Insured's behalf or not, for any reason whatsoever and whether or not the claim, or any component thereof, itself is fraudulent;

then

Any and all benefits afforded in terms of this Policy in respect of the whole of such claim will be forfeited and the Insurers will have no liability whatsoever in respect of the whole of such claim in its totality.

In such cases the Insurers are also entitled to cancel this Policy, or any section thereof, with effect from midnight on the day before any events which give rise to the claim first occurs.

The Insurers will also be entitled to recover anything paid or provided to the Insured after that date without any obligation to refund any premium paid by the Insured.

## **7.8 INSURED'S DUTIES**

The Insured must at all times

- 7.8.1 comply with all statutory requirements relevant to the Business. This Condition will not apply to Section LDC Statutory Legal Defence Costs.
- 7.8.2 take all reasonable precautions to prevent any circumstance, matter or thing which may give rise to a claim under this Policy, and to mitigate any loss.

## **7.9 INSURERS' RIGHTS AFTER AN EVENT**

The Insured must not without the consent in writing of the Insurers make any admission, offer, promise or payment in connection with any claim against the Insured or circumstance or other matter or thing which may give rise to a claim under this Policy.

The Insurers will be entitled but not obliged to take over and conduct in the name of the Insured the settlement or defence of any claim or to prosecute in the name of the Insured for their own benefit any claim for indemnity or damages or otherwise and will have full discretion in the conduct of any proceedings and in the settlement of any claim. The Insured must make available such information and afford access to such records as the Insurers may require.

## **7.10 INTERPRETATION**

The Policy is subject to the laws of the Republic of South Africa and any disputes in respect of the interpretation of this Policy are subject to the exclusive jurisdiction of the High Court of South Africa. When any dispute arises the parties may agree to arbitrate that dispute.

## **7.11 MANIFESTATION CLAUSE**

Where it is not otherwise possible to determine the date of Occurrence (and thereby the applicable Period of Insurance) an Occurrence, irrespective of its duration, is deemed to have occurred during the Period of Insurance when loss, Injury or Damage first manifested even if the specific and common originating cause or source was unknown at that time.

## **7.12 MATERIAL FACTS**

The Insured must give notice in writing to the Insurers as soon as reasonably practicable of any material variation in any of the facts, or information supplied to the Insurers by or on behalf of the Insured at the time this Policy was effected or renewed. The Insurers may amend the terms of this Policy according to the materiality of such information.

## **7.13 MISREPRESENTATION, MISDESCRIPTION AND NON-DISCLOSURE**

Misrepresentation, misdescription or non-disclosure in any material particular will 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.

## 7.16 ONLY ONE SECTION

Each Section of this Policy excludes any liability more specifically indemnified by any other Section.

## 7.17 RELINQUISHMENT OF CLAIMS

The Insurers may at any time pay to the Insured in connection with any claim or series of claims under the Policy the appropriate Limit of Indemnity after deduction of sums already paid or any lesser amount for which such claim can be settled, plus Costs and Expenses incurred prior to the date of such payment, provided that the total amount so payable including such Costs and Expenses will not exceed the Limit of Indemnity. Upon payment being made the Insurers will relinquish the conduct and control of and be under no further liability to the Insured in connection with such claims.

## 7.18 SECTIONS AND EXTENSIONS

Only Sections and Extensions indicated in the Schedule of Limits of Indemnity to be applicable are indemnified under this Policy.

## 7.19 Premium Payment Terms

7.19.1 Indemnity under this Policy is conditional upon payment of the premium and receipt thereof by the Insurer as per Conditions 7.19.3 and 7.19.4 below (the "Due Date"). If the premium has not been received by the Insurers on the Due Date, this Policy will be deemed to be cancelled from inception thereof.

7.19.2 The premium will remain the same for the full Period of Insurance unless the Insured elects to amend the Limits of Indemnity and/or the types of cover provided and provided that all material information has been disclosed to Insurers fully and accurately. Insurers may amend the terms of this Policy upon any material variation in any of the facts or information supplied to the Insurers by or on behalf of the Insured at the time this Policy was effected or renewed.

7.19.3 Should the Insured elect to pay the premium by way of a once off annual payment the following terms will apply:

- a. The premium shall be payable in advance to Insurers and shall be a condition precedent to inception of this Policy.
- b. Should the Insurers not receive the premium by the date of inception of this Policy, this Policy shall continue in full force and effect for a period of 45 days from the date of inception thereof ("Annual Grace Period") to allow for payment of the premium by the Insured. Should payment not be received by Insurers within the Annual Grace Period, this Policy shall be deemed to be cancelled from inception thereof.
- c. Reinstatement of this Policy is at the sole discretion of the Insurers.
- d. In the event of notification of any claim against the Insured or any Occurrence occurring during the Annual Grace Period but before the premium has been received by the Insurers, the Insurers reserve the right to cease all activity on such claim and any outstanding matters will then become the responsibility of the Insured. The Insured will be required to first settle the outstanding premium before the claim will be processed by Insurers.
- e. Should the Annual Grace Period expire without premium having been received by Insurers, any payments that have been made by Insurers on any claims may be recovered from the Insured.
- f. Subject otherwise to the terms, Exclusions, Conditions and limitations of the Policy.

7.19.4 Should the Insured elect to pay premium by way of monthly instalments the following terms will apply:

- a. The monthly instalment shall be payable in advance to Insurers on the 1st or 15th day of each month, as per the debit order authority granted by the Insured. If the Insured notifies Insurers of a claim or Occurrence, all outstanding monthly instalments shall become immediately due and payable.



- b. In the event of the non-payment of any premium, this Policy shall continue in full force and effect until the date of the next monthly debit order collection ("Monthly Grace Period") to allow for payment of the missed instalment. Two months' premium instalments will be collected during the next monthly debit order collection. Should this double debit return unpaid, this Policy shall be deemed to be cancelled on the last day of the last month for which an instalment was received by Insurers.
- c. Reinstatement of this Policy is at the sole discretion of the Insurers.
- d. In the event of notification of any claim against the Insured or any Occurrence occurring during the Monthly Grace Period, Insurers reserve the right to cease all activity on such claim and any outstanding matters will then become the responsibility of the Insured. The Insured will be required to first settle the outstanding premium before the claim can be processed.
- e. There is no Monthly Grace Period applicable to the first monthly instalment.
- f. Subject otherwise to the terms, Exclusions, Conditions and limitations of the Policy.

**SECTION PL - PUBLIC LIABILITY**  
**(only if stated in the Schedule to be included)**

**PL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and/or arising out of Injury and/or Damage but not against claims arising out of or in connection with the nature or condition of any Product.

**PL2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**PL2.1 EMPLOYEE**

for Injury to any Employee where Injury arises from and in the course of employment.

**PL2.2 VEHICLES**

arising out of the ownership, possession or use by or on behalf of the Insured of any Vehicle other than claims:

PL2.2.1 caused by the use as a tool of trade of any vehicle or of plant forming part of or attaching to or used in connection with any vehicle.

PL2.2.2 arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any Vehicle.

PL2.2.3 arising out of any Vehicle temporarily in the Insured's custody or control using parking facilities gratuitously provided by the Insured.

PL2.2.4 arising out of any Vehicle on the Insured's premises which Vehicle is not subject to motor vehicle registration provided the Insured is not indemnified by any motor policy.

PL2.2.5 arising out of the possession or use by or on behalf of the Insured of any Vehicle the property of Transnet Limited while being used by the Insured at any railway siding.

PL2.2.6 in respect of any trailer not attached to and not having become unintentionally detached from any mechanically propelled vehicle.

PL2.3 AIRCRAFT/WATERCRAFT

arising out of the ownership, possession or use by or on behalf of the Insured of any aircraft, watercraft or hovercraft (other than watercraft not exceeding 15,25 metres in length and then only whilst on inland waterways).

PL2.4 PROPERTY

for Damage to property owned, leased or hired by or under hire purchase or on loan to the Insured or otherwise in the Insured's care, custody or control other than:

PL2.4.1 premises (or the contents thereof) temporarily occupied by the Insured for work therein, or other property temporarily in the Insured's possession for work thereon. (but no indemnity is granted for Damage to that part of the property on which the Insured is working and which arises out of such work).

PL2.4.2 directors' employees' partners' members' and visitors' clothing and personal effects.

PL2.4.3 property of Transnet Limited.

PL2.4.4 premises tenanted by the Insured for which the Insured is responsible.

PL2.5 REMOVAL OF SUPPORT

for loss of or damage to property caused by dewatering operations or by the removal or weakening of or interference with support to such property.

PL2.6 DESIGN, FORMULA ETC

arising out of design, formula, specification, supervision, treatment or advice given by or on behalf of the Insured.

PL2.7 AIRPORTS, AIRSTRIPS AND HELIPADS

arising out of the ownership, hire, leasing or operation of any airport, airstrip or helicopter pad by or on behalf of the Insured other than airstrips and helicopter pads which are not equipped with control tower operation.

### **PL3. SPECIFIC EXTENSIONS**

#### **PL3.1 CARE, CUSTODY AND CONTROL (only if stated in the Schedule to be included)**

Notwithstanding Specific Exclusions PL 2.4 above, the indemnity provided by this Section is extended to indemnify the Insured against liability for property, other than Vehicles, temporarily in the Insured's possession for storage insofar as such property is not the subject of any material damage policy available to the Insured and provided that the Insurers' liability will not exceed the limit for Care, Custody and Control stated in the Schedule of Limits of Indemnity.

#### **PL3.2 LATERAL SUPPORT EXTENSION only if stated in the Schedule to be included)**

Notwithstanding anything to the contrary contained in Specific Exclusion 2.5 the indemnity granted by this Policy includes claims for and/or arising out of loss of or damage to property caused by dewatering operations or by the removal of or weakening of or interference with support to such property.

#### **PL3.3 LOSS OF DOCUMENTS only if stated in the Schedule to be included)**

The Insured is indemnified by this Section in accordance with the Operative Clause as a direct consequence of Damage to Documents occurring during the Period of Insurance but excluding any such liability arising out of costs involved in re-shooting films and videos or re-recording audio tapes, or out of Documents relating to the activities of the Insured as customs clearing and forwarding agents

#### **PL3.4 GOODS ON THE HOOK (only if stated in the Schedule to be included)**

This Section is extended to indemnify the Insured against all sums that the Insured is or will become legally liable to pay arising out of Damage to any property being lifted, lowered or otherwise moved by a crane or lifting device.

Provided that the Insurer's liability will not exceed the limit for Goods on the Hook stated in the Schedules of Limits of Indemnity and Deductibles.

**SECTION PR - PRODUCTS LIABILITY**  
**(only if stated in the Schedule to be included)**

**PR1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the period of Insurance for and/or arising out of Injury and/or Damage but only against claims arising out of or in connection with the nature or condition of any Product.

**PR2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**PR2.1 KNOWN DEFECTS**

for any defect in any Product of which the Insured was aware prior to inception of this Policy.

**PR2.2 PRODUCT REPLACEMENT**

for the cost of repair, reconditioning or replacement of any defective Product and/or loss of use of any Product or part thereof but this Exclusion will not apply to any part or parts of the Products free of any such defect.

For the purposes of this Exclusion the term "replacement" includes any credit or refund granted or alternative Product provided by or on behalf of the Insured in lieu of replacement of the defective Product.

**PR2.3 PRODUCT RECALL**

for costs incurred by the Insured in the recall of any Product or part thereof.

**PR2.4 INEFFICACY**

arising out of the failure of any Product or any part thereof to fulfil its intended function or to perform as specified warranted or guaranteed but this Exclusion will not apply to consequent Injury or Damage.

**PR2.5 AVIATION PRODUCTS**

arising out of any Product which with the Insured's knowledge is intended for incorporation into the structure, machinery or controls of any aircraft.

**PR2.6 EXPORTS TO NORTH AMERICA**

arising out of any Product (including any marketing advisory service in connection with any Product) within or en route to North America where such Product was to the knowledge of the Insured intended for sale or resale in North America.

In any action, suit or other proceedings where the Insurers allege that by reason of the provisions of this Specific Exclusion any liability is not covered by this Section, the burden of proving that such liability is covered will be upon the Insured.

PR2.7 DESIGN ETC NOT IN CONNECTION WITH A PRODUCT

arising out of design, formula, specification, treatment or advice by or on behalf of the Insured unless in connection with a Product.

**PR3. SPECIFIC EXTENSIONS**

**PR3.1 INEFFECTICACY (only if stated in the Schedule to be included)**

Notwithstanding anything to the contrary contained in Exclusion PR2.4 in the event of any claimant alleging that they have suffered economic loss by reason of tangible property (other than the Insured's Products) being:

- (a) rendered of less value
- (b) rendered incapable of full commercial benefit

due or alleged (other than by the Insured) to be due to the failure of the Insured's Products to perform as specified, warranted or guaranteed and/or to fulfil their intended function then the Insurers hereby agree that they will not raise as a defence to granting indemnity by this Policy that no damage (as envisaged by the Operative Clause of this Policy) has occurred.

**PR3.2 MITIGATION EXPENSES (only if stated in the Schedule to be included)**

PR3.2.1 Notwithstanding anything contained in this Policy to the contrary, the Insured will be permitted to incur costs whether by cash payment or goods and/or services supplied (hereinafter referred to as Expenses) following an event which may be the subject of a claim hereunder provided that the Insured must not increase their potential legal liability arising from the event and the Insurers will only reimburse such Expenses:

PR3.2.1.1 following satisfactory evidence that the event from which liability flows is indemnifiable in terms of the cover provided by this Section;

PR3.2.1.2 following satisfactory evidence that such Expenses did not form part of an admission of liability or that such Expenses in all the circumstances prevented or avoided a possible claim hereunder in excess of the amounts so paid;

PR3.2.1.3 if the Insured secures a full discharge of all and/or any liabilities arising from the event had such Expenses not been incurred or can prove to the satisfaction of the Insurers that in all circumstances obtaining such discharge was likely to provoke a claim hereunder;

PR3.2.1.4 which exceed the amount to be borne by the Insured, if any, applicable to the event from which liability could have arisen.

PR3.2.2. The Insured must advise the Insurers in writing of any Expenses before such Expenses are incurred by the Insured, and if the Insurers so direct, the Insured must seek legal advice and comply therewith, as to the manner in which such Expenses are to be incurred by the Insured. Such legal costs will be deemed to be Expenses for the purpose of this Specific Extension.

PR3.2.3. The Insurer's liability will not exceed the limit for Mitigation Expenses stated in the Schedule of Limits of Indemnity and Deductibles.

The Insurers hereby agree that they will not raise as a defence to granting indemnity hereunder that no Injury or Damage has occurred.

**PR3.3 NORTH AMERICAN EXPORTS (only if stated in the Schedule to be included)**

Notwithstanding anything to the contrary contained in Specific Exclusion PR2.6 and subject to the application of the North American Extension Clause, the Insured is indemnified in accordance with the Operative Clause for and/or arising out of Injury and/or Damage but only against claims arising out of or in connection with the nature or condition of any Product exported to and which occurs within North America.

**SECTION EL - EMPLOYERS LIABILITY**  
**(only if stated in the Schedule to be included)**

**EL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and/or arising out of Injury to any Employee arising from and in the course of employment.

**EL2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:-

- EL2.1 arising out of or related to or in respect of any occupational, industrial, employment-related disease caused by or contributed to by or precipitated by prolonged or repeated exposure to substances of any sort, factors or circumstances peculiar to any industry, particular employment, occupation, workplace or working environment.
- EL2.2 arising out of liability assumed by the Insured by agreement unless such liability would have attached to the Insured in the absence of such agreement.

**EL3. SPECIFIC EXTENSIONS**

EL3.1 EMPLOYEE TO EMPLOYEE **(only if stated in the Schedule to be included)**

The indemnity granted will at the Insured's option extend to any Employee of the Insured in respect of liability to any other Employee whilst acting within the scope of their employment by the Insured.



EL3.2 SIMRAC LEVY **(only if stated in the Schedule to be included)**

The Indemnity under this Section of the Policy extends to include any SIMRAC levy that the insured will become legally liable to pay under contract following Injury to an Employee/s during the course of employment at a mine.

The liability of the Insured will be limited to the levy imposed by the SIMRAC (Safety In Mines Research Advisory Committee) established by the Mine Health and Safety Council in terms of section 42 of the Mine Health and Safety Act, No. 50 of 1996, as amended, or its successor legislation.

The indemnity provided by this extension is limited to the amount specified in the Schedule.

**STATUTORY LEGAL DEFENCE COSTS**  
**(only if stated in the Schedule to be included)**

**LDC1. INDEMNITY**

The Insured or any Employee of the Insured is indemnified by this Section for the reasonable costs and expenses incurred with the Insurer's prior written consent (which consent will not be unreasonably withheld) in the defence of any prosecution of the Insured or any Employee of the Insured, first prosecuted during the Period of Insurance, for a breach or alleged breach of:

LDC1.1.           The Occupational Health and Safety Act No. 85 of 1993; or

LDC1.2.           The Consumer Protection Act, No.68 of 2008

committed during the Period of Insurance arising out of the performance of the Business.

**LDC2. SPECIFIC EXCLUSIONS**

This Section does cover liability:

1.     for any fines or penalties imposed as a consequence of prosecution; or
2.     for any breach that occurred or is alleged to have occurred prior to the Retroactive Date stated in the Schedule.

**SECTION WA - WRONGFUL ARREST AND DEFAMATION**  
**(only if stated in the Schedule to be included)**

**WA1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance as a direct result of:

WA1.1 wrongful arrest, including assault in connection therewith;

WA1.2 defamatory statements whether written or oral made by the Insured.

**WA2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

UNFAIR LABOUR PRACTICE

arising out of any actual or any alleged unfair labour practice as contemplated by the Labour Relations Act 66 of 1995 (and amended) or any Act passed in substitution thereof or similar legislation in any other territory.

**SECTION ADL - ADVERTISING LIABILITY**  
**(only if stated in the Schedule to be included)**

**ADL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and/or arising out of the Insured's advertising activities for defamation or invasion of rights of privacy.

**ADL2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**ADL2.1 PERFORMANCE OF CONTRACT**

arising out of failure of performance of contract.

**ADL2.2 INFRINGEMENT OF TRADEMARK**

arising out of infringement of trademark, service mark or trade name, other than titles or slogans, by use thereof on or in connection with goods or services sold, offered for sale or advertised.

**ADL2.3 INCORRECT ADVERTISING**

arising out of incorrect description, or mistake in advertising price of goods or products sold, offered for sale or advertised.

**SECTION CL - CONTRACTORS LIABILITY (CAPEX)  
(only if stated in the Schedule to be included)**

**CL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and arising out of Injury or Damage occurring during the Period of Insurance solely in connection with the Insured's Contracting Activities.

Solely for the purpose of this Section "Contracting Activities" means repairs, maintenance, alterations, incidental extensions or additions to the Insured's existing property executed by or on behalf of the Insured where the contract value or the budgeted cost at the inception of the contract does not exceed RXXXX any one contract.

**CL2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**CL2.1 EMPLOYEE**

for Injury to any Employee where Injury arises from and in the course of employment.

**CL2.2 VEHICLES**

arising out of the ownership, possession or use by or on behalf of the Insured of any Vehicle other than claims:

CL2.2.1 caused by the use as a tool of trade of any Vehicle or of plant forming part of or attaching to or used in connection with any Vehicle;

CL2.2.2 arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any Vehicle;

CL2.2.3 arising out of any Vehicle temporarily in the Insured's custody or control using parking facilities gratuitously provided by the Insured;

CL2.2.4 arising out of any Vehicle on the Insured's premises which Vehicle is not subject to motor vehicle registration provided the Insured is not indemnified by any Motor Policy;

CL2.2.5 arising out of the possession or use by or on behalf of the Insured of any Vehicle the property of Transnet Limited, government or quasi-government departments, provincial administrations, municipalities and/or similar bodies to the extent of any requirement by Statute or statutory regulation;

CL2.2.6 in respect of any trailer not attached to and not having become unintentionally detached from any mechanically propelled Vehicle.

CL2.3 AIRCRAFT/WATERCRAFT

arising out of the ownership possession or use by or on behalf of the Insured of any aircraft or watercraft (other than watercraft not exceeding 15,25 metres in length and then only whilst on inland waterways).

CL2.4 PROPERTY

for Damage to property owned, leased or hired by or under hire purchase with or on loan to the Insured or otherwise in the Insured's care, custody or control other than:-

CL2.4.1 premises occupied or tenanted by the Insured;

CL2.4.2 premises temporarily occupied by the Insured for work therein;

CL2.4.3 directors', employees' and visitors' clothing or personal effects;

CL2.4.4 property temporarily in the Insured's possession for work thereon, but excluding that part of the property on which the Insured is working and which arises out of such work;

CL2.4.5 damage to Vehicles and their contents and accessories, the property of tenants, customers, visitors or employees of the Insured using parking facilities provided by the Insured;

CL2.4.6 for Damage to property belonging to Transnet Limited while in the Insured's custody or control.

CL2.5 REMOVAL OF SUPPORT

for loss of or damage to property caused by dewatering operations or by the removal or weakening of or interference with support to such property.

CL2.6 FAULTY WORKMANSHIP

for the cost of making good faulty workmanship or materials or design in any property or the cost of recalling such property arising out of formula, design, specification, supervision, treatment or advice given for a fee by or on behalf of the Insured.

CL2.7 CONTRACT

arising out of the existence of any contract or agreement and for which the Insured would not be liable in the absence of such contract or agreement.

CL2.8 AIRPORTS AIRSTRIPS AND HELIPADS

arising out of the ownership, hire, leasing or operation of any airport, airstrip or helicopter pad by or on behalf of the Insured other than airstrips and helicopter pads which are not equipped with control tower operation or navigational aids.

**CL3      SPECIFIC CONDITIONS**

**CL3.1      UNDERGROUND SERVICES**

The Insured must take all reasonable and practical steps to establish the precise location of all underground services which may be affected by the execution of the Contracting Activities.

**CL3.2      USE OF EXPLOSIVES**

Where the Insured owns, uses or is in possession of explosives they must at all times comply with the Explosives Acts No. 26 of 1956, and no 15 of 2003, as amended and its regulations or any amendment thereof or any Act issued in substitution thereof.

**SECTION MM –MEDICAL MALPRACTICE (FIRST AID ONLY)**  
**(only if stated in the Schedule to be included)**

**MM1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and in consequence of death or bodily injury or mental injury to or disease sustained by any person caused by or alleged (other than by the Insured) to be caused by Medical Malpractice

**MM2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**MM2.1 CRIMINAL ACTS**

arising out of any criminal act or any act committed while in violation of any law or ordinance.

**MM2.2 INTOXICATION**

arising out of services rendered while under the influence of intoxicants or narcotics.

**MM2.3 FEES**

arising out of services rendered in exchange for a fee.

**MM2.4 DISHONESTY**

arising out of any dishonest or malicious act or omission of the Insured or any persons acting on behalf of the Insured.

**MM2.5 CONTRACTUAL**

arising out of liability assumed under a specific term of a contract or agreement which would not have existed in the absence of such specific term.

**MM2.6 CLINICAL TESTS**

arising out of clinical tests or trials of drugs not carried out in compliance with the terms of the Medicines and Related Substances Act No. 101 of 1965 or similar legislation.

**MM2.7 SURGERY, GYNAECOLOGY, OBSTETRICS & HEALTH CARE/TREATMENT OF MINORS**

for any liability arising from surgery, gynaecology, obstetrics and the health care/treatment of minors.

**MM2.8 FAILURE TO DIAGNOSE OR AN INCORRECT DIAGNOSIS**

for any liability arising from the failure to diagnose or an incorrect diagnosis.



MM2.9 SEPARATE MEDICAL MALPRACTICE INSURANCE

arising out of Medical Malpractice by any medical practitioners in their professional capacities as such for which such medical practitioners would be entitled to indemnity under any other more specific insurance or from the Medical Protection Society or similar body.

MM2.10 PREGNANCY

arising out of acts, errors or omissions in any way relating to pregnancy, delivery of infants, pre-natal care or post-natal care.

**SECTION GA - GRATUITOUS ADVICE**  
**(only if stated in the Schedule to be included)**

**GA1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and in consequence of the unintentional failure by the Insured to perform their legal duty to exercise due care owed to another person or party in providing technical information or advice to such person or party.

**GA2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**GA2.1 INSOLVENCY**

arising out of the insolvency of the Insured.

**GA2.2 FINANCIAL SERVICES**

arising out of financial services and/or cost estimates provided by or on behalf of the Insured.

**GA2.3 DEFAMATION**

arising out of defamation.

**GA2.4 DESIGN, FORMULA ETC**

arising out of design, formula, supervision, treatment or advice given by or on behalf of the Insured in exchange for a fee.

**GA2.5 PRODUCTS**

arising out of advice given in connection with the Insured's Product.

## **SECTION IFC - INFRINGEMENT OF COPYRIGHT**

**(only if stated in the Schedule to be included)**

### **IFC1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and/or arising out of claims resulting from infringement of copyright or patent rights.

### **IFC2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

#### **IFC2.1 CONTRACTUAL LIABILITY**

assumed by the Insured by agreement unless such liability would have attached to the Insured in the absence of such agreement.

#### **IFC2.2 PROFESSIONAL DUTY**

arising out of any act, error, neglect or omission amounting to a breach of professional duty in terms of the Business named in the Schedule.

#### **IFC2.3 BREACH OF AUTHORITY/TRUST**

arising out of any breach of implied warranty of authority or of trust committed in good faith.

#### **IFC2.4 DEFAMATORY STATEMENTS**

arising out of defamatory statements whether written or oral made by the Insured.

**PEL - PURE ECONOMIC LOSS**  
**(only if stated in the Schedule to be included)**

**PEL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for delictual liability arising from the negligence of the Insured other than in relation to Professional Services in the course of the Business:

**PEL2 SPECIFIC EXCLUSIONS**

This section does not cover liability:

PEL2.1 arising directly or indirectly from:

PEL2.1.1 INJURY / DAMAGE

injury or damage caused to the claimant's person or property;

PEL2.1.2 AGREEMENT

an agreement if such liability would not have attached in the absence of such agreement;

PEL2.1.3 DISHONESTY

any act or omission involving an element of dishonesty;

PEL2.1.4 BREACH OF CONTRACT

any contract or breach of contract;

PEL2.1.5 BREACH OF COPYRIGHT

any breach of copyright, patent, licence, trademark, trade name, trade secret or any anti trust or monopoly legislation;

PEL2.1.6 DEFAMATION

defamation

PEL2.1.7 FUNDS

the misuse or misappropriation of funds;

PEL2.1.8 FAILURE TO SUPPLY

delay in executing or not executing or incorrectly executing a contract of supply;

PEL2.1.9 MISREPRESENTATION

any negligent misrepresentation made by the Insured or the Insured's agent or servant where such misrepresentation was made in the course of contractual negotiations or where such misrepresentation induced a contract;

PEL2.1.10 ENTREPRENEURIAL RISK/DECISION

any entrepreneurial risk or entrepreneurial decision;

PEL2.1.11 PRODUCTS LIABILITY

from the nature or condition of, the costs incurred in the repair, reconditioning, modification or replacement or the recall of any Product or part thereof or the failure of any Product or any part thereof to fulfill its intended function or to perform as specified, warranted or guaranteed;

PEL2.1.12 STRIKES/PROTESTS

out of Strikes, protests or disturbances by the Insured's employees;

PEL2.1.13 TRUSTEES LIABILITY

or in any way involving the Insured in a capacity as trustee, fiduciary under law or administrator of any pension or welfare plan, profit sharing, share option, share incentive scheme or trust established in whole or in part for the benefit of any of the directors, officers or Employees of the Insured.

PEL2.2 to any:

PEL2.2.1 EMPLOYEES/SHAREHOLDERS/AFFILIATES ETC.

PEL2.2.1.1 Employee, agent or servant of the Insured who was such an Employee, agent or servant of the Insured at the time when the liability was incurred or at any time thereafter;

PEL2.2.1.2 shareholder, partner, director or other person having a financial interest in the Insured, who was such a shareholder, partner, director or other person at the time when the liability was incurred or at any time thereafter;

PEL2.2.1.3 legal persona who is associated, affiliated or related to the Insured and who sustains a loss by virtue of or arising out of such association, affiliation or relationship.

## **SECTION CPHL - CONTINGENT PLANT HIRE LIABILITY**

**(only if stated in the Schedule to be included)**

### **CPHL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause arising out of loss or damage to hired in plant occurring within the Territorial Limits during the Period of Insurance in the event of the Insured inadvertently failing to purchase appropriate plant all risks and/or plant hire insurance.

### **CPHL2. SPECIFIC EXTENSION**

This Section includes liability in respect of continuing hire charges consequent upon loss or damage to hired-in plant in terms of any hire agreement entered into by or on behalf of the Insured

### **CPHL3. SPECIFIC EXCLUSIONS**

This Section does not cover liability:-

#### **CPHL3.1 CONTRACTUAL CONDITIONS**

arising out of conditions of hire more onerous than those imposed by the standard hire agreement of the Contractors Plant Hire Association or similar agreement.

#### **CPHL3.2 CONFISCATION NATIONALISATION**

arising out of the confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government, public or local authority.

**SECTION CL - CARRIERS' LIABILITY**  
**(Third Party Financial Loss)**  
**(only if stated in the Schedule to be included)**

**CL1 INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for Third Party Financial Loss for which the Insured is legally liable arising out of Damage to goods or merchandise during the loading, transit, carriage, unloading or discharge of such goods and/or merchandise by the Insured.

**CL2 DEFINITION**

For the purposes of this section "Third Party Financial Loss" means pure economic loss, consequential or indirect financial losses suffered by the owner of the goods or merchandise in transit or being loaded, carried, unloaded or discharged by the Insured or a party who has title to such goods or merchandise.

**CL3 SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**CL3.1 PROPERTY**

for Damage to tangible property.

**CL3.2 ILLEGAL SALE**

for the wilful or negligent illegal sale of property in the custody and control of the Insured.

**CL3.3 DISHONESTY**

for dishonesty of the Insured's Employees or persons to whom property in the custody and control of the Insured is entrusted.

**CL3.4 VEHICLES**

arising out of the ownership, possession or use by or on behalf of the Insured of any Vehicle, or any Vehicle in the custody or control of the Insured.

**CL3.5 DOCUMENTS**

for damage to or destruction of account bills, currency, deeds, evidences of debts, money, notes or securities in the custody and control of the Insured.

**CL3.6 DAMAGE**

for Damage to goods being loaded, carried, warehoused, offloaded or discharged by or on behalf the Insured.

**CL3.7 AGREEMENT**

assumed by agreement unless liability would have attached to the Insured notwithstanding such agreement.

CL3.8 PENALTIES

for contractual penalties, pre-estimated liquidated damages, demurrage and dead-freight.

CL3.9 OTHER INSURANCE

for any consequential or indirect loss or liability insured by or which may be insured by any or all other Sections of this Policy or by a products liability, professional indemnity or warehouseman's liability insurance policy, or for which a material damage policy is available to the Insured.



**SECTION WHM – WAREHOUSEMAN’S LIABILITY**  
**(Third Party Financial Loss)**  
**(only if stated in the Schedule to be included)**

**WHM1 INDEMNITY CLAUSE**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for Third Party Financial Loss for which the Insured is legally liable arising out of Damage to goods or merchandise whilst being warehoused by the Insured.

**WHM2 DEFINITION**

For the purposes of this section Third Party Financial Loss means pure economic loss, consequential or indirect financial losses suffered by the owner of the goods or merchandise being warehoused by the Insured or a party who has title to such goods or merchandise.

**WHM3 SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**WHM3.1 PROPERTY**

arising out of Damage to tangible property.

**WHM3.2 SALE**

arising out of the sale whether legal or illegal of any goods or merchandise.

**WHM3.3 DISHONESTY**

arising out of dishonesty of the Insured’s Employees or any persons to whom the warehousing, care, custody or control of any goods or merchandise is entrusted.

**WHM3.4 VEHICLES**

arising out of the ownership or use by or on behalf of the Insured of any Vehicle, or any Vehicle in the custody or control of the Insured other than vehicles not requiring statutory registration.

**WHM3.5 DOCUMENTS**

arising out of Damage to or destruction of account bills, currency, deeds, evidences of debts, money, notes or securities being warehoused or otherwise in the custody and control of the Insured.

**WHM3.6 DAMAGE**

arising out of Damage to goods and merchandise being loaded, carried, warehoused, offloaded or discharged by or on behalf the Insured.

### WHM3.7 AGREEMENT

arising out of any agreement which assumes liability unless liability would have attached to the Insured notwithstanding such agreement.

### WHM3.8 OTHER INSURANCE

This Section does not indemnify any consequential loss or liability insured by or which may be insured by any or all other Sections of this Policy or by a products liability, professional indemnity or carrier's liability insurance policy, or for which a material damage policy is available to the Insured.

**SECTION XOL - EXCESS OF LOSS LIABILITY**  
**(only if stated in the Schedule to be included)**

**XL1. INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of Injury to persons and/or Damage caused by or through or in connection with any event for which indemnity is provided in terms of the Schedule of Underlying Insurances.

**XL2. SPECIFIC EXCLUSIONS**

This Section does not grant Indemnity in respect of claims:

- XL2.1 which form the subject of indemnity by the Underlying Insurances but are uninsured by the Underlying Insurance by virtue of any excess and/or deductible clause there under or which do not form the subject of indemnity by the Underlying Insurances;
- XL2.2 which form the subject of any extension to the Underlying Insurances where the liability of Insurers under such extension is less than the Indemnity Limit of the Underlying Insurance specified in the Schedule of Underlying Insurances.

**XL3. SPECIFIC CONDITIONS**

XL3.1 CONDITIONS AGREEMENT

The following are conditions precedent to the granting of indemnity by the Insurers under this Section:

- XL3.1.1 the Underlying Insurances are warranted to be in force throughout the currency of this Policy for not less than the Indemnity Limits shown;
- XL3.1.2 any alteration to the terms, exclusions or conditions of any of the Underlying Insurances must be disclosed immediately in writing to the Insurers of this Policy and their written confirmation obtained of continuation of cover under this Section.

XL3.2 EXHAUSTION CLAUSE

In the event of reduction or exhaustion of any aggregate limit of indemnity under the Underlying Insurances by reason of claims paid thereunder, this Section will:

- XL3.2.1 in the event of reduction pay the excess of the reduced underlying limit;
- XL3.2.2 in the event of exhaustion continue in force as underlying insurance;

provided always that the liability of the Insurers will not be increased beyond the Limit of Indemnity.

XL3.3 ADMISSION OF LIABILITY

liability to pay under this Section will not attach unless and until the Insurers of the Underlying Insurances will have paid or have admitted liability or have been held liable to pay the full amount of their indemnity.

XL3.4 CONSENT OF INSURERS

in the event of a claim arising to which the Insurers hereon may be liable to contribute no costs may be incurred on their behalf without their written consent being first obtained (such consent not to be unreasonably withheld). No settlement of a claim may be effected by the Insured for such a sum as will involve this Section without the written consent of Insurers hereon.

XL3.5 NOTIFICATION OF CLAIMS

The Insured must notify the Insurers in writing as soon as reasonably possible of

XL3.5.1 any claim made against the Insured; or

XL3.5.2 the discovery of any event, occurrence or circumstance which is payable under or which is likely to give rise to a claim under the Underlying Insurances.

XL3.6 RECOVERIES

all recoveries or payments recovered or received subsequent to a loss settlement under this Section will be applied as if recovered prior to such settlement and all necessary adjustments will then be made between the Insured and the Insurers provided always that nothing in this Section will be construed to mean that loss settlements under this Section are not payable until the Insured's ultimate net loss has been finally ascertained.

XL3.7 UNDERLYING INSURANCES

except as otherwise provided herein this Section is subject to the same terms exclusions conditions and definitions as the Underlying Insurances.

XL3.8 UNDERLYING INSURANCE BASIS OF INDEMNITY

Insurers agree to follow the insuring clause of any appropriate underlying insurance to determine the basis of indemnity, being either:

XL3.8.1 a claim or claims as a result of an Occurrence happening during the period of Insurance "Occurrence Basis; or

XL3.8.2 a claim or claims first made against the Insured during the period of Insurance "Claims Made Basis".

For the purpose of this clause, the interpretation of the underlying insuring clause will be the decision of Insurers hereon, not of the underlying insurers. If the underlying insurance is on a "Claims Made Basis", Insurers hereon will deal with any claim arising out of an event or circumstance first notified during the Period of Insurance as if the claim had been made during such period.

**SECTION PCC – POLLUTION CLEAN-UP COSTS  
(only if stated in the Schedule to be included)**

**PCC1. INDEMNITY**

The Insurers will pay to or on behalf of the Insured, the reasonable clean-up costs incurred by the Insured:

PCC1.1 in order to avoid or mitigate the effects of sudden, unexpected and unintended (from the standpoint of the Insured) Pollution; and

PCC1.2 in response to a specific order by the relevant authority acting in terms of environmental legislation to clean up sudden, unexpected and unintended (from the standpoint of the Insured) Pollution;

such Pollution having occurred during the Period of Insurance.

**PCC2. SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**PCC2.1 WASTE DISPOSAL ACTIVITIES**

arising out of Waste Disposal Activities by or on behalf of the Insured.

For the purposes of this Specific Exclusion “Waste Disposal Activities” means the importation and exportation of; the generation of including the undertaking of any activity or process that is likely to result in the generation of; the accumulation and storage of; the collection and handling of; the reduction, re-use, recycling and recovery of; the trading in; the transportation of and the transfer, treatment, depositing, placement, abandonment, dumping and disposal of wastes. For the purposes of this Specific Exclusion “wastes” includes metabolic products, medical, infectious, anatomical and pathological wastes; nuclear waste and radioactive materials whether from the combustion of nuclear fuel or naturally occurring (Naturally Occurring Radioactive Materials, [NORM]) or Technologically Enhanced Naturally Occurring Radioactive Materials [TENORM]).

**PCC2.2 VEHICLES**

arising out of Pollution emanating from a Vehicle.