

# Commercial Insurance

## Electronic equipment section



### **Sub-section A - Material damage**

#### **Defined events**

Physical loss of or damage to the property insured described in the schedule from any cause not hereinafter excluded whilst

1. at work or at rest anywhere within that part of the building occupied by the insured at the insured premises described in the schedule.
2. in transit including loading and unloading or whilst temporarily stored at any premises en route.
3. temporarily removed from that part of the building occupied by the insured at the insured premises described in the schedule to any other building.

#### **Exceptions to sub-section A**

The company will not be liable to indemnify the insured irrespective of the original cause in respect of

1. the first amount payable as stated in the schedule in respect of sub-section A, of each and every event giving rise to a claim. Where more than one item of property insured suffers physical loss or in any one event, the first amount payable shall be the highest single amount applicable to such property insured.
2. derangement unless accompanied by physical damage otherwise covered by this section.
3. loss or damage recoverable in terms of any maintenance and/or leasing agreement effected by or on behalf of the insured covering the insured equipment.
4. faults or defects known to the insured (or their responsible employees) at the time this insurance was arranged or during the currency of the insurance and not disclosed to the company or any consequences thereof.
5. wastage of material or the like or wearing out of any part of the property insured caused by or naturally resulting from ordinary usage or working or other gradual deterioration, development of poor contacts or scratching of painted or polished surfaces of a cosmetic nature.
6. parts having a short life such as (but not limited to) bulbs, valves, contacts, X-ray tubes, cathode ray tubes, thermionic emission tubes, fuses and sacrificial buffer circuits. If such parts are damaged as a result of physical loss or damage as provided for by this sub-section to other parts of the property insured, the company shall indemnify the insured for the residual value prior to the loss of such exchangeable parts.
7. the cost of reproducing data and/or programmes whether recorded on cards, tapes, discs or otherwise unless specifically provided for in sub-section B hereof.
8. loss of use of the property or other consequential loss, damage or liability of whatsoever nature other than losses specifically provided for herein.
9. (a) loss by theft or by disappearance of the property insured unless accompanied by forcible and violent entry into or exit (or any attempt thereat) from that part of the building occupied by the insured at the insured premises described in the schedule or as a result of theft or any attempt thereat, following violence or threat of violence;  
(b) loss of the property insured by theft during transit or whilst temporarily removed from the insured premises unless identifiable by the insured with a specific incident which has been immediately reported to the police and the company.

The company shall not indemnify the insured for the theft of the property insured from any motor vehicle where the property insured has been

1. left in the motor vehicle overnight unless the vehicle is housed in a securely locked building and entry to such vehicle or building is accompanied by forcible and violent entry or exit;
  2. contained in a compartment of the motor vehicle and is visible to passers-by;
- provided that
- 1 and 2 above shall not apply to theft of the property insured where the transport vehicle
    - (a) has been hijacked, or
    - (b) has been involved in a road accident or sustains a breakdown and, due to circumstances beyond the control of the vehicle crew/driver, the property insured is of necessity left unprotected.

## Basis of indemnification

The indemnity by this sub-section, subject always to the sums insured contained in the schedule or any specific limit of liability contained in this sub-section, shall be as hereinafter provided and as appropriate including dismantling, re-erection, transportation, removal of damaged property insured (but less the value of the remains) and, where applicable, importation duties and value added tax.

### 1. Partial loss

If the property insured suffers damage that can be repaired, the basis of indemnification shall be the restoration expenses reasonably and necessarily incurred to restore the damaged property to working order provided that

- (a) the value of damaged parts which can be used will be deducted.
- (b) the costs of any alteration, addition, improvement or overhaul carried out at the time of repair are not recoverable under this sub-section.
- (c) if, without the consent of the company, temporary repairs are carried out by the insured in the interests of safety or to minimize further loss or damage to the property insured, the cost of such temporary repairs will be borne by the company. In the event that the temporary repairs aggravate the loss or cause additional loss or damage to the property insured, any additional costs so incurred or consequence arising therefrom will be for the account of the insured.
- (d) where the damage is restricted to a part or parts of an insured item, the company shall not be liable for an amount greater than the value of such part or parts which are lost or damaged allowed for within the sum insured.

### 2. Total loss

- (A) In cases where the new property insured is totally lost or destroyed, the basis of indemnification shall be the cost of replacing or reinstating on the same site new property of equal performance and/or capacity or, if such be impossible, its replacement by new property having the nearest equivalent performance and/or capacity to the property lost or damaged provided always that
- (a) the work of replacement or reinstatement (which may be carried out upon another site and in any manner suitable to the requirements of the insured, subject to the liability of the company not being thereby increased) must be commenced and carried out with reasonable dispatch otherwise no payment exceeding the market value of the property insured immediately before the damage shall be made.
  - (b) until expenditure has been incurred by the insured in replacing or reinstating the property insured, the company shall not be liable for any payment in excess of the amount which would have been payable if these conditions had not been incorporated herein.
  - (c) these conditions shall be without force or effect if
    - (i) the insured fail to intimate to the company within six (6) months of the date upon which the damage occurred (or such further time as the company may in writing allow) his intention to replace or reinstate the property insured;
    - (ii) the insured is unable or unwilling to replace or reinstate the property insured on the same or another site.
  - (d) at the sole option of the company, following commercial and technical appraisal by a representative of the company, the period referred to in the definition of new property may be extended (on an annual basis from renewal date) subject always to such extension of period being admitted by memorandum to this section.

### Definition of new property insured

New property shall mean property purchased no more than seven (7) years (or such extended period as may be approved by the company in writing) prior to the defined event, it being expressly agreed that in applying this definition upgrades and enhancements will be taken into account in arriving at an indemnifiable amount and the age of the property insured.

- (B) In respect of property insured not provided for in (A) above, the basis of indemnification shall be the market value of the property insured immediately before the loss or damage. At the option of the company, the property insured shall be regarded as totally destroyed if the repair costs as defined in 1 above equal or exceed its market value immediately before the damage.

### Definition of market value

The current day purchase price of second-hand/used property of equal performance and/or capacity to the property lost or damaged and of substantially similar condition. Where no similar property is available, market value shall be calculated by deducting from the current new replacement value of the nearest equivalent property, an amount representing

- (a) 20% (twenty percent) for the first year after the date of purchase, and
- (b) 10% (ten percent) per year for each succeeding year  
subject always to a minimum indemnity of 40% (forty percent) of the current new replacement value of the nearest equivalent property.

### **Average**

In respect of 1 and 2 above, if at the time of repair, replacement or reinstatement, the sum representing the cost which would have been incurred in repair, replacement or reinstatement if the whole of the property insured had been lost or damaged exceeds the sum insured thereon at the time of any loss of or damage to such property, then the insured shall be considered as being their own insurer for the difference and shall bear a rateable proportion of the loss accordingly. Each item of this section (if more than one) to which these conditions apply shall be separately subject to this provision.

### **Limit of liability**

The amount of liability shall not exceed, in respect of any of the items specified in the schedule, the sums insured set opposite thereto respectively and, in addition thereto, the following:

#### **1. Architects' and other professional fees**

Professional fees necessarily and reasonably incurred in the repair or reinstatement of property following indemnifiable loss or damage, provided that the amount payable in respect of such fees does not exceed 15% of the total amount of the claim, but shall not include expenses incurred in connection with the preparation of the insured's claim.

#### **2. Clearance costs**

Costs necessarily and reasonably incurred by the insured in respect of demolition or dismantling of property and/or removal of debris and in providing, erecting and maintaining hoardings and other similar structures required during demolition, dismantling, debris removal and reconstruction following indemnifiable loss of or damage to such property, provided that the total amount recoverable does not exceed 15% of the total amount of the claim.

#### **3. Express delivery and overtime**

Extra charges for express delivery, airfreight, overtime, Sunday and holiday rates of wages payable in respect of the necessary and reasonable additional costs incurred by the insured for effecting repairs or replacement approved by the company, limited to 50% of the amount which the repair or replacement would have cost had these additional costs not been incurred.

### **Clauses and extensions**

#### **Power surge or lightning strikes**

All loss or damage to the property insured by power surges or lightning strikes will be subject to an additional first amount payable of 10% of the net amount payable for the items so damaged subject to a minimum of R1 000, but not exceeding R2 000 per occurrence. However, should the property insured be appropriately and adequately protected by suitable safeguards against electrical supply fluctuations, then this additional excess will be waived.

#### **Fire brigade charges**

If any public authority empowered to do so shall charge the insured with any costs arising from their activities in dealing with the consequences of an insured peril having operated, such costs will be deemed to be damage to the property insured and will be payable in addition to any other payment for which the company may be liable in terms of this insurance.

#### **Tenants**

This insurance will not be invalidated by any act or neglect on the part of a tenant of the insured (where the insured owns the building) or another tenant or the owner of the building (where the insured is a tenant) provided that the insured notifies the company as soon as such act or neglect comes to their knowledge and pays on demand the appropriate additional premium.

#### **Hire purchase/finance agreements**

Where the company has knowledge of the property insured or any individual item thereof being the subject of a suspensive sale or similar agreement, payment hereunder shall be made to the owner described therein whose receipt shall be a full and final discharge to the company in respect of loss or damage indemnifiable by this sub-section of the section.

## **Sub-section B - Consequential loss**

### **Defined events**

The insurance provided by this sub-section (if stated in the schedule) shall be subject to the limits of indemnity stated in the schedule and shall include

#### **1. Increased cost of working**

The insurance under this item is limited to the additional expenditure necessarily and reasonably incurred by the insured during the indemnity period in consequence of the accident for the sole purpose of avoiding or diminishing the interruption of or interference with the normal business of the insured less any sum saved during the indemnity period in respect of such of the charges and expenses of the business as may cease or be reduced in consequence of the accident.

The indemnity by this item shall not apply directly or indirectly to

- (a) the cover provided for in item 2 of this sub-section;
- (b) the intrinsic value (including reinstatement value) of the property insured by sub-section A of this section.

#### **2. Reinstatement of data/programmes**

Costs and expenses necessarily and reasonably incurred by the insured for the reconstitution or recompilation of data and/or programmes recorded on or stored in data-carrying media which are lost as a result of accidental erasure (which shall include the events defined in the indemnity clause to sub-section A of this section) or by theft or by the deliberate wilful or wanton intention of causing the cancellation or corruption of data or programs as provided for in the sub-section A of this section,

provided that

- (a) the indemnity shall not extend to nor include such costs incurred due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and/or programmes.
- (b) in respect of each and every event or series of events arising out of or in connection with any one original cause or source indemnifiable by this item, the insured shall bear the amount stated in the schedule as the first amount payable.
- (c) where the insured elects to insure programs (software), a schedule of such programs shall be lodged with the company at the commencement of each period of insurance.

### **Definitions**

#### **Indemnity period**

The period during which the results of the business shall be affected in consequence of the accident beginning with the number of hours/days detailed in the schedule as the time excess after the occurrence of the accident and ending not later than the expiry of the period detailed in the schedule as the indemnity period after such occurrence.

The time excess shall not apply to loss or damage directly caused by fire, storm (excluding lightning), subsidence, wind or the collapse of buildings.

#### **Accident**

1. (Applicable to increased cost of working only) physical loss of or damage to the property insured described in the schedule from any cause as provided for under sub-section A of this section, liability under which sub-section shall, except for the provisions relating to the first amount payable or the maintenance/lease agreements, be a condition precedent to liability hereunder.
2. Failure of the public supply of electricity at the terminal ends of the service feeders in the premises from any accidental cause other than
  - (a) the deliberate act of the insured or any supply authority;
  - (b) drought or shortage of fuel at any electricity utility.Special conditions applicable to failure of the public supply of electricity:
  - (a) The liability of the company shall not exceed the sum insured by this sub-section.
  - (b) The indemnity period shall commence 12 hours after the failure and end not later than 30 days after such failure.

#### **The limit of liability**

The liability of the company shall not exceed the amounts specified in the schedule (relating to sub-section B) in respect of any one accident or series of accidents arising out of or in connection with any one event.

In the event of the payment by the company of any sum or sums in discharge of the company's liability in terms of this sub-section, the sum(s) insured shall automatically be reinstated for the remainder of the current period of insurance. The insured shall pay to the company the additional premium required by the company calculated pro rata from the day of the accident to the end of the period of insurance.

## Specific exceptions to sub-section B

Unless specifically provided for:

### 1. Fines and damages

The company shall not be liable to indemnify the insured in respect of fines or damages for breach of contract for late or non-completion of orders or any penalties of whatsoever nature.

### 2. Loss of profit

The company shall not be liable to indemnify the insured in respect of loss of profit or consequential loss of whatsoever nature unless specifically provided for herein.

## Clauses and extensions

### Reinstatement

Notwithstanding anything to the contrary contained in this sub-section, it is hereby declared and agreed that, in the event of any interruption, following loss or damage, being aggravated by

1. the insured being unable or unwilling to replace or reinstate property destroyed or damaged, or failing to carry out such replacement or reinstatement within a reasonable time, or
2. additions, alterations or improvements being effected to the property insured on the occasion of its repair, the company's liability under this section shall be related solely to the business interruption which would have arisen in the absence of 1 and 2.

### Telkom access lines (if stated in the schedule to be included)

Subject to the limits specified in the schedule, consequential loss as provided for under defined events 1 and 2 of sub-section B arising from accidental failure of the Telkom access lines is included, provided always that the insurance under this extension shall be subject to the special conditions below.

### Special conditions applicable to Telkom access lines

1. The liability of the company shall not exceed the sum insured by this sub-section.
2. The indemnity period shall commence 12 hours after the failure and end not later than 30 days after such failure.
3. The insurance provided does not cover loss occasioned by the deliberate act of any Telkom authority or by the exercise of such Telkom authority of its power to withhold or restrict access to its lines.

## General memoranda

### Memo 1 - Capital additions and currency fluctuations

The indemnity by this section shall include

1. additional equipment or programs purchased by the insured of a similar nature to that specified in the schedule, provided that, in respect of loss or damage due to electrical, mechanical or electronic breakdown or explosion, the insurance shall only commence after satisfactory completion of installation or commissioning/testing and put into use at the insured's premises;
2. provision for devaluation or revaluation of the currency of the Republic of South Africa against that of the country of origin of the property insured and other inflationary trends, which may result in the escalation of the sum insured (representing the installed new replacement value) of the property insured; provided that the increase shall not exceed, by more than 25%, the total sum insured for sub-section A specified in the schedule, it being agreed that the insured will advise the company of such alterations after the expiry of each period of insurance and pay the appropriate premium thereon but not exceeding 50% of the difference.

### Memo 2 - Prevention of access

If, during the indemnity period, the business at the premises is interrupted or interfered with in consequence of the insured being prevented from having access to the property insured situated at the premises caused by damage to property within a 10 km radius of the insured premises as described in the schedule by fire, lightning, explosion, storm, tempest, flood, water inundation, earthquake or impact by vehicles, the company shall indemnify the insured for loss resulting from such interruption or interference in accordance with the provisions contained herein

provided that

1. the insured is not entitled to indemnity as provided for in this extension under any other policy or section of this policy.
2. this section shall not be brought into contribution with any other policy or section of this policy bearing a like extension.

### Special exception (sub-sections A and B)

#### Viruses, Trojans and worms

The company shall not indemnify the insured for loss or damage of whatsoever nature arising directly or indirectly out of or in connection with the action of any computer virus, Trojan or worm(s) or other similar destructive media.

### General extension

#### Incompatibility cover (if stated in the schedule to be included)

Notwithstanding anything to the contrary in the policy, the indemnity by sub-sections A and B of this section shall indemnify the insured for costs incurred in respect of

1. modifications or alterations to the property insured directly consequent upon indemnifiable loss or damage to ensure the operating integrity of the electronic system;
2. replacement or upgrading of legal programs to achieve compatibility with the modified or altered electronic system;
3. the restoration of previously captured data which has become inaccessible due to the modifications to or alterations of the electronic system or in consequence of the replacement or upgrading of legal programs;

provided always that

- (a) the costs provided for in 1, 2 and 3 above shall be necessarily and reasonably incurred to maintain normal working conditions.
- (b) such additional costs shall be incurred as a direct consequence of indemnifiable loss or damage in terms of sub-sections A or B (item 2) of this section.
- (c) the cover afforded hereunder shall be restricted to
  - (i) parts or components of the electronic system which are not indemnifiable under sub-section A hereof;
  - (ii) programmes or data reinstated not indemnifiable under (item 2) of sub-section B hereof.
- (d) the indemnity by this extension shall, in respect of any one event, be limited in the aggregate to twenty percent (20%) of the applicable total sum insured under sub-section A (the limit of indemnity) and sub-section B (item 2) or R25 000, whichever is the lesser.