



Contractors Plant and Equipment Insurance Policy

Whereas the Insured named in the Schedule hereto has made to the

New National Assurance Company Ltd.

(Hereinafter called the "Insurers") a written proposal by completing a questionnaire which, together with any other statement made in writing by the Insured for the purpose of this Policy, is deemed to be incorporated herein,

Now this Policy of Insurance witnesses that, subject to the Insured having paid to the Insurers the premium mentioned in the schedule and subject to the terms exclusions, conditions and provisions contained herein or endorsed hereon,

The Insurers hereby agree with the Insured that if at any time during the period of insurance stated in the Schedule or during any subsequent period for which the Insured pays and the Insurers may accept the premium for the renewal of this Policy, the items (or any part thereof) entered in the Schedule, whilst at the location or in the geographical area mentioned therein, suffer any unforeseen and sudden physical loss or damage from any cause not specifically excluded in a manner necessitating repair or replacement,

The Insurers will indemnify the Insured in respect of such loss or damage as hereinafter provided by payment in cash, replacement or repair (at their own option) up to an amount not exceeding in respect of each of the items specified in the Schedule the sum set opposite thereto and not exceeding in all the total sum expressed in the Schedule as insured hereby.

Exclusions (Section 1 and 2)

The Insurers shall not be liable for:

1. the deductible stated in the Schedule to be borne by the Insured in any one occurrence;
 2. loss or damage due to electrical or mechanical breakdown, failure, breakage or derangement, freezing of coolant or other fluid, defective lubrication or lack of oil or coolant but if as a consequence of such breakdown or derangement the plant is involved in an accident or collision or overturns causing external damage, such consequential damage shall be indemnifiable provided that such damage excludes electrical or mechanical breakdown.
 3. loss of or damage to replaceable parts and attachments such as bits, drills, knives or other cutting edges, saw blades, dies, moulds, patterns, pulverizing and crushing surfaces, screens and sieves, ropes, belts, chains, elevator and conveyor bands, batteries, tyres, connecting wires and cables, flexible pipes, jointing and packing material regularly replaced;
 4. the cost of repairing replacing or rectifying normal wear and tear or gradual deterioration due to normal atmospheric conditions (unless caused as a result of loss or damage which is otherwise insured by this policy). This Exception shall not apply to other indemnifiable loss, costs or damage resulting from such wear and tear or gradual deterioration provided always that the indemnity shall be limited to the residual value in the case of wearing parts.
 5. loss or damage due to explosion of any boiler or pressure vessel subject to internal steam or fluid pressure or of any internal combustion engine;
 6. loss of or damage to vehicles designed and licensed for general road use unless these vehicles are exclusively used on construction sites; However incidental road use is included in the insurance if provided for in the Policy Schedule
 7. loss of or damage to waterborne vessels or craft;
 8. loss or damage due to total or partial immersion in tidal waters;
 9. loss or damage as a direct consequence of the continual influence of operation (eg. wear and tear, corrosion, rust, deterioration due to lack of use and normal atmospheric conditions)
 10. loss or damage occurring whilst any Insured item is undergoing a test of any kind or is being used in any manner or for any purpose other than that for which it was designed;
 11. loss of or damage to plant and/or equipment and/or tools such as but not limited to drill bits, augers, borers, reamers, strings, rods whilst working underground or shaft sinking or tunneling or mining or directional drilling or boring or loss due to abandonment of such items unless otherwise agreed by endorsement
 12. loss or damage due to any faults or defects existing at the time of commencement of this Policy within the knowledge of the Insured or his representatives, whether such faults or defects were known to the Insured or not;
 13. loss or damage directly or indirectly caused by, or arising out of, or aggravated by the reckless or deliberate act or willful negligence of the insured or his representatives or employees;
 14. loss or damage for which the supplier or manufacturer is responsible either by law or under contract;
 15. consequential loss or liability of any kind or description;
 16. Loss or damage discovered only at the time of taking an inventory or during routine servicing or by disappearance unless identifiable with a specific incident
 17. Loss or Damage as Result of Tandem of Multi-Lift operations unless by prior arrangement with the Insurers;
 18. Loss or Damage due to the hirer or any employee absconding with the Property Insured or false pretenses;
 19. Recovery costs (other than provided for elsewhere in the Policy) unless agreed by insurers and subject to the limit of indemnity stated in the schedule.
 20. Loss or damage due to ingress of foreign objects where no or inadequate measures had been taken to prevent such event
- In any action, suit or other proceeding where the Insurers allege that any loss, destruction or damage is not covered by this Policy, the onus of proving that such loss, destruction or damage is covered shall be upon the Insured.**

General Conditions

1. The due observance and fulfillment of the terms of this Policy in so far as they relate to anything to be done or complied with by the insured and the truth of the statements and answers in the questionnaire and proposal made by the Insured shall be a condition precedent to any liability of the Insurers.
2. The Schedule shall be deemed to be incorporated into and form part of this Policy and the expression "this Policy" wherever used in this contract, shall be read as including the Schedule. Any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule shall bear such meaning wherever it may appear.
3. The Insurers shall not be liable to indemnify The Insured unless the Insured complies with all statutory requirements related to the operation of Contractor's Plant including but not limited to the Road Traffic Act, Mine Health and Safety Act, Occupational Health and Safety legislation and Construction Regulations
4. The Insured shall at his own expense take all reasonable precautions and will maintain and service the insured property to prevent loss or damage and comply with manufacturers' recommendations and maintain suitable service records. Reasonable precautions shall include implementing measures to prevent malicious damage to and theft of the property insured which is left on site overnight such as but not limited to qualified security guards, security patrols, immobilizing mobile plant, providing locked containers for storage of smaller plant, tools and equipment and security lights where possible.
5. The Insured shall ensure that all employees and operators are qualified and certified to operate the property insured and shall be supervised in the performance of their employment.
6. The Indemnity provided in terms of the Policy shall cease in respect of property abandoned on site or any unsecured temporary premises for more than 24 hours.
7. Rights of Insurers
 - a) Representatives of the Insurers shall at any reasonable time have the right to inspect and examine the risk and the Insured shall provide the representatives of the Insurers with all details and Information necessary for the assessment of the risk,
 - b) The Insured shall immediately notify the Insurers by either, e-mail or in writing of any material change in the risk and cause at his own expense such additional precautions to be taken as circumstances may require, and the scope of cover and/or premium shall, if necessary, be adjusted accordingly, No material alteration shall be made or admitted by the Insured whereby the risk is increased, unless the continuance of the insurance is confirmed in writing by the Insurers.
8. In the event of any occurrence which might give rise to a claim under this Policy, the Insured shall:
 - a) Immediately notify the Insurers by telephone or e-mail or in writing, giving an indication as to the nature and extent of the loss or damage;
 - b) take all reasonable steps within his power to minimize the extent of the loss or damage;
 - c) preserve the parts affected and make them available for inspection by a representative or surveyor of the Insurers;
 - d) furnish all such information and documentary evidence as the Insurer may require;
 - e) inform the police authorities in the case of loss or damage due to theft or burglary.

The Insurers shall on no account be liable for loss or damage of which no notice has been received by the Insurers within 14 days of its occurrence. Upon notification being given to the Insurers under this condition, the Insured may carry out repairs of any minor damage or replace items which have sustained any minor damage; In all other cases a representative of the Insurers shall have the opportunity of inspecting the loss or damage before any repairs or alterations are effected, if a representative of the Insurers does not carry out the inspection within a period of time which could be considered adequate under the circumstances, the Insured shall be entitled to proceed with the repairs or replacement. Nothing contained herein shall prevent the Insured from taking such steps as are absolutely necessary for the upkeep of operations at the respective construction site. The liability of the Insurers under this Policy in respect of any item sustaining damage shall cease if said item is not repaired properly without delay.

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

- 10.** If any difference arises as to the amount to be paid under this Policy (liability being otherwise admitted), such difference shall be referred to the decision of an arbitrator to be appointed in writing by the parties in difference or, if they cannot agree upon a single arbitrator, to the decision of two arbitrators, one to be appointed in writing by each of the parties within one calendar month after having been required in writing so to do by either of the parties, or, in case the arbitrators do not agree, of an umpire to be appointed in writing by the arbitrators before the latter enter upon the reference. The umpire shall sit with the arbitrators and preside at their meetings. The making of an award shall be a condition precedent to any right of action against the Insurers.
- 11.** The Insurers shall be entitled to withhold indemnification:
- a)** if there is/are doubts regarding the Insured's right to receive the indemnity, pending receipt by the Insurers of the necessary proof:
 - b)** if in connection with the claim an examination by the police or an inquiry under criminal law has been instituted against the Insured, pending completion of such examination or inquiry.
- 12.** Fraud and Non-Disclosure
- a)** If the proposal or declaration of the Insured is untrue in any material respect, or if any claim made is fraudulent or substantially exaggerated, or if any false declaration or statement is made in support thereof, then this Policy shall be void and the Insurers shall not be liable to make any payment hereunder.
 - b)** in the event of the Insurers disclaiming liability in respect of any claim and if an action or suit is not commenced within three months after such disclaimer or (in the case of arbitration taking place in pursuance of Condition 7 of this Policy) within three months after the arbitrators or umpire have made their award, all benefit under this Policy in respect of such claim shall be forfeited.
- 13.** If at the time any claim arises under this Policy there is any other Insurance covering the same loss or damage, the Insurers shall not be liable to pay or contribute more than their ratable proportion of any claim for such loss or damage.
- 14.** Cancellation (Annual & Monthly Paid Policies only)
The Policy may be cancelled by the Insurer retrospectively to inception in the event of the non-payment of any premium due to the Insurer or by either the Insurer or Insured subject to a notice period of 30 days provided that
- 14.1 if the Insurer gives notice of cancellation the Insurer shall refund the pro-rata proportion of the premium for the unexpired Period of Insurance
 - 14.2 if the Insured is paying the premium in installments or by monthly debit order and the debit order has been dishonored by the bank or the premium is not received by the Insurer within 10 days of the due date of the premium, then all cover under and in terms of this Policy will cease as from midnight on the last day of that month for which the Insurer has received payment.
 - 14.3 If the Insured gives notice of cancellation the Insurer shall refund the pro-rata proportion of the premium for the unexpired period of Insurance. Such refund shall however be net of a cancellation fee equal to fifteen percent of the annual premium.
 - 14.4 If this Policy is cancelled the onus shall be on the Insured to immediately cancel any automatic means of payment that may have been used to pay the premium prior to cancellation.
- 15.** Cancellation (Single Project or Specific Term policies)
The Policy may be cancelled by the Insurer retrospectively to inception in the event of the non-payment of any premium due to the Insurer
- 16.** The Insurers shall not be liable to pay interest other than interest for default.
- 17.** The Policy cover is limited to the Insured and shall not extend to any person hiring plant irrespective of the terms of any hiring agreement nor liability for the actions of the plant operator whilst under the control of the hirer or any other party not specifically noted as the Insured
- 18.** The Indemnity payable in respect of costs for which the Insured is legally liable shall be limited to the Market Value as defined in the Policy

SECTION 1 – Plant All Risks (Own Plant)

Provisions

Memo 1 - Sum Insured (Basis of Valuation)

- 1) **New Replacement Value**
New Replacement Value shall mean the cost to replace the property insured with new unused property of the same make, type, model and capacity (including registration, licensing, fees, taxes, delivery and the like charges and expenses) or if such property is not available property of similar type, quality, function & capacity. In calculating the new replacement value usual trade discounts from the supplier shall be taken into account.
- 2) **Market Value**
Market Value shall mean:
 - a) The amount required to purchase (including registration, licensing, fees, taxes, delivery and the like charges and expenses) property identical to the item of property insured or if not available an item of similar type, capacity, age, usage, maintenance, refurbishment and overhaul records,

Or if the Market Value cannot be determined as above
 - b) The amount calculated by depreciating the current new replacement value (including registration, licensing, fees, taxes, delivery and the like charges and expenses) of the item of property insured by the age, usage, maintenance, refurbishment and overhaul history of the damaged item. The depreciation percentage shall take into account general market trends relating to the depreciation in the value of construction plant and taking into account the demand for such plant at the time of a loss.
- 3) **Agreed Value**
Agreed Value shall mean the reasonable value of the Property Insured proposed by the Insured and agreed by the Insurers provided always that this value shall not be less than the Market Value or more than 20% more than Market Value.
- 4) **Underinsurance**
If any item shall at the time of any loss or damage be of a greater value as calculated above than the Sum insured then the Insured shall be considered as being his own Insurer for the difference and shall bear a ratable proportion of any loss or damage. This condition shall not apply to Property Insured where the Sum Insured is based on Agreed Value as defined under item 3 above

Memo 2 – Hired out Plant

- 1) **Conditions of Hire**
This Insurance is arranged on the understanding that the Insured Machinery and Plant will be hired out under the Standard Form of The Contractors Plant Hire Association (CPHA) or similar Conditions which make the Hirer responsible for arranging insurance for such Plant and shall assume legal liability for the actions of the Plant Operator which shall be deemed to be under the control of the Hirer

It is further agreed that a separate Contract shall be drawn up for each Period of Hire.

Cover in respect of Plant Hired out shall be subject to a valid hiring agreement being in place, the hirer providing valid identification, proof of residence, and proof of insurance in terms of the hiring agreement and validating the hirer's details prior to releasing the Property Insured to the hirer.

Memo 3 – Risk Management

Due Care

Cover in terms of the policy is subject to the Insured taking reasonable measures to prevent and minimize loss or damage to the Property Insured. Reasonable precautions to prevent malicious damage and theft shall include steps to secure or immobilize the plant, installation of security lighting or cameras, security patrols by qualified security personnel or permanent physical security around plant yards and depots which is adequate to prevent unauthorised access.

Memo 4 – Deductibles

1. Tracking Devices - Deductible

Theft or Hi-jacking of mobile plant which has not been fitted with a functional tracking device which is activated and reported to the Insurer immediately once the Insured becomes aware of the loss shall attract an additional deductible equal to the standard policy deductible in addition to the standard deductible (double deductible) unless the Insured can prove that Due Care as defined above was taken. The decision to waive the second deductible shall be solely at the Insurer's discretion.

2. Malicious Damage – Deductible

Malicious damage to all plant which is left unattended shall attract an additional deductible equal to the standard policy deductible in addition to the standard deductible (double deductible) unless the Insured can prove that Due Care as defined above was taken. The decision to waive the second deductible shall be solely at the Insurer's discretion

Memo 5 – Property Insured outside the South African Borders

It is declared and agreed that:

1) Assessors Fees

In respect of assessments of claims for recovery loss or damage in territories other than the Republic of South Africa, Botswana, Lesotho and Swaziland the Insured shall contribute to Assessor's costs and expenses an amount of 50% of such costs and expenses.

2) Repatriation Costs

All costs expenses duties incurred to transport damaged plant and equipment outside the South African borders including costs to deliver new parts to site for repairs which constitute an indemnifiable loss in terms of this Policy shall be borne by the Insured

Memo 6 - Basis of Indemnity

In the event of any loss or damage the basis of any settlement under this Policy shall be as follows:

a) Partial Loss

In cases where damage to an Insured item can be repaired — the Insurers shall pay expenses necessarily incurred to restore the damaged machine to its former state of serviceability plus the cost of dismantling and re-erection incurred for the purpose of effecting the repairs as well as customs duties and dues, if any, provided such expenses have been included in the sum insured. If the repairs are executed at a workshop owned by the Insured, the Insurers shall pay the cost of materials and wages incurred for the purpose of the repairs plus a reasonable percentage to cover overhead charges.

- i) Where the Policy/Item Sum Insured is based on New Replacement Value there shall be no deduction for betterment except in respect of wearing parts which have a limited life expectancy in respect of which settlement would be limited to residual value.
- ii) Where the Policy/Item Sum Insured is based on Market/Agreed Value the Insurer shall be entitled to apply an appropriate deduction for betterment based on the age and usage of the item.

If the cost of repairs as detailed herein above equals or exceeds the actual value of the machinery immediately before the occurrence of the damage, the item shall be regarded as destroyed and settlement shall be made on the basis provided for in b) below.

b) Total Loss

In cases where an insured item is destroyed or stolen or when estimated repair costs exceed market value the Insurers shall pay the actual value of the item irrespective of the Basis of Valuation immediately before the occurrence of the loss, including charges for ordinary freight, cost of erection, customs duties, if any, provided such expenses have been Included in the sum insured less the value of any salvage. The actual value shall be calculated on the basis of the Market Valuation except in respect of Agreed Value where Agreed Value may be utilized at the option of the Insurer if the actual value is not equitable due to the specialized nature of the Property Insured.

Additional Clauses

The Insurers shall pay costs reasonably and necessarily incurred within the borders of South Africa to transport or tow Property Insured to repairers premises in respect of Partial Loss only provided always that the payment will not exceed R 30,000.00 per event subject to an additional deductible as may be specified in the Schedule or R 5 000 if not specified.

Any extra charges incurred for overtime, night work, work on public holidays, and express freight shall be covered by this Policy only if especially agreed in writing.

The cost of any alterations, additions, improvements or overhauls shall not be recoverable under this Policy. The cost of any provisional repairs shall be borne by the Insurers if such repairs constitute part of the final repairs and do not increase the total cost of repair.

The Policy Deductibles are deemed to be inclusive of Value Added Tax (VAT) and apply to each and every item upon each and every event or occurrence

The limit of indemnity payable under this Policy in respect of any one item is the Sum Insured as stated in the Schedule against such item less the deductible for such item.

All Sums Insured's and Limits shall be deemed to be VAT inclusive

The insurers shall make payments only after being satisfied by production of the necessary bills and documents that the repairs have been effected or replacement has taken place as the case may be.

Where the damage is restricted to a part or parts of an insured item the Insurers shall not be liable for an amount greater than the value of such part or parts which are lost or damaged as allowed for within the Sum Insured.

Memo 7 - Maintenance Warranty

The Insurer will indemnify the Insured for damage to the Property Insured, provided always that the Insured has taken reasonable measures to maintain the Property Insured in accordance with the Original Equipment Manufacturers (OEM) recommendations and that a detailed record of such maintenance is available to the Insurer on request. The policy will not respond to any claim where loss or damage is caused by the Insured's failure to maintain the plant, nor cables, wiring or pipes which are not routed and secured in accordance with OEM standards and the onus shall be on the Insured to ensure that the cables, wiring and pipes on any used plant purchased meet these requirements.

Substitute Plant Hire Costs (if so stated in the Policy Schedule)

The Insurer(s) shall indemnify the Insured for costs necessarily and reasonably incurred to hire substitute or replacement property of the same kind or type and capacity as the Property Insured following an indemnifiable claim under Memo 6) of The Indemnity clause above.

Should plant of a similar or equivalent capacity be unavailable then with the Insurers consent the Insured may hire in higher capacity substitute plant provided that the Insurer(s) shall be liable only for such costs which would have been incurred in hiring replacement property of the same kind or type and capacity as the Property Insured which is the subject of an indemnifiable claim.

The Indemnity herein shall be limited to Temporary Replacement Hire costs incurred as described above subject to the specific Policy Limits of Indemnity and shall cease on expiry of the Indemnity Period reflected in the Policy Schedule for this cover.

Payment will cease the day following the completion of the repairs or upon expiry of the indemnity period.

This extension of cover is only available for plant that can be repaired or re-instated to the same condition that it was in prior to the incident

The Insurer's Liability shall not exceed the Limit of Indemnity during the Period of Insurance

Section 2 – Hired In Plant Indemnity Clause

Subject always to the Policy terms, conditions and exceptions the Insurers will indemnify the Insured against all sums which the Insured shall become legally liable to pay for physical loss of or damage to the Insured Property hired-in and for which he is responsible under the Contractors Plant Hire Association conditions or similar hire agreements subject to the Policy Limit of Liability and furthermore that the indemnity provided by Insurers shall not exceed the market value of such plant

Continuing Hire Charges (if so stated in the Policy Schedule)

The Insurer(s) shall indemnify the Insured in respect their legal liability for Continuing Hire Charges and any other direct consequential costs in consequence of physical loss of or damage to the Property Insured during the period of insurance not exceeding the Limit of Indemnity or the Indemnity Period reflected in the Policy Schedule for this cover

Payment will cease the day following the completion of the repairs or replacement of the Insured Property provided that only costs incurred within the indemnity period reflected in the Policy Schedule shall be indemnifiable.

Continuing Hire Charges shall be limited to the daily hiring costs reflected in the hire agreement and direct consequential losses shall not extend to loss of revenue or profit in excess of that allowed in terms of Continuing Hire Charges clause.

The Insurer's Liability shall not exceed the Limit of Indemnity for this extension of cover during the Period of Insurance (unless the Limit has been reinstated)

Section 3-Third Party Liability

Section 3A— Public Liability (Site Only Risk) If Applicable

Cover in respect of Public Liability (site risk only) will always be subject to the contract conditions between the relevant parties to determine the insurance responsibilities of each party.

The Insurers will indemnify the Insured up to but not exceeding the amounts specified in the Schedule against such sums which the Insured shall become legally liable to pay as damages consequent upon

- a) Accidental bodily injury to or illness of third parties (whether fatal or not),
- b) Accidental loss of or damage to property belonging to third parties

Occurring in direct connection with the operation of the items insured under Section 1 and Section 2 to the extent required by contract as a tool of trade and happening on or in the immediate vicinity of the site during the period of cover.

In respect of a claim for compensation to which the indemnity provided herein applies, the Insurers will in addition indemnify the Insured against

- All costs and expenses of litigation recovered by any claimant from the Insured,
and
- All costs and expenses incurred with the written consent of the Insurers,

Provided always that the liability of the Insurers under this Section shall not exceed the limits of indemnity stated in the Schedule. If no limit is stated for Third Party Liability cover the Limit is deemed to be Nil.

Section 3B— Third Party Liability (Road Risk) (if applicable)

Notwithstanding Special Exclusions 4(c) to Section 3

The Insurers will indemnify the Insured up to but not exceeding the amounts specified in the Schedule against such sums which the Insured shall become legally liable to pay as damages consequent upon

- a) Accidental bodily injury to or illness of third parties (whether fatal or not),
- b) Accidental loss of or damage to property belonging to third parties

Occurring in direct connection with the operation of the items insured under Section 1 and happening on any public road or thoroughfare or in the immediate vicinity of the site during the period of cover.

In respect of a claim for compensation to which the indemnity provided herein applies, the Insurers will in addition indemnify the Insured against

All costs and expenses of litigation recovered by any claimant from the Insured, and

All costs and expenses incurred with the written consent of the Insurers,

Provided always that the liability of the Insurers under this Section shall not exceed the limits of indemnity stated in the Schedule. . If no limit is stated for Third Party Liability cover the Limit is deemed to be Nil.

Special exclusions To Section 3

The Insurers will not indemnify the Insured in respect of

1. The deductible stated in the Schedule to be borne by the Insured in any one occurrence
2. The expenditure incurred in doing or redoing or making good or repairing or replacing anything covered or coverable under Section 1 of this Policy
3. Damage to any property or land or building caused by vibration or by or the removal weakening of support or injury or damage to any person or property occasioned by or resulting from any such damage (unless especially agreed upon by endorsement)
4. Liability consequent upon;
 - a) Bodily injury to or illness of employees or workmen of the Insured, the Hirer or members of their families
 - b) Loss of or damage to property belonging to or held in care, custody or control of the Insured or part of which is insured under Section 1-
 - c) Any accident caused by vehicles licensed for general road use whilst on public roads unless specifically insured or by waterborne vessels or aircraft
 - d) Any agreement by the Insured to pay any sum by way of indemnity or otherwise unless such liability would have attached also in the absence of such agreement.
5. Any liability loss or damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by or arising out of, resulting from or in consequence of in any way involving or to any extent contributed to by the hazardous nature of asbestos in whatever form or quantity.
6. Liability incurred by the Hirer (when the plant is hired out) or its employees in respect of any negligent act or omission in the performance of his contract. The plant operator shall be deemed to be an employee of the Hirer in accordance with CPHA Conditions
7. Liability arising out of reckless or deliberate acts

Special conditions applying to Section 3

1. No admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Insurers who shall be entitled, if they so desire, to take over and conduct in the name of the Insured the defense or settlement of any claim or to prosecute for their own benefit in the name of the Insured any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings or in the settlement of any claim and the Insured shall give all such information and assistance as the Insurers may require.
2. The Insurers may so far as any accident is concerned pay to the Insured the limit of indemnity for any one accident (but deducting there from in such case any sum or sums already paid as compensation in respect thereof) or any lesser sum for which the claim or claims arising from such accident can be settled and the Insurers shall thereafter be under no further liability in respect of such accident under this Section.
3. **Special Conditions Concerning Underground Cables, Pipes and Other Services**

It is agreed and understood that otherwise subject to terms, exclusions, provisions and conditions contained in the Policy or endorsed thereon, the Insurers shall only indemnify the Insured in respect of loss of or damage to existing underground cables and /or pipes or other underground services if, prior to the commencement of works, the Insured has inquired with relevant authorities entities or persons in control (including private service providers) about the exact position and depth of such cables, pipes or other underground services and has complied with all applicable legislation and takes all necessary steps to avoid damage to all services and utilities.

Claims in respect of legal liability for accidental loss of or damage to such underground services which are **shown** on the survey maps or drawings or way leave documents requested from service providers (drawings indicating the position of the underground services and authorizing work) or supplied by the authorities shall be payable **provided always that the Insured takes reasonable precautions to avoid damaging such services** after applying a deductible as stated in the schedule. Insurers will not be liable for loss or damage to services which are not reflected on the drawings nor damage resulting from the Insured's failure to take due care in working around known services

The indemnity shall in any case be restricted to repair costs of such cables, pipes or other underground services with any consequential damage and penalties being excluded from the cover

4. Non-Contribution

It is agreed and understood that this section of the Policy shall not brought into contribution with any other more specific policy covering the same risk and that where more than one policy is issued by the same insurer it is declared and agreed that the Insured shall only claim under one policy for any occurrence or series of occurrences arising out of the same cause

GENERAL EXCEPTIONS

(Applicable to all Sections of the Policy)

1. (A) This Policy does not cover loss of or damage to property related to or caused by:
 - i) civil commotion, labour, disturbances, riot, strike, lockout or public disorder or any act or activity which is calculated or directed to bring about any of the above;
 - ii) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
 - iii) (a) mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;
(b) insurrection, rebellion or revolution;
 - iv) any act (whether on behalf of any organisation, body or person, or group of persons) calculated or directed to overthrow or influence any State or Government, or any provincial, local or tribal authority with force, or by means of fear, terrorism or violence;
 - v) any act which is calculated or directed to bring about loss or damage in order to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against any State or Government, or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public, or any section thereof;

- vi) any attempt to perform any act referred to in clause (iv) or (v) above;
- vii) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in clause (i),(ii),(iii),(iv),(v) or (vi) above.

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

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

For the purpose of this General Exception 1. (C), an act of terrorism includes, without limitation, the use of violence or force or the threat thereof whether as an act harmful to human life or not, by any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government or any other person or body of persons, committed for political, religious, personal or ideological reasons or purposes including any act committed with the intention to influence any government or for the purpose of inspiring fear in the public or any section thereof.

If the Insurers allege that, by reason of clause 1. (C) of this General Exception, loss or damage is not covered by this Policy, the burden of proving the contrary shall rest on the Insured.

- 2.** This Policy does not cover any legal liability, loss, damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by or contributed to by or arising from:
 - i) ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion or use of nuclear fuel;
 - ii) nuclear material, nuclear fission or fusion, nuclear radiation;
 - ii) nuclear explosives or any nuclear weapon;
 - iv) nuclear waste in any form;

regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

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

- 3.** The Insurers shall not indemnify the Insured for the amount of the specified Deductibles.
- 4.** Notwithstanding any provision of this Policy including any specific exclusion or extension or other provision not included herein which would otherwise override a General Exception, this Policy does not cover:
 - (a) loss or destruction of or damage to any property whatsoever (including a computer) or any loss or expense whatsoever resulting or arising therefrom;
 - (b) any legal liability of whatsoever nature;
 - (c) any consequential loss;

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

- i) to treat any date as the correct date or true calendar date, or correctly or appropriately to recognise manipulate interpret process store receive or to respond to any data or information, or to carry out any command or instruction, in regard to or in connection with any such date or
- ii) to capture, save, retain or to process any information or code as a result of the operation of any

command which has been programmed into any computer, being a command which causes the loss of data or the inability to capture save retain or correctly to process such data in regard to or in connection with any such date or

- iii) to capture, save, retain or to process any information or code due to program errors, incorrect entry or the inadvertent cancellation or corruption of data and or programs or
- iv) to capture save retain or to process any data as a result of the action of any computer virus, or other corrupting, harmful or otherwise unauthorised code or instruction including any Trojan horse, time or logic bomb or worm or any other destructive code, media or program or interference.

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

Special Extension to the above General Exception

- A. Loss or destruction of or damage to the Property Insured by fire, explosion, lightning, earthquake or by the special perils referred to in B below are not excluded by this General Exception.
- B. The special perils that are not excluded for the purpose of this Special Extension are damage caused by:
 - (1) storm, wind, water, hail or snow excluding damage to property
 - (2) arising from it undergoing any process necessarily involving the use or application of water;
 - (3) caused by tidal wave originating from earthquake or volcanic eruption;
 - (4) in the underground workings of any mine;
 - (5) in the open (other than buildings structures and plant } Unless so described and
designed to exist or operate in the open); } specifically insured as a
 - (6) in any structure not completely roofed; } separate item
 - (7) being retaining walls;
- C. aircraft and other aerial devices or articles dropped therefrom;

- D.** impact by animals, trees, aerals, satellite dishes or vehicles excluding damage to such animals,trees, aerals, satellite dishes or vehicles or property in or on such vehicles.

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

- E.** The above General Exception also does not apply to consequential loss as insured by any Business Interruption indemnity provided by this policy to the extent that such consequential loss results from damage to insured property by the perils referred to in A above.
- F.** This Special Extension will not insure any loss destruction, damage or consequential loss if it would not have been insured in the absence of this General Exception and this Special Extension.
This Special Extension shall not apply to any Public Liability Indemnity.
- G.** This Insurance does not cover any liability whatsoever arising out of any Performance Warranties and/or Guarantees, liquidated damages, fines or Penalty Clauses except to the extent that such liability would have attached in the absence of such Warranties, Guarantees, fines or Penalty Clauses;
- H.** This Insurance does not cover any liability whatsoever arising out of any claim hereunder as a result of any dishonest, malicious or illegal acts of any party to the Insured;

- I.** This policy does not cover loss or damage to property or any consequential loss directly or indirectly arising out of confiscation, commandeering, requisition or destruction by order of any government or public authority.

- J.** This policy does not cover liability in respect of any death, disease, illness, bodily injury loss or damage directly or indirectly caused by seepage pollution or contamination or the cost of removing nullifying or cleaning or such seepage pollution or contamination unless the seepage is caused by a sudden unintended and unforeseen event occurring and manifesting itself during the period of insurance fines penalties punitive or exemplary damages resulting from seepage pollution or contamination.

- K.** This policy does not cover any liability loss or damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by or arising out of, resulting from or in consequence of in any way involving or to any extent contributed to by unroadworthy or unlicensed vehicles or operators who are not in possession of a valid driver's or operator's license permit or certificate of competency or are in contravention of the Road Traffic Act

- L.** This policy does not cover loss or damage or liability arising out of non-compliance with legislation such as

1. the failure of the Insured or its employees or contractors or sub- contractors or any construction plant operator or driver to comply with the Occupational Health and Safety legislation or the Construction Regulations relating to lifting equipment, fire prevention, working at heights or adjacent to any drop in the site levels
2. any lifting apparatus or hoist being overloaded or any crane operated without a functional automatic overload protection and/or crane load indicator equipment as required in terms of the OHS Act or associated regulations
3. the operation of a vehicle whilst the operator is under the influence of alcohol or any other narcotic substance or medication which may impair the operator's ability