

MACHINERY BUSINESS INTERRUPTION INSURANCE

POLICY





EXTRACT FROM THE INSURANCE CONTRACTS ACT 1984

Under the terms of the Act We must advise
You about the following:

Your Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the *Insurance Contracts Act 1984*, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on what terms.

You have that same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of matter:

- that diminishes the risk to be undertaken by the insurer;
- that is of common knowledge;
- that your insurer knows, or in the ordinary course of its business, ought to know;
- as to which compliance with your duty is waived by the insurer."

Non-Disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract.

If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning."



IMPORTANT NOTICES

1. Claims

This Policy does not provide cover in relation to events that occurred before the contract was entered into.

2. Excess

An excess is the sum of money we will not pay in respect of a claim. The Schedule and Policy will detail the Excesses which may be applicable.

3. Material Damage Proviso

This Policy will not be operative unless it is attached to a material damage policy, the number of which is specified in the Schedule to this Policy, and the insurer has paid a claim or admitted liability under the material damage policy.

4. Underinsurance/Average

This Policy contains an 'Underinsurance/Average' clause which applies to items covering Loss of Gross Profit, Wages and Loss on Exchange.

This means that if the Sum Insured selected by you for these items is less than the amount required to fully indemnify you, you will not receive full compensation in the event of a loss occurring, but will proportionally share in any loss.

The amount you receive will be calculated according to the following formula:-

$$\begin{array}{c}
 \boxed{\text{Sum Insured}} \div \boxed{\text{Amount required to fully indemnify you}} \times \boxed{\text{Amount of Loss}} \\
 = \boxed{\text{Amount Payable by the Company (not exceeding the Sum Insured)}}
 \end{array}$$

Please contact us if you would like more precise details of how underinsurance might affect you.



MACHINERY BUSINESS INTERRUPTION INSURANCE

The Agreement

The Policy wording, Schedule (which expression includes any Schedule substituted for the original Schedule) and Endorsements (if any) are to be read together and any word or expression to which a specific meaning has been given in any part bears that meaning wherever it appears.

The Insured named in the Schedule having paid or agreed to pay the Company the premium, the Company agrees, subject to the terms, exclusions, limitations and conditions contained in or endorsed on or otherwise expressed in the Policy, to provide insurance in the manner and to the extent herein described, during the Period of Insurance stated in the Schedule, or any subsequent period in respect of which payment of the premium or a promise to pay the premium is made to and accepted by the Company

Insurance applies only in respect of those Items against which a Sum Insured is shown in the Schedule or which are otherwise indicated in the Schedule as being operative, and is subject to the Variations and Extensions selected by the Insured and indicated in the Schedule

Provided that

1. the Sum Insured under any Item is as shown in the Schedule unless otherwise expressed in the Policy;
2. the Company will not be liable under the Policy unless the event giving rise to the claim occurs during the Period of Insurance or any renewal thereof;
3. where the insurance is varied or extended by any Additional Benefit or Variation and Extension the insurance provided by such Additional Benefit or Variation and Extension is subject to the terms, exclusions and conditions of the Policy in so far as they apply.



DEFINITIONS

Insured - means the Insured named in the Schedule.

Business - means the business of the Insured at the Situation as specified in the Schedule.

Situation - means the Situation(s) specified in the Schedule.

Machinery - means the property insured under the Insured's material damage insurance policy, the number of which is specified in the Schedule.

Damage - means physical loss or destruction or damage caused by an event or occurrence for which a claim is admitted under the Insured's material damage insurance policy, the number of which is specified in the Schedule.

Rate of Gross Profit - means the rate of Gross Profit earned on the Turnover during the financial year immediately before the date of the occurrence of the Damage. If less than 12 months trading has been completed, Rate of Gross Profit means the rate of Gross Profit earned on the Turnover during the period between the date of the commencement of the Business and the date of the occurrence of the Damage.

Rate of Wages - means the ratio of Wages to Turnover during the financial year immediately before the date of the occurrence of the Damage expressed as a percentage.

Annual Turnover - means the Turnover during the twelve months Period immediately before the date of the occurrence of the Damage. If less than 12 months trading has been completed, Annual Turnover means the proportional equivalent for a period of twelve months of the Turnover realised during the period between the date of commencement of the Business and the date of occurrence of the Damage.

Standard Turnover - means the Turnover during that period in the twelve months immediately before the date of the occurrence of the Damage which corresponds with the Indemnity Period.

Indemnity Period - means the period beginning with the date of occurrence of the Damage and ending on the last day of the period specified in the Schedule during which the results of the Business are affected in consequence of the Damage.

Gross Profit - means the amount by which the sum of the Turnover and the amount of the closing stock exceeds the sum of the amount of the opening stock and the amount of the Specified Working Expenses. The amount of the opening and closing stocks is arrived at in accordance with the Insured's normal accountancy methods with due provision being made for depreciation.

Specified Working Expenses - means the variable working expenses stated in the Schedule which are not insured by this Policy.

Turnover - means the money (less discounts, if any allowed) paid or payable to the Insured for goods sold and delivered and for services rendered in course of the Business.

Wages - means the remuneration (including allowances, bonuses, holiday pay or other payments related to wages) of all employees other than those whose remuneration is treated as salaries in the Insured's books of account.

to which such adjustments will be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the date of occurrence of the Damage or which would have affected the Business had the Damage not occurred, so that the figures thus adjusted represent as nearly as may be reasonably practicable the results which but for the Damage would have been obtained during the relative period after the Damage



Shortage in Turnover - means the amount by which the Turnover during a period following Damage falls short of that part of the Standard Turnover which relates to that period in consequence of that Damage.

Output - means the sale value of goods manufactured by the Insured in the course of the Business.

Excess - means the amount specified in the Schedule that the Insured will bear for each and every claim and where the excess is expressed in the Schedule as:

- a) a specified sum - it means the amount specified.
- b) a percentage - it means the monetary equivalent of such percentage.
- c) a specified time - it means the monetary amount accruing during the period specified.

Provided that where as a result of one occurrence a claim is made under or in respect of more than one Item or Additional Benefit (or a combination thereof) the Excess applies only to the aggregate amount payable in settlement of the claim and not to each individual Item or Additional Benefit unless otherwise stated in the Schedule.

If the Business carried on by the Insured is interrupted or interfered with as a result of Damage, the Company, after taking into account any sum saved during the Indemnity Period in respect of such charges and expenses of the Business as may cease or be reduced in consequence of the interruption or interference, will indemnify the Insured against:

Item 1. a) Loss of Gross Profit

Actual pecuniary loss resulting from the interruption or interference; and

b) Increased Cost of Working

Any additional expenditure necessarily and reasonably incurred by the Insured for the sole purpose of minimising the loss suffered.

Item 2. Wages

The payment of Wages to employees whose services cannot be utilised by the Insured at all and an equitable part of the Wages paid to employees whose services cannot be utilised by the Insured in full.

Item 3. Additional Increased Cost of Working

The cost of further expenditure beyond that recoverable under sub-paragraph 1 (b) above as the Insured necessarily and reasonably incurs to minimise the loss suffered.

Item 4. Loss on Exchange

The loss on exchange of the purchase, by the Insured, of foreign currency, in order to meet currency commitments through the non receipt of foreign currency for forward sales.

Item 5. Accountants' Fees

The cost of accountants' fees necessarily incurred by the Insured in producing or certifying the bills, accounts or particulars required by the Company in respect of any claim made under this Policy.



LIMITS OF INDEMNITY

The total liability of the Company for any claim arising out of one event or series of events arising directly or indirectly from one source or original cause will not exceed:

In respect of -

Item 1:

a) **Loss of Gross Profit**

The sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period, in consequence of the Damage, falls short of the Standard Turnover.

b) **Increased Cost of Working**

The additional expenditure incurred but not exceeding the reduction in Gross Profit thereby avoided.

Item 2: **Wages**

a) The sum produced by applying the Rate of Wages to the Shortfall in Turnover during the number of weeks of the Indemnity Period specified in the Schedule.

b) The sum produced by applying the Rate of Wages to the Shortfall in Turnover during the remaining portion of the Indemnity Period.

Provided that at the option of the Insured (in the event of a claim) the number of weeks referred to in 2 (a) may be increased provided that the amount arrived at under the provisions of 2 (b) must not exceed such amount as is deducted under 2 (a) for savings effected during the said increased number of weeks.

c) The additional expenditure incurred but not exceeding the amount which would have been paid under 2 (a) and 2 (b) had such additional expenditure not been incurred.

Item 3: **Additional Increased Cost of Working**

The charges actually incurred.

Item 4: **Loss on Exchange**

The difference (in Australian dollars) between:

a) the cost of purchasing foreign currency in order to meet commitments under such forward sales falling due within the Indemnity Period, and

b) the amount (in Australian dollars) paid or payable to the Insured in respect of such forward sales

but not exceeding twenty five percent (25%) of the amount referred to in 1 (b) above.

Item 5: **Accountants' Fees**

The fees actually incurred

The covers outlined in items 1 to 4 are subject to the following:

1) If during the Indemnity Period services are rendered elsewhere than at the Situation for the benefit of the Business either by the Insured or by others on the Insured's behalf the money paid or payable in respect of those services will be brought into account in arriving at the amount of the Turnover during the Indemnity Period.

2) If at the date of the occurrence of the Damage the Sum Insured in respect of:

a) Gross Profit is less than the sum produced by applying the Rate of Gross Profit to the Annual Turnover

b) Wages is less than the sum produced by applying the Rate of Wages to the Annual Turnover

c) Loss on Exchange is less than the amount paid or payable to the insured in respect of all forward sales

the amount payable in respect of those items will be proportionately reduced, and in each case is limited in respect of each Item of the Schedule to the Sum Insured specified in the Schedule for that Item.



ADDITIONAL BENEFITS

1. Return Premium

- a) In the event that the Gross Profit, or a proportionately increased multiple thereof, where the Indemnity Period exceeds twelve months earned or Wages paid during the accounting period of 12 months most nearly concurrent with the Period of Insurance, is less than the Sum Insured thereon as certified by the Insured's Auditor, a pro-rata return of premium not exceeding fifty percent (50%) of the Annual Premium paid, will be made in respect of the difference.
- b) If a claim has been paid or became payable in the period for which an adjustment is to be made under this clause, the amount of the claim will be included in the calculation of the Gross Profit earned for the Period.
- c) No return premium will be allowed, unless the Insured lodges the Auditor's Certificate with the Company within six months of the Period of Insurance for which the return of premium is claimed.

2. Fines and Damages

Where cover for Loss of Gross Profit is included, cover is extended to include liability:

- a) for fines or damages for breach of contract for non completion or late completion of orders; or
- b) in discharge of contract purchases, cancellation charges, fines or damages for breach of contracts for the purchase of goods or services which cannot be utilised by the Insured during the Indemnity Period, less any value to the Insured for such goods or the amount received from sale.

The most the Company will pay is 5% of the sum insured for Gross Profit.

3. Excess Waiver

If a claim would have been admitted, other than for the application of an excess, under the material damage policy, the number of which is specified in this Schedule, then this insurance applies subject to the terms, exclusions and conditions of the Policy in so far as they apply.

4. Departmental Clause

If the Business is conducted in departments, divisions or locations, the independent trading results of which are ascertainable, in the event of Damage giving rise to a claim under this Policy the provisions of this insurance shall apply separately to each department, division or location affected by the Damage.

5. Turnover/Output Option

In the event of Damage giving rise to a claim under this Policy, at the option of the Insured the term "Output" may be substituted for the term "Turnover" wherever appearing in the policy, provided that the Insured can demonstrate that any shortage in output would have affected sales and not merely increased accumulated stocks, and provided further that only one such term will operate in connection with any one occurrence involving Damage.

6. Accumulated Stocks

In adjusting any loss, account will be taken and equitable allowance made if any Shortage in Turnover due to Damage, is postponed by reason of the Turnover being temporarily maintained from accumulated stocks of finished goods.

7. Reinstatement of Sum Insured

Following payment of a claim under this Policy other than a claim for total loss, actual or constructive, the Company will reinstate the Sum Insured, provided the Insured pays or agrees to pay any additional premium that may be required by the Company.

8. Government Incentives

The pecuniary loss under Item 1 (a) will include the loss of any Government approved incentives, subsidies or market development allowances to which the Insured is entitled in relation to the Business resulting from interruption of or interference with the Insured's Business in consequence of Damage giving rise to a claim.



EXCLUSIONS

1. The Company will not be liable for:
 - a) any consequence of war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the orders of any government or public or local authority.
 - b) any loss or destruction of or damage to property, consequential loss, liability of whatsoever nature, directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste.
 - c) loss, destruction, damage or liability directly or indirectly caused by or contributed to by or arising from nuclear weapons or material.
2. The Company will not be liable for any claim:
 - a) if the Damage occurred after the Business has been dissolved, wound up or is being carried on by a liquidator or receiver or is permanently discontinued.
 - b) if restrictions on repair, reconstruction or operation of the Machinery are imposed by a public authority.
 - c) if funds are not available to finance the repair, reconstruction or operation of the Machinery.



DATE RECOGNITION SPECIAL EXCLUSION

There is no insurance under this policy in respect of any claim of whatsoever nature which consists of or arises directly out of or in connection with the failure or inability of any

- a) electronic circuit, microchip, integrated circuit, microprocessor, embedded system, BIOS or other instruction set, hardware, software, firmware, program, computer, data processing equipment, telecommunication equipment or systems, or any similar device, or any
- b) media or systems used in connection with any of the foregoing

whether the property of the Insured or not, at any time to achieve fully and successfully, any or all of the purposes and consequential effects intended by the use of any number, symbol or word to denote, represent or express a date,

including, but without being limited to, any failure or inability to recognise, capture, save, retain or restore and/or correctly to manipulate, interpret, transmit, return, calculate or process any date, data, information, command, logic or instruction as a result of or in connection with

- i) anything referred to in a) or b) recognising, using or adopting any date, day of the week or period of time, otherwise than as, or other than, the true or correct date, day of the week or period of time, or
- ii) the operation of any command or logic which has been programmed or incorporated into anything referred to in a) or b) above.

Exception to Date Recognition Special Exclusion

However, when the material damage policy to which this Policy attaches is a Mobile Machinery, Plant and Equipment Policy issued by CGU Insurance Limited, then this special exclusion will not exclude any claim for subsequent loss or destruction of or damage to insured Mobile Machinery, Plant and Equipment sustained in a collision or caused by fire or theft.



GENERAL CONDITIONS

1. Precedent to Liability

a) The Insured's Duty

The extent of the Company's liability is conditional upon:

- (1) payment of the premium. The Company **will not pay** any claim until the Insured has paid the premium.
- (2) notification as soon as possible by the Insured to the Company of any change materially varying any of the facts or circumstances existing at the commencement of this Policy or renewal of this Policy.
- (3) the Insured taking all reasonable precautions to prevent destruction, loss or damage to property and complying and ensuring that the Insured's employees, servants and agents comply with all statutory obligations and by-laws or regulations imposed by any public authority for the safety of property or person.
- (4) the observance of the terms of the Policy by the Insured and by any other person entitled to indemnity under this Policy.

b) Transfer of Interest

No interest in this Policy can be transferred without the Company's written consent.

c) The Company's Rights of Conduct and Recovery

Subject to the provisions of the *Insurance Contracts Act 1984*, the Company has the right to recover or obtain contribution from any person against whom the Insured may be able to claim and take action in the Insured's name. The Company shall have full discretion in the conduct, defence or settlement of any claim and to take action in the Insured's name.

The Insured and any other person entitled to benefit under this Policy must not hinder these rights and must give all such information and co-operation as the Company may require.

2. Cancellation

a) Subject to the provisions of the *Insurance Contracts Act 1984*, the Company may cancel this Policy at any time by giving notice in writing to the Insured of the date from which cancellation is to take effect, where the Insured has:

- (1) failed to comply with the Insured's duty of utmost good faith; or
- (2) failed to comply with the Insured's duty of disclosure at the time when the Policy was entered into, varied, altered, or renewed; or
- (3) made a misrepresentation to the Company during the negotiations for this Policy, but before the Company agreed to issue this Policy; or
- (4) failed to comply with a provision of the Policy; or
- (5) failed to pay the Premium for the Policy; or
- (6) made a fraudulent claim under this Policy, or any other contract of insurance (whether with the Company or another insurer) that provided cover during any part of the Period of Insurance of this Policy; or
- (7) failed to comply with a requirement in this Policy that the Insured notify the Company of an act or omission which occurred after this Policy was entered into; or
- (8) failed to notify the Company of any specific act or omission or such a notification as is required under the terms of this insurance Policy.

b) Subject to the provisions of the *Insurance Contract Act 1984*, the Company may cancel this Policy at any time where:

- (1) it is in force by virtue of Section 58 of the *Insurance Contract Act 1984*; or
- (2) it is an interim contract of general insurance.

c) The Insured may cancel this Policy at any time by notifying the Company in writing.

d) After cancellation, the Company will retain or be entitled to the premium for the period during which this Policy has been in force.



3. Jurisdiction

Should any dispute arise between the Insured and the Company over the application of this Policy, such dispute shall be determined in accordance with the law of Australia and the States and Territories thereof. In relation to any such dispute arising out of or incidental to this contract of insurance, the parties agree to submit to any court of competent jurisdiction in a State or Territory of Australia.

4. Inspection

We have the right to inspect and examine the insured items at all reasonable times.

1. As soon as possible after the happening of any occurrence, accident or event which may give rise to a claim against the Company, the Insured or the Insured's legal representative must:
 - a) advise details to the Company and send written confirmation within 30 days.
 - b) take all reasonable steps to minimise the loss or damage and to prevent any further loss or damage. The Company will not be liable in respect of any further damage arising out of the continued use of damaged property until such property is repaired to the Company's satisfaction.
 - c) take all reasonable precautions to preserve any things which might prove necessary or useful by way of evidence in connection with any claim.
 - d) take all practical steps to recover any property.
 - e) retain all damaged property for inspection by the Company.
 - f) advise the Company of any impending prosecution or inquest.
2. Where a claim arises the Insured must not authorise repairs to, or arrange replacement of, any of the property relevant to the claim without the Company's consent.
3. Subject to the provisions of the *Insurance Contracts Act 1984*, the Insured or any person making a claim under this Policy must not make any admission of liability or payment or promise, or offer of payment in connection with any such claim, without the Company's written consent.
4. The Insured at the Insured's own expense will furnish the Company with:
 - a) a statement in writing containing particulars of the property affected and its value; and

VARIATIONS AND EXTENSIONS



- b) such books of account and other business books, computer records, vouchers, invoices, balance sheets, and other documents, proofs, information, explanations and other evidence and a statutory declaration as the Company may require for the purpose of investigating or verifying a claim under this Policy and the Insured and the Insured's accountants must co-operate fully in this regard.
5. The Insured must supply the Company with a statement giving details of the other insurances which may also provide cover on any property hereby insured.

Cover only applies if shown in the Schedule.

Public Utilities

- 1) The insurance under this Policy is extended to include interruption of, or interference with, the Business carried on by the Insured, caused by failure of the supply of the public utility specified in the Schedule at the terminal point of the public utility's feed to the Situation resulting from:
 - a) a deliberate act of the public utility performed for the sole purpose of safeguarding life or protecting a part of the public utility's system; or
 - b) a scheme of rationing necessitated solely by damage from a cause not excluded under the material damage policy to which this policy is attached, to a part of the public utility's system; or
 - c) damage to the equipment of the public utility's system, from a cause not excluded under the material damage policy to which this policy is attached.

LIMITATION

- 2) Unless otherwise agreed by the Company and endorsed hereon, the indemnity Period for the purpose of this Extension is limited to the period commencing with the expiry of the Excess Period stated in 3) below, and ending not later than ten (10) days thereafter, during which the results of the Business are affected by the failure.

EXCESS

- 3) The Company will not be liable for any loss arising during the Excess Period immediately following the failure and consisting of the number of hours specified in the Schedule, or twenty-four (24) hours, whichever is the greater.

CGU Insurance Limited
ABN 27 004 478 371
An IAG Company