

## GENERAL CONDITIONS - MACHINERY BREAKDOWN

### Extent of Cover

#### Article 1

With this policy, the Insurer shall be liable to cover repair expenses and replacement charges brought about by material losses and damages in machinery and works having their numbers, production dates, qualities and values stipulated in the enclosed inventory table constituting an integral part of the policy, while the said machinery or works are in good working order after the trial period or during cleaning, maintenance, revision or transportation of the same within the same workplace or while they are idle, because of any unforeseeable and sudden reason or arising out of:

- a. Operating accidents,
- b. Faults in the model, production, assembly, material, mould, casting and workmanship,
- c. Greasing faults,
- d. Short circuits, sparks, increased voltage arising out of the direct effects of electrical energy as well as isolation errors and indirect effects of the atmospheric electricity,
- e. Blockage and penetration of foreign materials,
- f. Breakage arising out of the centrifugal force,
- g. Lack of water in steam boilers and steam containers,
- h. Water swaging, sudden heating or cooling,
- i. Deformations such as crushes, rents, crumpling arising out of the low pressure in closed containers,
- j. Storms and tornadoes, frost or the advance of melting ice,
- k. Negligence, fault, mistake, carelessness or sabotage of the operating personnel or third parties,
- l. Other events not excluded hereunder

(With the exclusion of isolation materials and isolation greases) replaceable parts such as drills, knives, scissors, saws, steel or metallic pens or cutting equipment and devices, matrixes and moulds, hot rolling mills, template models, drawing rolls, grinders, breakers, mixers, sieves and screens, ropes, chains, transportation belts and bands, and parts ordinarily replaced or renewed in pre-determined intervals such as carbon brushes and lamps shall not be covered.

### Exclusions unless otherwise stipulated in a separate contract

#### Article 2

Unless otherwise stipulated in a separate contract, the following events and circumstances shall be excluded from the cover of the insurance:

- a. Losses and damages arising out of physical explosions (for the purposes of this agreement, physical explosion shall come to mean the sudden manifestation of power caused by the

expansion of the steam, gas or gas in liquid state kept in pressurised containers, and the act of finding a sudden balance between the internal and external pressures of the container by causing the steam, gas or gas in liquid state to burst out by tearing the container's wall apart),

- b. Losses and damages arising out of reasons related to the base or foundation of the machinery or works covered by the insurance,
- c. Cost of transportation via speedy means with the exclusion of aircraft, overtime and holiday charges and increases caused by losses and damages arising out of reasons covered hereunder,
- d. All kinds of losses and damages caused by strikes, lock-outs, civil commotions and public disorder and any subsequent necessary military and disciplinary measures,
- e. Damages occurring as a result of terrorist acts stated in The Prevention of Terrorism Act No: 3713 and sabotage resulting from these acts and intervention by authorized bodies for the purpose of preventing or diminishing the consequences of these terrorist acts.

### Exclusions

#### Article 3

The following events and circumstances shall be excluded from the cover of the insurance:

- a. All kinds of losses and damages arising out of war, all kinds of war acts, invasion, acts of foreign enemies, skirmishes (whether war is declared or not), civil war, revolution, rebellion, revolt and consequent necessary disciplinary and military measures,
- b. All kinds of damages arising out of any kind of nuclear fuel or nuclear waste forming as a result of the burning of a nuclear fuel, or ionising radiation or radioactivity contamination brought about by reasons attributed to them and consequent necessary disciplinary and military measures (for the purposes of this paragraph, the term "burning" shall be deemed to include any self-continuing fission events),
- c. All kinds of losses and damages arising out of disposals performed by public authorities on insured assets.
- d. Losses and damages arising out of fire or the related extinguishing, demolishing and rescue works and the direct effects of lightning,
- e. All kinds of profit losses or financial liabilities arising for any reason whatsoever,
- f. Losses and damages arising out of theft or attempted theft,
- g. Losses and damages arising out of natural disasters such as landslide or soil creep, avalanches, volcano eruptions, earthquakes, floods and torrents etc.,
- h. All kinds of losses and damages arising out of the wear &

tear brought about by the normal operation and ordinary use of insured machinery or the effects of decay, rust, corrosion, erosion or oxidation, calcification of steam boilers, mud, operational problems, and conditions such as atmospheric conditions etc.,

- i. Losses and damages arising out of explosions caused by the sudden oxidation or joint reaction of chemical substances and gases, or the explosion of powders with a tendency to explode because of atmospheric electricity,
- j. Losses and damages arising out of the untimely and early use of any insured assets, failed during the period of time covered by the insurance, before the correction of the failure,
- k. Material losses and damages arising out of the criminal intention or grave fault, if an agreement is signed, of the Insured or his/her authorised agent.

### **Amount of Insurance and Its Adjustment**

#### **Article 4**

The amount of insurance for the insured assets having their qualities stipulated hereunder as well as the enclosed inventory table constituting an integral part of this policy shall be the equivalent of the cost of replacement (including the transportation, assembly, customs, taxes, charges, fees and expenses, if any) of the said machinery and equipment. In case the replacement cost of any unit to be thus calculated at the instant of the damage exceeds the amount of insurance, then the Insured shall undertake to cover part of the damage equivalent to the said difference.

In case the authorities ascertain that the amount of insurance of insured assets is above or below the replacement costs before the occurrence of the damage, then the said amount shall be duly adjusted, and any extra or deficient premiums shall be returned or collected, respectively.

### **Start and Expiry of Insurance**

#### **Article 5**

Unless otherwise mentioned, the insurance shall start at 12.00 noon Turkish time on the date stipulated hereunder as the date of beginning and end at 12.00 on the date stipulated hereunder as the date of expiry.

### **Declaration Liability of the Insured**

#### **Article 6**

The Insurer has accepted this insurance on the basis of written declarations made by the Insured about the actual risk status in the related written proposal, policy and annexes.

In cases when the Insured should not conclude the agreement or conclude it with heavier provisions if the Insured's declaration is untruthful or incomplete:

- a. In case of a wilful deceit by the Insured, then the Insurer shall be entitled to withdraw from the agreement within a maximum of one month from being informed about the state of affairs. In case of withdrawal, the Insurer shall be entitled to receive a premium and not to pay indemnity even if the hazard has materialised.
- b. In case of an unintentional act of the Insured, then the Insurer shall be entitled to withdraw from the agreement within a maximum of one month from being informed

about the state of affairs or to keep the agreement in force by charging an extra premium.

In the event that the Insured informs the Insurer about not accepting the requested extra premium within a maximum of 15 days, then the agreement shall be deemed to be terminated.

Any termination notices sent by the Insurer to the Insured by registered mail or via a public notary shall be deemed to come into force at 12.00 noon on the 15th work day following the service of the said notice, while any such notices sent by the Insured to the Insurer by mail or via a notary public shall be deemed to come into force at 12.00 noon on the day following the service of the said notice.

In case the agreement is terminated by the Insurer, then the premium applicable for the period of time elapsing until the coming into force of the termination shall be calculated on a daily basis. In case the agreement is terminated by the Insured, then the said premium shall be calculated on the basis of short term. Any excessive amounts shall be duly returned in both cases.

- c. The right to withdraw from or terminate the agreement, or to request a premium shall become invalid in case it is not exerted in time.
- d. In cases when the Insured has acted unintentionally, if the hazard materialises
  1. Before the Insurer is informed about the state of affairs, or,
  2. During the term during which the Insurer is entitled to serve a termination notice, or,
  3. During the period of time needed to elapse for the said notice to come in force, then the Insurer shall be liable to discount the indemnity by the difference between any already accrued premiums and premiums required to accrue.

### **Notice Liability within the Term of Insurance and Consequences**

#### **Article 7**

In case the place or condition of the insured assets declared in the written proposal, policy or annexes is changed after the conclusion of the agreement without the Insurer's consent, then the Insured shall be liable to inform the Insurer about the state of affairs,

- a. Immediately if the said change is executed by the Insured or by another person with the expressed or tacit consent of the Insured, or
- b. As soon as the Insured is informed about the said state of affairs if the said change is executed by a third party without the expressed or tacit consent of the Insured,

And within a maximum of 8 days in both cases.

In the event that the Insurer feels compelled not to conclude this agreement or to conclude it with heavier provisions after being informed about the change, then he/she shall make one of the following decisions within a maximum of 8 days:

1. To terminate the agreement, or
2. To keep the agreement in force by demanding an

extra premium.

In the event that the Insured informs the Insurer about not accepting the requested extra premium within a maximum of 8 days, then the agreement shall be deemed to be terminated.

Any termination notices sent by the Insurer to the Insured by registered mail or via a public notary shall be deemed to come into force at 12.00 noon on the 8th work day following the service of the said notice, while any such notices sent by the Insured to the Insurer by mail or via a notary public shall be deemed to come into force at 12.00 noon on the day following the service of the said notice.

In case the agreement is terminated by the Insurer, then the premium applicable for the period of time elapsing until the coming into force of the termination shall be calculated on a daily basis. In case the agreement is terminated by the Insured, then the said premium shall be calculated on the basis of short term. Any excessive amounts shall be duly returned in both cases.

The right to terminate the agreement, or to request a premium shall become invalid in case it is not exerted in time

In case the Insurer who is duly informed about any changes in the place of condition of the insured asset declared in the written proposal, policy and annexes acts in such a way so as to indicate he/she is willing to continue with the insurance agreement such as collecting the insurance premium, then the right of termination shall become nil and void.

In case the Insured intentionally refrains from informing the Insurer about any changes in the place and condition of the insured asset aggravating the hazard within the notice period, then the right to receive indemnity for damages incurring after the expiry of the notice period shall become inapplicable. If the failure to inform is unintentional, the indemnity shall be discounted by the ratio of the actually received premium to the required premium. In the event that such change is by nature found to be extenuating and requiring the application of a lower amount of premium, then the difference in premiums calculated on a daily basis from the date on which the change was made until the expiry of the agreement shall be returned to the Insured.

The provisions of this article shall also be applicable for the Insured.

### **Change of Ownership Article 8**

In case of changes in the ownership of the insured asset, the insurance shall continue to be valid and any rights or liabilities of the Insured arising out of the policy shall be transferred to the new owners. In this case, the Insured and the new holder of the said right becoming aware of the existence of the insurance shall be liable to inform the Insurer about the said transfer within a maximum of 15 days. Should this not be the case, then the Insurer shall be released from any liabilities arising out of the insurance.

Change of Insurer; the new holder of the right shall be entitled to terminate the insurance within a maximum of 8 days from being informed about the existence of the insurance.

Any rights of termination not exerted during the said term

shall become nil and void.

Any termination notices sent by the Insurer to the Insured by registered mail or via a public notary shall be deemed to come into force at 12.00 noon on the 8th work day following the service of the said notice, while any such notices sent by the Insured to the Insurer by mail or via a notary public shall be deemed to come into force at 12.00 noon on the day following the service of the said notice.

In case the agreement is terminated by the Insurer, then the premium applicable for the period of time elapsing until the coming into force of the termination shall be calculated on a daily basis. In case the agreement is terminated by the Insured, then the said premium shall be calculated on the basis of the short term. Any excessive amounts shall be duly returned to the new owner.

Upon any changes in the ownership of the insured assets, the Insured and the new owner not exerting the right to terminate shall be jointly liable for any existing premium obligations.

Upon the death of the Insured, all rights and liabilities arising out of the insurance shall be transferred to the new owners of the right.

### **Payment of the Insurance Premium, Beginning of the Insurer's Liability and Defaults of the Insured Article 9**

In case the parties reach a mutual agreement concerning the payment of the entire insurance premium by instalments, then the down payment shall have to be made (the first instalment shall have to be paid) as soon as the agreement is concluded and against the delivery of the policy at the latest. Unless otherwise agreed upon, the Insurer's liability shall not start in case the premium or the amount of down payment is not paid even if the policy is delivered, and the said state of affairs shall be duly noted on the front page of the policy. In case the parties reach a mutual agreement concerning the payment of the insurance premium or premium in instalments, then the Insured shall be in default if he/she fails to make the down payment by the end of the day on which the insurance policy is delivered at the latest. In the event that the Insured fails to pay the said premium debt within a maximum of 30 days from the date of default, then the insurance agreement shall be terminated without further notice. In cases when the parties reach a mutual agreement that the Insurer's liability shall start upon the delivery of the policy regardless of the payment or non-payment of the premium, then the Insurer's liability shall continue during the first fifteen days of the said one-month period.

If the parties agree to have the premium paid in instalments, the final due dates and amounts of instalments as well as the consequences of any payment defaults shall be noted on the policy or reported in writing to the Insured along with the policy. The Insured shall be deemed to be in default if he/she fails to pay any of the premium instalments, having their final due dates noted on the policy or reported in writing, by the end of the due date at the latest. In the event that the Insured fails to pay the premium within a maximum of fifteen days from the date of default, then the insurance

cover shall be suspended. In case the premium is paid during the period of time when the cover is suspended, then the cover shall become effective once again provided that the hazard has not materialised meanwhile. However, if the said premium is not paid within a maximum of 15 days from the date on which the insurance cover is suspended, then the agreement shall be terminated without further notice.

Provided that it is duly noted on the front page of the policy, any portions of the premium instalments that have not yet become due not exceeding the amount of indemnity to be paid by the Insurer shall become immediately payable upon the materialisation of the risk.

In case the insurance agreement is terminated because of the provisions stipulated in this article, then the difference in premiums calculated on a daily basis for the period of time during which the Insurer's liability is effective shall be returned to the Insured.

### **The Insured's Liabilities During the Term of Validity of the Policy**

#### **Article 10**

The Insured shall be liable to use its best efforts for to ensure the security and protection of insured assets just as if the said assets are not insured.

The Insured shall be liable to take reasonable measures to maintain and keep the insured assets in good and ordinary working order, to follow the use, checking and maintenance principles specified in the manufacturer's operating manual, to prevent overloading in excess of accepted technical specifications, to completely comply with the regulations, instructions and orders of legal authorities about the operation and checking of insured assets in particular.

The Insurer shall be entitled have its authorised officers inspect and check the insured assets if deemed necessary, and the Insured shall be liable to permit and assist in the said inspection procedures.

### **The Insured's Liabilities Upon the Occurrence of Damages**

#### **Article 11**

In case any damages incur, the Insured shall be liable;

- a. To inform the Insurer within a maximum of 5 days from being informed about the occurrence of the damage,
- b. To use its best efforts for to ensure the security and protection of insured assets just as if the said assets are not insured, and to follow any instructions by the Insurer as far as possible,
- c. To provide any information and documentation (in originals or copies/photocopies endorsed by the Insured) necessary to ascertain under which conditions the damage has occurred and to determine the amount and extent of the loss and damage as well as related evidence, as soon as possible upon the Insurer's request, and to supply and maintain all kinds of information and documentation necessary to exert the right of recourse (However, after duly informing the Insurer in compliance with the foregone provisions and in order to ensure that the operational activities are not hindered or delayed, the Insured shall be entitled to have its employees conduct

minor repairs (by serving a repair notice) without waiting for the authorised personnel of the Insurer to arrive. In case the Insurer fails to send experts to the site of damage within a maximum of 7 days after receiving the damage notice, then the Insured shall be entitled to start to repair any damaged sections without further notice).

- d. To submit a written indemnity declaration specifying the estimated amount of the loss and damage to the Insurer within a reasonable period of time,
- e. Not to make any changes on the damaged places or goods if not absolutely necessary,
- f. To permit the agents of the Insurer authorised to conduct research and inspection procedures on the insured place or goods and relevant documentation for the purpose of ascertaining the extent of the indemnity liability and the rights of recourse,
- g. To inform the Insurer about other relevant insurance agreements, if any.

### **Decrease in or Becoming Invalid of the Right of Indemnity**

#### **Article 12**

- a. In case the losses and damages increase because of the failure of the Insured to fulfil its liabilities upon the occurrence of damages, then the amount of increase shall be deducted from the indemnity to be paid by the Insurer.
- b. In case the Insured intentionally causes the hazard to materialise or commits intentional acts so as to increase the extent of the loss and damage, then the Insured's rights arising out of this policy shall become nil and void.

### **Ascertaining the Damage**

#### **Article 13**

Within the framework of this policy, the loss and damage on the insured assets shall be ascertained by mutual agreement of the parties. In case the parties fail to reach such an agreement, the extent of the loss and damage shall be ascertained by specialist engineers or technicians and consultative authorities called as arbitrators-experts in compliance with the following terms and conditions:

- a. In the event that the parties fail to reach a mutual agreement for the appointment of a single arbitrator-expert, then each of the parties shall be entitled to appoint a separate arbitrator-expert and inform the other party about the state of affairs through a notary public. A third and impartial arbitrator-expert shall be appointed within a maximum of 7 days from the appointment of the said arbitrators-experts and before the start of the investigation procedures, and the said state of affairs shall be established by an official report. The said third arbitrator-expert shall be entitled to adopt any resolutions only in cases when the arbitrators-experts of the parties fail to reach and agreement, and to the extent which the said arbitrators-experts fail to agree.

The third arbitrator-expert shall be entitled to adopt a resolution by either issuing an independent report or by drawing up a report along with the other arbitrators-experts. The arbitrator-expert report shall be submitted to the parties simultaneously.

- Apart from the extent of loss and damage for each individual unit, the said arbitrator-expert reports should also contain the known or probable cause of the damage, the real value and replacement value on the day before the damage has occurred, the weight and value of the wreckage and debris to be made use of for repair etc. purposes.
- b. In the event that one of the parties fails to appoint an arbitrator-expert within a maximum of 15 days from the service of the related notice by the other party, or the arbitrators-experts of the parties fail to reach a mutual agreement about the election of the third arbitrator-expert within a maximum of 7 days, then the arbitrator-expert of the related party or the third arbitrator-expert shall be appointed by the chairman of the local court authorised to hear commercial cases from among impartial specialists.
  - c. Both parties shall be entitled to demand to have the third arbitrator-expert appointed - whether by the arbitrators-experts of the parties or the chairman of the authorised court - from outside the place where the Insured or the Insurer resides or the damage has occurred, and have their demands duly fulfilled.
  - d. If the said arbitrators-experts pass away, withdraw or are refused, then the new arbitrators-experts shall be duly appointed in compliance with related procedures, and the ascertaining process shall be carried on as before. The death of the Insured shall in no way cause the duty of the appointed arbitrator-expert to end.  
In case any objections by the arbitrators-experts filed on the grounds of the lack of specialisation are not raised within a maximum of 7 days from becoming aware of the situation, then the right to object shall become nil and void.
  - e. The arbitrators-experts shall be completely free to conduct investigation procedures and not be bound by the provisions of Legal Procedure Courts Code or other legislation.
  - f. While ascertaining the loss and damage, the arbitrators-experts shall be entitled to request necessary evidence as well as records and documentation to be used to ascertain the value of the insured goods at the time of the occurrence of the damage; and also to conduct inspection procedures at the site.
  - g. The decision concerning the extent of the loss and damages to be adopted by the arbitrator-expert, or arbitrators-experts or the third arbitrator-expert shall be final and binding for the parties. No indemnity shall be requested from or no lawsuits shall be filed against the Insurer until and unless a relevant decision is adopted by arbitrators-experts. Objections could be filed against the decisions of arbitrators-experts only if the decisions are manifestly and significantly far from reflecting the real situation. Under the said circumstances, the related party shall be entitled to request the local court authorised to hear commercial cases to annul the said decisions within a maximum of one week from the submission of the report.
  - h. As long as the parties fail to reach a mutual agreement about the amount of indemnity, any receivables shall become immediately payable only through the decision of arbitrators-experts, and the statute of limitation shall not start before the date on which the final report is submitted by the parties unless a period of 2 years has elapsed between the appointment of the arbitrators-experts and the notice period stipulated in article 1292 of Turkish Commercial Code.
  - i. The parties shall be liable to cover the expenses of their own arbitrators-experts. The expenses of the third arbitrator-expert shall be paid jointly paid by the parties in equal amounts.
  - j. Ascertaining the losses and damages shall in no way affect the provisions, terms and conditions in this policy and related legislation about hazards for which indemnity is granted, the amount of insurance, over or under-insurance, the start of liability and the reasons causing the rights to be lost or reduced.

### **Calculation of the Indemnity**

#### **Article 14**

The amount of the indemnity to be paid shall be ascertained by taking the following terms and conditions into account:

- a. In case of repairable (partial) losses or damages:  
The amount of indemnity shall constitute of the amount to be found out by adding the values of any replaced spare parts, workmanship costs in accordance with current rates, transportation costs if any (aircraft excluded), mounting and dismounting costs and expenses needed to be made to return the damaged unit or units to their original conditions before the occurrence of the damage. The indemnity shall in no way be reduced because of replacing old parts with new ones. The cost of re-usable parts shall be deducted from the indemnity.
- b. In case all or part of the insured assets are damaged or lost;  
The amount of indemnity shall constitute of the amount to be found out by deducting the wear & tear rate and rescued values from the new value of the insured assets as at the moment the damage occurred and by adding any dismounting costs, transportation costs if any, transportation and customs taxes, charges, fees, expenses, mounting costs and charges listed in paragraphs (a) and (b) of article 2 if stipulated otherwise in the agreement.  
In case the repair costs specified in the foregone article (a) are equal to or exceed the ascertained amount of indemnity found out in compliance with the provisions of this article, then the machinery or works shall be deemed to be completely damaged.
- c. For each damage, 20% of the damage shall be undertaken by the Insured unless otherwise stipulated in a separate agreement and provided that the said amount is not less than the minimum amount of deductible stipulated for each machine or equipment in the policy.
- d. In any case, the Insurer's liability shall be limited to the

amount of insurance specified for each of the machinery or equipment in the policy.

- e. The amount of insurance specified for each insured asset on the policy table shall in no way constitute an evidence or proof of the existence or value of the said asset. In case the said amount is less than the value of insurance to be calculated in compliance with article 4, then the amount of indemnity shall be ascertained by taking into account the ratio of the amount of insurance and the value of insurance.
- f. In case any damages covered by this policy are also covered by any other insurance policy, then the principles of coinsurance shall be applicable.
- g. Unless they constitute part of final repair costs, any provisional repair costs shall be undertaken by the Insured.

### **Payment of Indemnity**

#### **Article 15**

The Insurer shall be entitled to either repair or replace any damaged machinery or equipment or their damaged parts, or to pay the damages in cash.

### **Consequences of the Damage and Indemnity**

#### **Article 16**

From the legal point of view, the Insurer shall replace the Insured in direct proportion with the indemnity paid. The Insured shall be liable to supply the beneficial and available information for any lawsuits to be filed by the Insurer.

In case full damage has incurred upon the realisation of the stipulated hazard, then the insurance cover shall come to an end. In case of partial damage, the amount of insurance shall be reduced by the amount of indemnity paid from the date of the damage.

In case the amount of insurance is stipulated in the policy as various units (or groups) and one or more of the said units (or groups) is/are fully damaged, then the insurance cover for the said units (or groups) shall come to an end on the date of the damage. In case of partial damage, the amount of insurance stipulated for each unit (or group) shall be reduced by the amount of indemnity paid from the date of the damage.

In cases when the amount of insurance is reduced, the amount of insurance could be restored to its former amount by charging premiums based on the number of days elapsing from the date of the damage.

For partial damages, the parties shall be entitled to terminate the insurance agreement. The parties shall be entitled to make use of the said right of termination only before the indemnity is paid.

Any termination notices sent by the Insurer to the Insured by registered mail or via a public notary shall be deemed to come into force at 12.00 noon on the 15th work day following the service of the said notice, and the premium applicable for the period of time elapsing until the coming into force of the termination shall be calculated on a daily basis, and any excessive amounts shall be duly returned. Any such notices sent by the Insured to the Insurer by mail or via a notary public shall be deemed to come into force at 12.00 noon on the