



Contractors All Risks

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 statements 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, exclusion, provisions and conditions contained herein or endorsed hereon the Insurers will indemnify the Insured in the manner and to the extent hereinafter provided.

Period of cover

The liability of the Insurers shall commence, notwithstanding any date to the contrary specified in the Schedule, directly upon commencement of the Contract Works described in the Schedule at the site (including whilst in transit, including loading and unloading, or whilst temporarily stored at any premises en route to or from The Contract Site within the Territorial Limits subject to the applicable Limits of Liability reflected in the Schedule). The Insurers' liability expires for parts of the insured contract works taken over (Handover) or put into service.

At the latest the insurance shall expire on the date specified in the Schedule. Any extensions of the period of insurance are subject to the prior written consent of the Insurers.

Section 1— The Contract Works

The Insurers hereby agree with the Insured that if at any time during the period of cover the Insured Property or any part thereof entered in the Schedule shall suffer any unforeseen and sudden physical loss or damage from any cause, other than those 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 the Property Insured specified in the Schedule the sum set opposite thereto and not exceeding in any one event the limit of indemnity where applicable and not exceeding in all the total sum expressed in the Schedule as insured hereby.

Definitions

Insured Property

Insured Property shall be the permanent works (including formwork and construction equipment specially designed constructed and costed into the Insured Contract and which is not intended for re-use on another Contract) and all materials and equipment for work thereon or for incorporation into the permanent works or temporary works belonging to the Insured and free issue material supplied by the Employer/Principal to the extent that the value thereof is included in the Sum Insured and for which they are responsible and which they are required to insure and pertaining to the Insured Contracts as described in the Policy Schedule.

Temporary Works shall be deemed to be structures or works (not being part of the Permanent Works) used or intended for use on the Insured Contract(s) the cost of which has been included in the Estimated Contract Value and which does not comprise Contractor's Plant (including Hired-in Plant)

Cover in respect of damage to Temporary works shall specifically exclude all costs incurred to maintain such temporary works and the indemnity shall be limited to the labour, plant and transit cost involved in reinstating such structures and works

Handover

It is agreed and understood that otherwise subject to the terms, exclusions, provisions and conditions contained in the policy or endorsed thereon, the following shall apply to this insurance:

Handover shall mean a certificate of practical completion, certificate of completion, certificate of handover or similar document transferring the risk in the Property Insured to the Client and shall include implied transfer where such document has not been issued but the contractor has been paid in full (excluding any retention amount payable at final completion) or where a final payment certificate has been issued or where the Insured has left site permanently (notwithstanding any defects liability period obligations)

Special exclusions to Section 1

The Insurers shall not, however, be liable for

1. The deductible stated in the Schedule to be borne by the Insured in any one occurrence;
2. Consequential loss of any kind or description whatsoever including penalties, losses due to delay, lack of performance, loss of contract;
3. Loss or damage to machinery or plant which has operated under load conditions prior to the commencement of the Insured Contract due to its own electrical or mechanical breakdown or explosion.
4. loss of or damage to the Property Insured arising during continuation of any marine or air transit or whilst in storage thereafter where (unless the Property Insured has been examined for damage and found to be in good order before onward transshipment) such loss or damage is only discovered upon unpacking and examination of the Property Insured and cannot be related to a specific event occurring during any such continuation of transit or storage.
5. Loss of or damage to any part of the Property Insured under Section I due to electrical or mechanical breakdown or explosion occurring after Testing Period specified on which that part of the Property Insured has operated under load (whether partial or full load) whether before or after the introduction of feedstock or other raw materials if applicable. The Testing Period shall exclude any period during which hydrostatic pneumatic and non-energised electrical mechanical or electronic tests have been carried out.
6. The cost of repairing replacing or making good any part of the Insured Property which is defective in Material, Workmanship, Design, Plan, Specification, but this exclusion shall be limited to the Property immediately affected and shall not be deemed to exclude loss or damage to correctly executed items resulting from an accident due to such defective Material, Workmanship, Design, Plan or Specification; the Policy shall exclude loss or damage howsoever arising, directly or indirectly due to defects introduced into the works prior to inception of cover.
7. The cost of re-design improvement betterment or alteration on the occasion of repair replacement or reinstatement;
8. Wear and tear, corrosion, oxidation, deterioration due to lack of use and normal atmospheric conditions;
9. Loss or damage to construction plant, scaffolding, equipment and construction machinery

10. Loss of or damage to files, drawings, accounts, bills, currency, stamps, deeds, evidences of debt, notes, securities, cheques;
11. Loss or damage discovered only at the time of taking an inventory or routine inspection and which is not identifiable by the Insured with a specific incident notified to the Insurers immediately upon its occurrence.
12. Malicious damage loss or damage of materials abandoned for any period of time unless reasonable precautions such as security guards, patrols and regular inspections are undertaken during the time that the material is unattended.
13. loss or damage following cessation of work and abandonment of the Insured Contract Site unless reasonable measures had been taken to prevent such loss or damage. The Policy cover will cease in respect of any site or part of a site which had been abandoned for a period exceeding 90 consecutive days.
14. Loss of or damage to the permanent works or part thereof occurring during any contractual defects liability or maintenance period other than from:
 - a. a cause occurring prior to commencement of such period
 - b. any act or omission of the Contractor and/or Sub-Contractor his servants or agents in the course of the work carried out in pursuance of the Contractor's obligations with regard to maintenance under the Contract
15. The cost of continuous dewatering to maintain working conditions following ingress into The Property Insured of the normally expected inflow of water naturally occurring underground sources.
16. Physical loss of or damage to installed refractory linings arising from and after the first application of heat.
17. Loss of operational media or refrigerant unless specified

Provisions applying to Section 1

Memo 1 - Sums Insured

It is a requirement of this insurance that the sums insured stated in the Schedule shall not be less than the tender amount at inception including all materials, wages, freight, customs duties, dues, and materials or items supplied by the Principal;

Memo 2 - Basis of Loss of Settlement

It is agreed that:

1. The Insurers may at their option, replace, reinstate or pay cash in lieu of repairs.
2. In the event of loss of or damage to the Property Insured which forms a valid claim under this section of the Policy the basis of loss settlement shall include:
 - a) The cost of repair, reinstatement or replacement of the Property Insured at the time of reinstatement of the loss or damage, including supplementary charges such as packing costs, freight, customs dues erection;
 - b) The additional cost of express delivery (including airfreight), customs dues and charges, overtime work, night-work or work on public holidays which may become **necessary as a result of an insured event provided that such costs are limited to 50% of applicable rates and agreed to by insurers in advance.**
 - c) Establishment and supervisory charges incurred in connection with repair, reinstatement or replacement;
 - d) Any costs incurred;

- i. In the dismantling, demolition, clearance or removal of silt or water or debris or wreck of the Property Insured and providing erecting and maintaining of any hoarding, fences and similar structures required in making good or restoring site subject always to the Removal of Debris limit of indemnity in the policy schedule;
- ii. In complying with the requirements of Contract or any Statutory Body.
- e) Any Architects', Surveyors', Quantity Surveyors', Consulting Engineers', legal and/or other professional fees in connection with replacement or reinstatement of Property Insured to **the extent that such costs are included in the sum insured**, but not in respect of any redesign, improvement or extension to the Property, all necessarily and reasonably incurred by the insured,

Provided always that the total amount recoverable shall not exceed the Limit of Indemnity specified in the Schedule.

The Insurers will 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.

The cost of any alterations, additions and/or improvements shall not be recoverable under this Policy.

Memo 3 – Removal of Debris – Additional Cover (if applicable)

The Insurer will indemnify the Insured in respect of all costs reasonably or necessary incurred by the Insured in respect of the removal or clearance of debris, water and the like and in providing erecting and maintaining any hoarding required during demolition site clearing or reconstruction or in protecting the property insured against further loss or damage regaining access to the Works on restoring working conditions following an occurrence Insured by this policy notwithstanding that no physical loss or damage to the Insured Property has occurred provided that Insurer's liability shall be restricted to the amount stated in the schedule.

Memo 4 – Own Surrounding Property Extension (if applicable)

Subject otherwise to the Exceptions and Conditions of the Policy, the Policy is extended to indemnify the Insured against loss of or damage to existing fixed property not otherwise insured by this section of the Policy in the custody and control of the Insured for worked thereon and arising directly from such work in the performance of the Insured Contract

Provided that:

- a) This Indemnity shall not apply to loss or damage for which indemnity is provided or intended to be provided under another section of this Policy or any other Policy, nor any constructional plant, equipment or machinery used or intended for use in on the Contract.
- b) The definition of Surrounding Property shall be limited to that part of the existing property in the custody and control of the Insured Contractor for work thereon
- c) The Liability of the Insurer under this extension shall not exceed the amount stated in the schedule.
- d) In respect of each and every occurrence or series of occurrences arising from one original cause, under this extension shall be subject to the deductible as stated in the schedule.
- e) the indemnity shall not apply to loss or damage to such property arising out of the intentional removal of support

**Memo 5– Beneficial Occupation
(Applicable to Building Contracts only)**

It is agreed and understood that otherwise to the terms, provisions, conditions and exclusions contained in this Policy or endorsed thereon, the Insurance shall be extended to cover loss of or damage to parts of the Insured Contract Works taken over or put into service by the Employer prior to the whole of the Property Insured being taken over provided always that Insurers have been requested to provide such cover and have agreed to extend cover. Beneficial occupation shall be limited to 3 months in the aggregate.

Memo 6 – Temporary Repairs

The Insurer shall not be liable for temporary repairs carried out without its consent or any consequence thereof unless such temporary repairs are necessary in the interests of safety or with the object of avoiding further loss or damage.

Memo 7 – Off Site Storage

Subject to the terms, conditions and exceptions of this Policy the insurance shall include physical loss of or damage to property arising out of the temporary storage of such property at any premises which has proper physical security and adequate security personnel within the Territorial Limits prior to dispatch to the Contract Site provided such property was purchased for incorporation into the Contract provided that Insurer's liability shall be restricted to the amount stated in the schedule.

Memo 8 – Claims Preparation Costs

It is hereby agreed that this insurance is extended to cover costs reasonably incurred by the Insured with the prior consent of the Insurers in producing or certifying any particulars or details required by the Insurers to substantiate the amount any claim hereunder.

The liability of the Insurers for such costs in respect of any one occurrence shall not exceed the Limit of Indemnity stated in the Schedule.

Memo 9 – Escalation

If during the period of insurance the actual reinstatement value of the insured Property or the Contract as a whole shall be in excess of the original Limit of Liability or Maximum Contract Value reflected in the Schedule as a result of inflation or additional works included by variation order, then the Limit of Liability or Maximum Contract Value shall be increased by the amount of such percentage as may be reflected in the Schedule but never more than 125% of the Limit of Liability or Maximum Contract Value as detailed in the Policy Schedule.

Memo 10 – Currency Fluctuation

If during the period of insurance the actual reinstatement value of the insured Property or the Contract as a whole shall be in excess of the original Limit of Liability or Maximum Contract Value reflected in the Schedule due to the exchange rate between the policy currency and the country of origin, then the Limit of Liability or Maximum Contract Value shall be increased by the amount of such percentage as may be reflected in the Schedule but never more than 125% of the Limit of Liability or Maximum Contract Value as detailed in the Policy Schedule.

Memo 11 – Exchange Rate limitation

It is declared and agreed that the Insurers liability for any claims which are payable in any currency other than the South African Rand, shall be limited to the amount which would have been payable at the exchange rate applicable when the policy cover inception which shall be increased by the limit allowed in the policy schedule but never more than 15% of the agreed Rand/Other Currency exchange rate.

Memo 12 – Work Away

It is declared and agreed that the Insurers will indemnify the Insured for loss or damage to property

insured whilst temporarily at the manufacturer or repairers premises and to provided that the Insurer will not be liable for electrical or mechanical breakdown or damage due to the misapplication of tools or damage due to any process requiring heat

The liability of the Insurers for such costs in respect of any one occurrence shall not exceed the Limit of Indemnity for this extension stated in the Schedule which shall be deemed to be Nil if no limit is shown

Memo 13 – Warrantee (Fittings & Fixtures)

It is declared and agreed that the Insurers will indemnify the Insured for loss or damage to property insured installed in buildings prior to handover provided always that the structure of the building must be complete and enclosed against the elements and criminals before the installation of wiring, cables, fittings, fixtures, appliances, machinery and finishes.

RESTRICTIONS IN COVER

Open Trench

Limitation

In respect of loss or damage to the earthworks of a trench excavated by the Insured and/or bedding material or services located in the trench which has not been backfilled and which is thus exposed for a length not exceeding the limit reflected in the Schedule, the Insurers shall be liable for actual costs to rectify damage to the open trench per occurrence subject always to the aggregate limit if applicable

The definition of open trench shall include all uncompacted trench backfill on the contract site and all drains and canals until the completion of the concrete covering surface drain or lining if included in the design of the works.

Should the damage to open trench exceed the limit reflected in the Policy Schedule the indemnity payable shall be based upon the average reinstatement cost per metre subject to the limit reflected in the Schedule per occurrence

The indemnity in respect of the above is subject to the proviso that the reinstatement costs do not exceed the costs allowed in the contract value for such work.

If no provision is made in the schedule for open trenches the limit shall be deemed to be 500m in the aggregate

End Caps

The Insurers shall not be liable for loss of or damage to the Property Insured in terms of Section I resultant on the ingress of mud silt water debris or detritus unless pipe ends have been sealed on termination of each day's work by means of end caps.

Exposed Layer Works

In respect of loss or damage to road layer works constructed by the Insured and which has not been primed or sealed by application of bitumen and which is thus exposed, the Insurers liability for costs to rectify damage in respect of any layer shall be limited to the length of the section as reflected in the Schedule and shall not exceed the limit in the aggregate reflected in the Schedule for damage to all the exposed road layers

Should the damage to exposed layer works exceed the limit reflected in the Policy Schedule the indemnity payable shall be based upon the average reinstatement cost per meter for the applicable layer subject to the limit reflected in the Schedule per occurrence

The indemnity in respect of the above is subject to the proviso that the reinstatement costs do not exceed the costs allowed in the contract value for such work.

The above provision shall apply equally to other continuous exposed layer works not part of the above section provided always that the Insurer shall not indemnify the Insured for damage to the works in excess of the aggregate limit.

In regards to gravel roads the gravel layer shall be defined as an exposed layer

If no provision is made in the schedule for exposed layer works the limit shall be deemed to be 500m in the aggregate

The Insurer(s) shall not be liable for any loss or damage due to or exacerbated by road traffic, whether by construction vehicles or public/private vehicles

Flood Exclusion

The Insurer will not be liable for any loss or damage arising out of flooding not exceeding the 1 in 20 year return period or otherwise as reflected specifically in the policy schedule

Protective Works or Temporary Works

The Company will not indemnify the Insured in respect of loss or damage to protective works or temporary works whichever is applicable unless caused by flood exceeding 1 in 20 year flood level. Temporary Works shall include coffer dams, sheet piling, caissons, support work or scaffolding in watercourses, berms, temporary access roads and other temporary works which enable construction of, protect, support or provide access to the permanent works

Pipe/Culvert Jacking

The lead of the excavation in front of the pipe/culvert section shall be maintained at the minimum commensurate with the installation technique, the friability of in-situ material and the dynamic loading from overhead (the lead shall not exceed 1000mm). At the conclusion of a day's work the pipe/culvert sections shall be jacked up to the tunnel face and in the case of loose material the face battened overnight.

Piling Foundation and Retaining Wall Works

It is agreed and understood that otherwise subject to the terms, exclusions, provisions and conditions contained in the Policy or endorsed thereon, the Insurers shall not indemnify the Insured in respect of expenses incurred:

1. for replacing or rectifying piles or retaining wall elements
 - a. which have become misplaced or misaligned or jammed during their construction,
 - b. which are lost or abandoned or damaged during driving or extraction, or
 - c. which have become obstructed by jammed or damaged piling equipment or casings,
2. for rectifying disconnected or declutched sheet piles,
3. for rectifying any leakage or infiltration of material of any kind,
4. for filling voids or for replacing lost bentonite,
5. as a result of any piles or foundation elements having failed to pass a load bearing test or otherwise not having reached their designed load bearing capacity,
6. for reinstating profiles or dimensions.

This endorsement shall not apply to loss or damage caused by natural hazards.

The burden of proving that such loss or damage is covered shall be upon the Insured

Thatch Roofing

It is agreed and understood that otherwise subject to the terms, exclusions, provisions and conditions contained in the Policy or endorsed thereon, the Insurers shall indemnify the Insured in respect of loss or damage to thatch roofing only if:-

1. Thatching grass is stored at a safe distance from the construction work and adequately protected against the elements
2. a 5 metre firebreak had been cleared around construction site and specifically around the area where thatching grass is stored.
3. Portable firefighting equipment and a fire hydrant with adequate pressure had been provided on site and staff had been trained in the use thereof.

Mass Housing Projects

It is agreed and understood that the Insurer 's liability in respect of any mass housing projects shall be subject to an aggregate limit per occurrence of the lesser of damage to 10 units (each section of the common property of equal value to a unit shall be deemed a unit) or R 500,000 unless otherwise agreed.

It is declared and agreed that cover provided in terms of this policy to the Employer or Developer in respect of residential units shall cease upon completion of construction of each individual unit. Where the Insured is the Contractor, it is agreed that cover for completed units shall cease on handover of such part of the works which is completed provided always that the Contractor shall take all necessary measures to achieve such transfer of risk to the Employer or Developer no later than 30 days after completion of the units failing which cover will cease immediately in accordance with the policy terms and conditions.

Loss or damage to property which could have been insured under a commercial policy, whether issued or not, is excluded.

Completion for the purpose of above shall be deemed to be the date that construction work is completed to a standard that a practical completion certificate could be issued before attending to snag lists, regardless of whether municipal services are connected or not.

Theft & Malicious

Damage

It is agreed and understood that Insurer s liability in respect of theft of materials from site where the materials cannot be secured is subject to the Insured taking reasonable precautions to prevent the theft of or malicious damage to such materials. Reasonable precautions shall include the provision of qualified security personnel on site, regular patrols and delivering only such materials to site as will be incorporated into the works during the day.

Provided that the liability of the Insurer shall not exceed the sum of R50,000 any one occurrence unless stated otherwise in the policy schedule and furthermore that theft of piping cable and wiring shall be limited to R20,000 unless stated otherwise in the policy schedule.

Construction time

Schedule or

Program

It is agreed and understood that otherwise subject to the terms, exclusions, provisions and conditions contained in the policy or endorsed thereon, the following shall apply to this insurance:

The construction and/or erection time schedule or program together with any other statements made in writing by the Insured for the purpose of obtaining cover under the policy as well as technical information provided to the Insurers shall be deemed to be incorporated herein.

The Insured shall be responsible to pay a double deductible and additional premium at a rate to be agreed in respect of loss or damage caused by or arising out of or aggravated by deviations from the construction and/or erection contract time schedule or program unless the Insurers had agreed in writing to such a deviation before the loss occurred.

If the period of any contract extends beyond 36 months then the Insurer may at its absolute discretion cancel the Policy, or review the rate, premium, excess or any other term of the Policy, applicable to the remainder of the policy period required to complete the Contract.

Cover in respect of units where work either ceases or completion is delayed due to a failure to supply services or the authorities fail to issue a certificate of occupancy due to any reason shall cease at the planned completion date unless arrangements are made to extend cover

EXCLUDED CONTRACTS

The Insurer may on request extend cover for excluded contracts at terms to be agreed and endorsed on the Policy

The Insurer will not be liable for excluded contracts and no cover is provided for Contracts or any undertaking or work by or on behalf of the Insured which is hereinafter excluded unless the Policy is endorsed prior to inception of such work or undertaking.

The following Contracts are excluded:-

1. Contracts where the estimated value at award (including the cost of free issue materials) exceeds the Policy Limit of Indemnity or Maximum Contract Value or Maximum Value per Contract reflected in the Schedule;
2. Contracts with a duration at inception which exceeds the limit in the policy Schedule;
3. Contracts which exceed 3 years in duration;
4. Contracts on an existing airport runway or airstrip or in or on any aircraft unless otherwise agreed;
5. Contracts in or on waterborne vessels;
6. Contracts involving harbours, jetties, piers, wharfs, dams unless such works is done from shore or temporary works connected to shore;
7. Contracts involving underground mining, tunneling, shaft-sinking, underground work or any underground activity other than excavations for normal foundations or basements;

Section 2 — Third Party Liability (if applicable)

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 tangible property belonging to third parties

Occurring in direct connection with the performance of the Contract Works insured under Section 1 and happening at the Contract Site and during the Period of Insurance or prior to the expiry of the Insurer's Liability in terms of the Period of Cover clause whichever shall occur first provided always that cover after Handover shall be limited to the Contractor's Maintenance Period obligations during site visits as required in terms of the contract documentation, during but not exceeding the Maintenance Period provided for in the Policy Schedule.

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

- a) All costs and expenses of litigation recovered by any claimant from the Insured, and
- b) 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 Liability cover the Limit is deemed to be Nil.

Special exclusions

To Section 2 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 Contractor(s) or the Principal(s) or any other firm connected with the project which or part of which is insured under Section 1, or members of their families.

- b) Loss of or damage to property belonging to or held in care, custody or control of the Contractor(s), the principal(s) or any other firm connected with the project or an employee or workman of one of the aforesaid or which is insured under Section 1;
 - c) Any accident caused by vehicles licensed for general road use 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. The cost of making good faulty Material, Workmanship, Design, Plan or Specification in any part of the Insured Property.
 6. Liability for design of the works or any part thereof by the Insured.
 7. liability consequent upon injury or damage occurring after the completion and handover of any work (inclusive of the Contractual Defects Liability or Maintenance Period) and caused by through or in connection with any defect or error in or omission from such work.
 8. Notwithstanding any provision of this Section including any exclusion, exception or extension or other provision, this policy does not cover any legal liability, loss, damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to the extent contributed to by, the hazardous nature of asbestos in whatever form or quantity.
 9. 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.
 10. Loss or damage to cash or bank notes, treasury notes, cheques, postal orders, money orders or securities.
 11. Liquidated damages or penalties for delay or detention or in connection with performance, Retention or Performance or Efficiency Guarantees, penalties imposed by municipal, government or any other authority.
 12. Loss or damage due to spread of fire.

**Provisions applicable
To Section 2 only**

Cross Liabilities

Where the Insured comprises more than one person this insurance shall apply to each such insured person separately and not jointly and as if a separate policy had been issued in respect of each of such insured person.

Where the corporate structure of any insured person is composed of divisions or separate operating units (by whatever name known) within a single legal entity, the Insurers shall for the purposes of determining the indemnity granted by this insurance treat each division or separate operating unit as a legal entity in its own right.

Subject to the Insurers total liability not exceeding the Limit of Indemnity stated in the Schedule.

**Special conditions
To Section 2**

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. **Spread of Fire**

Notwithstanding Section 2 Exception 11 it is declared and agreed that Insurers shall indemnify the Insured for legal liability arising directly out of the performance of the works provided that such indemnity shall be limited to loss or damage to buildings, property, cultivated land and domestic animals and livestock only during the execution of the contract works and subject always to the specific sub-limit in the Schedule which shall be deemed to be nil if not expressly stated. This extension of cover is not in addition to the Policy Limit of Indemnity for Section 2 and applies for every occurrence which has a common cause irrespective of the number of individual claims.

4. **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 location position and depth of such cables, pipes or other underground services and has complied with all 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 in the same position as **shown** on the survey maps or drawings or way leave documents requested from service providers (authorising work in a servitude) or supplied by the authorities shall be payable after applying a deductible as stated in the schedule. **provided always that the Insured takes reasonable precautions to avoid damaging such services;**

Claims in respect of loss or damage to underground services and utilities which are shown on the abovementioned plans or wayleaves but are not located in the same position as shown on the plans or wayleaves shall be payable after applying a deductible of 10% of loss minimum R15,000 or the deductible reflected in the policy schedule, whichever is the greatest **provided always that the Insured takes reasonable precautions to locate and avoid damaging such services;**

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.

5. **Special Condition: Blasting/Use of Explosives (applicable if cover is not specifically excluded)**

The Insurers will not indemnify the Insured for any liability arising in consequence or out of acts errors and/or omissions in the design of the blast or the use or handling of explosives nor due to any failure by the blasting sub-contractor to comply with South African legislation and regulations and industry codes of good practice. Notwithstanding anything to the contrary contained herein the definition of the Insured in terms of the liability section of the policy shall exclude blasting sub-contractor(s) and the Insured must ensure that the sub-contractor(s) indemnifies the Insured for any claims arising in consequence or out of the use or handling of explosives and that the sub-contractor(s) has appropriate insurance in place to meet their obligations.

Removal of Support Public Liability Extension (if requested and endorsed on the policy schedule)

Notwithstanding Special Exclusion 3 the Insurer will indemnify the Insured for

1. All amounts which the insured is or may become legally liable to pay as compensation for damages or costs and expenses arising out of or in connection with:
 - a) death of or bodily injury to any person;
 - b) loss or damage to property;
arising out of or in connection with shock or vibration or the removal or weakening of or interference with support to property in the vicinity of the contract site and arising out of or in connection with the insured contract performed within the territorial limits and occurring during the period of erection/construction provided always cover is subject to the method for excavating and design of support being specified by a qualified engineer which must be made available for inspection by Insurers on request;
2. All costs and expenses incurred with the consent of the insurers in connection with the defense settlement or investigation of any claim under this insurance;
3. The Insurers shall not indemnify the Insured for loss or damage arising from professional duties such as but not limited to the design of temporary works or support, method statements or failure to supervise the works.

Limit of indemnity The maximum liability of the insurers in respect of each claim or all claims of a series consequent on or attributable to one source or original cause shall not exceed the limit of indemnity stated in the schedule. If no limit is stated for Removal of Support Liability cover the Limit is deemed to be Nil.

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;
 - iii) nuclear explosives or any nuclear weapon;
 - iv) nuclear waste in any form;

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

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

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

3. 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 programme errors, incorrect entry or the inadvertent cancellation or corruption of data and or programmes or

- iv) to capture save retain or to process any data as a result of the action of any computer virus, or other corrupting, harmful or otherwise unauthorised code or instruction including any Trojan horse, time or logic bomb or worm or any other destructive code, media or programme or interference.

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

Special Extension to the above General 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
 - (a) arising from its undergoing any process necessarily involving the use or application of water;
 - (b) caused by tidal wave originating from earthquake or volcanic eruption;
 - (c) in the underground workings of any mine
 - (d) in the open (other than buildings structures and plant designed to exist or operate in the open);

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Unless so described and specifically insured as a
 - (e) in any structure not completely roofed;

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separate item
 - (f) being retaining walls;

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}

2. aircraft and other aerial devices or articles dropped therefrom;

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

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

C. The above General Exception also does not apply to consequential loss as insured by any Business Interruption indemnity provided by this policy to the extent that such consequential loss results from damage to insured property by the perils referred to in A above.

D. 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.

5. 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;
6. 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.
7. This Policy does not cover loss or damage to property liability or consequential loss directly or indirectly arising out of confiscation, commandeering, requisition or destruction by order of any government or public authority.
8. The Insurers shall not be liable to pay interest on indemnity payments withheld other than interest for default.

General Memorandum

Memo 1 – Insured Parties

Subject to the terms, exceptions and conditions it is agreed that the definition of the Insured shall include the Principal or Employer and the Contractor or sub-Contractor for their respective rights and interests as required in terms of the Contract(s) entered into between the Insured and such other parties

Memo 2 - Indemnity to Insured Parties

Subject to the terms, exceptions and conditions it is agreed that:-

- (a) other than work performed or undertaken by The Employer on his own behalf the Contract(s) entered into between the Employer and/or the Contractor(s) and/or Sub-Contractor(s) shall form the basis on which this Insurance is arranged.
- (b) the Indemnity provided by this Policy shall only be granted to the insured parties to the extent required by the conditions of Contract(s) between the Employer Contractor(s) or Sub-Contractor(s) while engaged on the Contract Site in execution of the Insured Contract or while the Property Insured is in transit (including loading and unloading) or whilst such Property Insured is temporarily situated at other premises as provided herein.
- (c) In respect of Manufacturers or Suppliers or Independent Project Managers, Consultants, Engineers, Architects, Quantity Surveyors or any other professional party who may be deemed to be included as an Insured Party under this Policy, the Insurance by this Policy shall not apply in respect of loss, damage or liability arising from any professional activity or off-site manufacturing.

Joint Ventures, Consortia and Partnerships included in the definition of The Insured shall be deemed to be a legal entity with rights more or no less extensive than any other party insured hereunder

Memo 3 – Insured Parties

Subject to the terms, exceptions and conditions it is agreed that the definition of the Insured shall include the Principal or Employer to the extent required by contract or agreement,

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 and the Section(s) shall be deemed to be incorporated in and form part of this Policy and the expression "this Policy" wherever used in this contract shall be read as including the Schedule and the Section(s). Any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule or of the Section(s) shall bear such meaning wherever it may appear;
- 3. The Insured shall at his own expense take all reasonable precautions and comply with all reasonable recommendations of the Insurers to prevent loss, damage or liability and comply with statutory requirements and manufacturers' recommendations;
- 4.
 - 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 assessment of the risk;
 - b) The Insured shall immediately notify the Insurers by e-mail or facsimile message 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;

5. 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 as well as in writing by e-mail or facsimile, giving an indication as to the nature and extent of loss or damage;
 - b) Take all 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 Insurers may require;
 - e) Inform the police authorities in case of loss or damage due to theft or burglary.

The Insurers shall not in any case be liable for loss, damage or liability 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 the repairs or replacement of 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 affected. 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 is entitled to proceed with the repairs or replacement;

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;

6. 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 rights 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;
7. General Condition (Arbitration)
- In the event there is any difference between the amount claimed under the policy and the amount which the insurer offers to pay, (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;

Such nomination shall be done within one calendar month after having been required in writing so to do by either of the parties provided always that both the Insured and Insurer both mutually agree in writing to resolve the matter by Arbitration;

This clause does not detract in any way whatsoever from either party exercising its right to institute an action out of the relevant Court having jurisdiction to hear the matter, and hence either party may refuse to resolve the matter through arbitration;

In the event a matter is referred to arbitration, then either party will nevertheless still retain the right to challenge the award made by the arbitrator(s), either on an Appeal against the Arbitrator's award, or to challenge same in a Higher Court;

The making of an award shall be a condition precedent to any right of arbitration;

8. If a claim is in any respect fraudulent, or if any false declaration is made or used in support thereof, or if any fraudulent means or devices are used by the Insured or anyone acting on his behalf to obtain any benefit under this Policy, or if a claim is made and rejected and no action or suit is commenced within three months

after such rejection or, in the case of arbitration taking place as provided herein, within three months after the arbitrator or arbitrators or umpire have made their award, all benefit under this Policy shall be forfeited;

9. It is agreed and understood that the Policy shall not be brought into contribution with any other more 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;

10. Premium Adjustment

Annual Policies (Annual Turnover basis)

In the event of the Estimate Turnover as defined in the Policy Schedule, being attained before the expiry of the Period of Insurance, the Insured shall declare such further Turnover as may be reasonably expected for the remainder of the Period of Insurance and shall be liable for any additional premium resulting from such Declaration. Should the Estimate Turnover not be attained by the end of the Period of Insurance then the premium shall be appropriately adjusted to the Company retaining 85% of the initial Premium. However in the case of an Annual Premium of R 10,000 or less the Premium retention will be 100%;

Specific Policies (Estimated Contract Value)

The Premium for this Policy is based on the estimated Contract Value at award provided by the Insured. It is agreed that the Insured shall after completion of the Insured Project declare to the Insurers the actual Contract Expenditure (which shall where relevant include the value of any free issue materials) and the Insurers shall thereupon adjust the Premium accordingly subject always to a 85% minimum retention by Insurers.

11. 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

- 12.1 if the Insurer gives notice of cancellation the Insurer shall refund the pro-rata proportion of the premium for the unexpired Period of Insurance;
- 12.2 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;
- 12.3 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;
- 12.4 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.

12. 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;

13. Value Added Tax

All amounts stated in the Policy (including sums insured, insured limits and premiums) are deemed to be VAT inclusive amounts but deductibles will be deemed to be VAT Neutral and shall not be subject to VAT, meaning inter alia that:

- a) Where the Insured is a registered VAT Vendor the deductible will be subtracted from the VAT exclusive claim and Section 8(8) Indemnity VAT will be added to the result.
- b) Where the Insured is not a registered VAT Vendor the deductible will be subtracted from the VAT inclusive claim.