

<b>STAMP DUTY PAID</b>
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## MACHINERY BREAKDOWN LOSS OF PROFITS TAKAFUL CERTIFICATE

**WHEREAS** the Certificate Holder (hereinafter called the "Participant") named in the Schedule hereto has made to **Etiqa General Takaful Berhad** (hereinafter called "the Takaful Operator") a written application by completing a questionnaire and/or other statements made in writing and/or submission of takaful related documents by the Participant for the purpose of this Certificate, is deemed to be incorporated herein.

**NOW THIS CERTIFICATE OF TAKAFUL** witnesses that in consideration of the Participant having paid or agreed to pay the contribution mentioned in the schedule(s) and subject to the terms, exclusions, provisions and conditions contained herein or endorsed hereon.

**THE TAKAFUL OPERATOR** hereby agrees with the Participant that if during the Period of Takaful or any renewal thereof the business carried on by the Participant at the premises specified in the schedule(s) is interrupted or interfered with in consequence of an accident (as hereinafter defined) of any machinery described in the list of machinery and plant covered, then the Takaful Operator shall in respect of each subject matter covered indemnify the Participant against the amount of loss as hereinafter defined resulting from such interruption or interference.

**PROVIDED THAT** the liability of the Takaful Operator in no case exceeds in respect of each subject matter covered in anyone year of Takaful the sum expressed in the schedule(s) to be covered thereon or in the whole the total sum covered hereby or such other sum or sums as may hereinafter be substituted therefor by endorsement signed by or on behalf of the Takaful Operator.

### Exclusions

This Certificate shall not cover any loss resulting from interruption of or interference with the business directly or indirectly attributable to any of the following causes;

- 1) loss or damage due to fire, direct lightning, chemical explosion, extinguishing of a fire or subsequent demolition, aircraft or other aerial devices or article dropped therefrom, theft or attempts thereat, collapse of buildings, flood, inundation, earthquake, subsidence, landslide, avalanche, hurricane, cyclone, volcanic eruption or similar natural catastrophes.
- 2) loss or damage due to the imposition of abnormal conditions directly or indirectly resulting from testing, intentional overloading or experiments.
- 3) loss or damage for which a supplier, contractor or repairer is responsible either by law or under contract.
- 4) loss or damage caused by any faults or defects existing at the time of commencement of this Certificate within the knowledge of the Participant or his representatives, whether such faults or defects were known to the Takaful Operator or not.
- 5) loss or damage arising out of the willful act or gross negligence of the Participant or his representatives.

- 6) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, mutiny, riot, strike, lock-out, civil commotion, military or usurped power, a group of malicious persons or persons acting on behalf of or in connection with any political organization, conspiracy, confiscation, commandeering, requisition or destruction of or damage to property by order of any government de jure or de facto or by any public authority.
- 7) any consequence of nuclear reaction, nuclear radiation or radioactive contamination.
- 8) loss of or damage to
  - (a) foundations and masonry, unless specifically included and described in the list of machinery and plant covered;
  - (b) exchangeable and replaceable parts such as bits, drills, knives, saw blades;
  - (c) dies, moulds, patterns, blocks, stamps, punches, coating or engravings on cylinders and rolls;
  - (d) parts which by their use and/or nature suffer a high rate of wear or depreciation such as crushing surfaces, balls, hammers, screens and sieves, engraved soft metal cylinders, wear plates, elevator and conveyor belts or bands, chains, flexible pipes, jointing and packing materials, filter cloths, parts made of glass, rubber, textile or synthetics, grinding wheels, ropes, belts, straps, cables other than electrical conductors, brushes, batteries, tyres, refractory materials, grate bars, burner jets;
  - (e) operating media such as fuels, chemicals, catalysts, filter substances, heat transfer media, cleansing agents, lubricants.
- 9) repair or replacement necessitated by direct damage due to wear and tear, corrosion, erosion, deposits of scale, sludge or other sediment, rust or scratching of painted or polished surfaces, or by any other direct consequences of progressive or continuous influences from working or atmospheric or chemical action, but the Takaful Operator shall be liable for any loss resulting from interruption or interference caused by damage arising from such causes and otherwise covered by this Certificate.
- 10) shortage, destruction, deterioration of or damage to raw materials, semi-finished products or other material required for proper operation, even if the consequence of material damage to an item indicated in the list of machinery and plant covered is involved.
- 11) any restrictions on reconstruction or operation imposed by any public authority.
- 12) the Participant not having at his disposal in good time sufficient capital for repairing or replacing destroyed or damaged machinery.
- 13) loss of or damage to machinery, mechanical installations and their additional installations or other items which are not listed in the list of machinery and plant covered even if the consequence of material damage to an item indicated in the list of machinery and plant covered is involved.
- 14) loss of business due to causes such as suspension, lapse or cancellation of a lease, license or order, etc. which occurs after the date when the machinery affected by an accident is again in operating condition and the business could have been resumed, if said lease, license or order, etc. had not lapsed or had not been suspended or cancelled.

In any action, suit or other proceeding where the Takaful Operator allege that by reason of the provisions of exclusions 3-7 above any loss is not covered by this Certificate, the burden of proving that such loss is covered shall be upon the Participant.

## Conditions

- 1) The due observance and fulfillment of the terms of this Certificate in so far as they relate to anything to be done or complied with by the Participant and the truth of the statements and answers in the questionnaire and application made by the Participant shall be a condition precedent to any liability of the Takaful Operator.
- 2) The schedule(s) shall be deemed to be incorporated in and form part of this Certificate and the expression "this Certificate" wherever used in this contract shall be read as including the schedule(s). Any word or expression to which a specific meaning has been attached in any part of this Certificate or of the schedule(s) shall bear such meaning wherever it may appear.
- 3) The Participant shall at his own expense take all reasonable precautions and comply with all reasonable recommendations of the Takaful Operator to prevent loss or damage and comply with statutory requirements and manufacturers recommendations.
- 4)
  - (a) Representatives of the Takaful Operator shall at any reasonable time have the right to inspect and examine the risk and the Participant shall provide the representatives of the Takaful Operator with all details and information necessary for the assessment of the risk.
  - (b) The Participant shall immediately notify the Takaful Operator by telegram and 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 contribution shall if necessary, be adjusted accordingly.
  - (c) Dismantling and reassembling to connection with any examinations shall be carried out by the Participant on such date or dates as the Takaful Operator and the Participant mutually agree upon for the making of such examinations.

No material alteration shall be made or admitted by the Participant whereby the risk is increased, unless the continuance of the cover provided under this Certificate is confirmed in writing by the Takaful Operator.
- 5) The Participant shall be obliged to keep complete records. All records, e.g. inventories, production and balance sheets, for the three preceding years shall be held in safe keeping or, as a precaution against their being simultaneously destroyed, the Participant shall keep separate sets of such records.
- 6) In the event of any occurrence which gives rise or is likely to give rise to a claim under this Certificate, the Participant shall;
  - (a) immediately notify the Takaful Operator by telephone or facsimile and send them written confirmation thereof within forty-eight hours of the occurrence;
  - (b) do and concur in doing and permit to be done all such things as may be reasonably practicable to minimize or establish the extent of any interruption of or interference with the business or to avoid or diminish the loss resulting therefrom;
  - (c) as far as may be reasonably practicable, without causing any increase in the period of interruption or interference, take precautions to preserve any things which might prove necessary or useful by way of evidence in connection with any claim;
  - (d) discontinue the use of any damaged machinery unless the Takaful Operator authorize otherwise, and the Takaful Operator shall not be liable in respect of any further interruption or interference arising out of the continued use of any damaged machinery without their having given their consent to such use until said machinery has been repaired to the satisfaction of the Takaful Operator.
- 7) In the event of a claim being made under this Certificate not later than thirty days after the expiry of the indemnity period or within such further times as the Takaful Operator may allow in writing, the Participant shall at his own expense deliver

to the Takaful Operator a written statement setting forth particulars of his claim together with details of all other certificates/policies covering the accident or any part of it or consequential loss of any kind resulting therefrom, and the Participant shall at his own expense also produce and furnish to the Takaful Operator such books of account and other business books, e.g. invoices, balance sheets and other documents, proofs, information, explanation and other evidence as may reasonably be required by the Takaful Operator for the purpose of investigating or verifying the claim, together with - if required - a statutory declaration of the truth of the claim and of any matters connected therewith.

- 8) In the event of an accident to any covered machinery likely to give rise to a claim hereunder the Takaful Operator shall have the right to take over and control all necessary repairs or replacements.
- 9) In the event of any occurrence in respect of which a claim is or may be made under this Certificate the Takaful Operator and every person authorized by the Takaful Operator may, without thereby incurring any liability and without diminishing the right of the Takaful Operator to rely upon any condition of this Certificate, enter any building where the loss has happened and may take possession of or require that any of the machinery be rendered to them and may keep possession of and deal with such machinery for all reasonable purposes and in any reasonable manner. This condition shall be evidence of the leave and license of the Participant to the Takaful Operator so to do. If the Participant or anyone acting on his behalf does not comply with the requirements of the Takaful Operator or hinders or obstructs the Takaful Operator during any of the above mentioned acts, then all benefit under this Certificate shall be forfeited.
- 10) The Participant shall at the expense of the Takaful Operator do and concur in doing and permit to be done all such acts and things as may be necessary or required by the Takaful Operator in the interest of any right or remedies or of obtaining relief or indemnity from parties (other than those Participant under this Certificate) to which the Takaful Operator are or would become entitled or which would be subrogated to them on paying for or making good any loss or damage under this Certificate, whether such acts and things are or become necessary or required before or after the Participant's indemnification by the Takaful Operator.
- 11) If any difference arises as to the amount to be paid under this Certificate (liability being otherwise admitted), such difference shall be referred to the decision of an arbitrator to be appointed in writing by the parties in difference or, if they cannot agree upon a single arbitrator, to the decision of two arbitrators, one to be appointed in writing by each of the parties, within one calendar month after having been required in writing so to do by either of the parties, or, in case the arbitrators do not agree, of an umpire to be appointed in writing by the arbitrators before entering upon the reference. The umpire shall sit with the arbitrators and preside at their meetings. The making of an award shall be a condition precedent to any right of action against the Takaful Operator.
- 12) a) If any claim made is fraudulent or substantially exaggerated, or if any false declaration or statement is made in support thereof, then this Certificate shall be void and the Takaful Operator shall not be liable to make any payment hereunder.
  - b) In the event of the Takaful Operator disclaiming liability in respect of any claim and if an action or suit is not commenced within three months after such disclaimer or (in the case of arbitration taking place in pursuance of condition II of this certificate) within three months after the arbitrators or umpire have made their award, all benefit under this Certificate in respect of such claim shall be forfeited.
- 13) If at the time any claim arises under this Certificate there is any other Takaful/Insurance covering the same loss or damage, the Takaful Operator shall not be liable to pay or contribute more than their rateable proportion of any claim for such loss or damage.

The Takaful Operator shall not be liable to pay for or contribute to any loss which but for the existence of this Certificate is or would be covered by any Loss of Profits Certificate/Policy covering Marine risks or Fire and/or Explosion risks.

- 14) The indemnity shall fall due two weeks after its final determination. If after the expiry of one month since the beginning of an interruption of or interference with the business and after the expiry of each further month it is possible to determine the minimum amount which the Takaful Operator are liable to pay for the elapsed period of interruption, the Participant shall be entitled to demand that such amount be paid to him as an installment of the total indemnity.

The Takaful Operator shall be entitled to postpone payment

- (a) if there is any doubt as to the Participant's right to receive payment, until the necessary proof is furnished;
- (b) if, as a result of any physical loss or damage or any interruption of or interference with the business, police or penal investigations have been initiated against the Participant, until the completion of such investigations.

The Takaful Operator shall not be liable to pay interest other than interest for default.

15) Should at any time after the commencement of this Certificate

- (a) the business be wound up or carried on by a liquidator or receiver or be permanently discontinued,
- (b) the Participant's interest cease otherwise than by death,
- (c) any alteration be made whereby the risk of accident is increased,
- (d) the retention of standby or spare machinery or any other loss-minimizing factors in existence when the Takaful was effected be reduced or discontinued, or such stand by or spare machinery be not maintained in an efficient working condition and available for immediate use, then this Certificate shall be avoided unless its continuance is admitted by a special written statement signed by or on behalf of the Takaful Operator.

16) This Certificate may be terminated at the request of the Participant at any time, in which case the Takaful Operator shall retain the customary pro rata for the time this Certificate has been in force. This Certificate may equally be terminated at the option of the Takaful Operator (provided it is necessary, reasonable and justifiable) by seven days' notice to that effect being given to the Participant, in which case the Takaful Operator shall be liable to repay on demand a rateable proportion of the contribution for the unexpired term from the date of cancellation less any reasonable inspection charges the Takaful Operator may have incurred.

17) Takaful and Surplus Distribution Clause

The Participant agrees to participate in this General Takaful scheme based on the principle of Takaful and to pay the contribution on the basis of Tabarru' (donation) for the purpose of mutual support of other participants and upon payment of the contribution to the General Takaful Fund (Fund), the Participant is entitled to the Takaful cover as per the terms and conditions contained in the Takaful Certificate. Payment of sum covered to participants is payable from the Fund based on the concept of Tabarru'.

This scheme also applies the Wakalah (agency) concept, whereby the participant appoints the Takaful Operator to act on behalf of them to invest and manage General Takaful Fund (Fund). The Fund is collectively owned by the Participants where Tabarru' portion of the contribution is placed for the purpose of takaful. Accordingly, the participant agrees to pay the upfront Wakalah Fee (as shown in the Product Disclosure Sheet or/and the Takaful Certificate) to the Takaful Operator as a deduction of certain amount of contributions, to cover the expenses of managing and operating the Fund based on the following rates whereby the operator shall have the full discretion to waive part of the Wakalah fee:

Commission	: Up to 15% of Contribution
Management Expenses	: Total Wakalah Fee less Commission paid to the intermediary
Total Wakalah Fee	: 35% of Contribution

The Participant also agree to authorize the Takaful Operator to delegate its rights, duties and obligations to any third party as the Takaful Operator deems fit for the purpose of achieving the objective to invest and manage the Fund, provided that, in the event of any such delegation, the Takaful Operator will remain liable and responsible for all such rights, duties and obligations towards the Participant.

At the end of each financial year, the distributable surplus (if any) from the Fund will be determined annually and will only be payable for annual Certificate. The distribution, if any, makes allowance for contingency provisions, and is subject to the surplus policy approved by the Takaful Operator's Shariah Committee. The Participant agrees that the Takaful Operator will receive 50% of distributable surplus for operating and managing the Fund based on the contract of Ju'alah. The balance of 50% will be shared amongst participants whose Takaful Certificates have not terminated and who have not made any claim prior to the expiry of their Takaful Certificates.

In the event of insufficient balance in the Fund to pay the Participant's Takaful benefits during the period of Takaful, the Takaful Operator will make good the balance in the Fund under the principle of Qard (interest-free loan) from the shareholder's fund provided that the insufficiency is not due to the Takaful Operator's negligence. If the insufficiency is due to the Takaful Operator's negligence, the Takaful Operator will make the outright transfer for the insufficiency. The participants further agree that any future surplus arising from the Fund during their Takaful period can be used to pay for outstanding Qard to the Takaful Operator.

The participant further agrees that if the surplus or any sum payable is less than Ringgit Malaysia Ten (RM 10.00), it will automatically be credited to charitable fund, which will be utilized as Amal Jariah on his/her behalf. The fund will be distributed to eligible recipients as approved by the Takaful Operator's Shariah Committee for charitable purposes.

#### Definitions:

**"General Takaful Fund ("Fund")"** means the Participants' account where Tabarru' portion of the Contribution is placed for the purpose of Takaful. The Fund is collectively owned by the Participants and the Sum Covered shown in the Takaful Schedule is payable from the Fund.

**"Ju'alah"** is a wage contract. It is an exchange contract for a known or unknown task, that is difficult to precisely determine and for which payment is due only once the work has been completed. In relation to this Certificate, it refers to the reward given to the Takaful Operator agreed upfront by the Participant and the Takaful Operator for good management of the fund.

**"Qard"** in the context of this Certificate, means an interest-free loan which is given by the Takaful Operator to the General Takaful Fund when it becomes insufficient to fulfil its Takaful obligation provided that the insufficiency is not due to the Takaful Operator's mismanagement or negligence. The loan will be repaid by the future surpluses from the General Takaful Fund. If the insufficiency is due to the Takaful Operator's mismanagement or negligence, the Takaful Operator will make the outright transfer for the insufficiency.

**"Tabarru"** means contribution, donation or gift. In the context of this Certificate, this means Contribution for the purpose of Takaful. This portion is placed in the General Takaful Fund.

**"Takaful"** means mutual assistance, based on the spirit of brotherhood and solidarity, whereby the Participants agree to assist each other financially in case of certain defined needs.

**"Wakalah"** refers to a contract where a party, as principal authorizes another party as his agent to perform a particular task on matters that may be delegated with or without imposition of a fee. In the context of this Certificate, this means that the Participant have appointed the Takaful Operator to invest and manage the General Takaful Fund on his/her behalf. The Participant have also authorized the Takaful Operator to delegate its rights, duties and obligations to any third party as it deems fit. In the event of such delegation, the Takaful Operator will remain liable and responsible for all such rights, duties and obligations towards the Participant.

#### 18) Data Protection Obligations and Rights

We shall be able to process Personal Data according to the Section 4 of the Personal Data Protection Act 2010. We shall be able to disclose Personal Data provided by You, as the context may require to:

- a) Etiqa General Takaful Berhad, Etiqa General Insurance Berhad, Etiqa Life International (L) Ltd or Etiqa Offshore Insurance (L) Ltd;
- b) Other entities within the Maybank Group;
- c) Our authorised agents and service providers with whom We have contractual agreements for some of Our functions, service and activities;
- d) Other takaful operators or insurance companies and distribution partners (such as, banks, Islamic banks, insurance brokers, takaful brokers, reinsurance companies and retakaful operators);
- e) Industry trade associations such as Life Insurance Association of Malaysia (LIAM), Persatuan Insurans Am Malaysia (PIAM) & Malaysian Takaful Association (MTA);
- f) Our merchants and strategic partners;
- g) Any parties authorised by You (from time to time); or
- h) Regulatory enforcement and governmental agencies as permitted or required by law, authorised by any order of court or to meet obligations to regulatory authorities.

You will keep Us updated in respect of all such Personal Data as soon as is practicable.

We shall not be liable for any direct or indirect loss or damage due to any inaccuracy or incompleteness in the Personal Data provided to Us.

We may from time to time request that You provide other Personal Data required for the purposes of this Certificate.

Prior to providing Us with the Personal Data of the Covered Person, or another individual, You must inform that individual of Our privacy notice.

For detailed privacy notice on how We collect, use, process, protect and disclose Personal Data, please visit Our branches, contact Etiqa Online at 1300 13 8888, or refer to Our website at [www.etiqa.com.my](http://www.etiqa.com.my).

## Basic of Takaful

The cover provided under this Certificate shall be limited to loss of gross profit due to reduction in turnover and increase in cost of working and the amount payable as indemnity hereunder shall be

- In respect of reduction in turnover; 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 accident, falls short of the standard turnover.
- In respect of increase in cost of working; the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in turnover which but for that expenditure would have taken place during the indemnity period in consequence of the accident, but not exceeding the sum produced by applying the rate of gross profit to the amount of the reduction thereby avoided.

Less any sum saved during the indemnity period in respect of such of the charges and expenses of the business payable out of the gross profit as may cease or be reduced in consequence of the accident.

Provided that if the sum covered hereunder is less than the sum produced by applying the rate of gross profit to the annual turnover, the amount payable is proportionately reduced.

## Definitions

### Gross Profit

The amount by which the sum of the value of the turnover and the value of the closing stock exceed the sum of the value of the opening stock and the amount of the specified working expenses. The values of the opening and closing stocks shall be arrived at in accordance with the Participant's normal accountancy methods, due provision being made for depreciation.

### Specified Working Expenses

The variable expenses of the business which are not covered by this Certificate:

- 1) turnover and purchase taxes
- 2) purchases (less discounts received)
- 3) carriage, packing and freight

4) \_\_\_\_\_

5) \_\_\_\_\_

### **Turnover**

The money (less discounts allowed) paid or payable to the Participant for goods sold and delivered and for services rendered in the course of the business at the premises.

### **Indemnity Period and Time Excess**

The period not exceeding the indemnity period limit stated in the list of machinery and plant covered commencing with the occurrence of the accident during which the results of the business are effected in consequence of such accident, provided always that the Takaful Operator are not liable for the amount of loss arising during the time excess, such time excess to commence as from the beginning of the interruption of or interference with the business resulting in a claim under this Certificate.

### **Rate of Gross Profit**

The rate of gross profit earned on the turnover during the financial year immediately before the date of the accident.

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

### **Standard Turnover**

The turnover during that period in the twelve months immediately before the date of the accident which corresponds to the indemnity period.

### **Annual Turnover**

The turnover which the Participant would have been able to obtain but for the accident during the twelve months immediately before either the date when the business is no longer affected or when the indemnity period ends, whichever occurs first.

### **Accident**

Unforeseen and sudden physical loss or damage occurring to the covered machinery and necessitating its immediate repair or replacement due to causes such as defects in casting and material, faulty design, faults at workshop or in erection, bad workmanship, lack of skill, carelessness, malice, shortage of water in boilers, physical explosion, tearing apart on account of centrifugal force, short circuit, storm, or any other cause not specifically excluded hereinafter whilst such machinery is

- working or at rest,
- Being dismantled, moved or re-erected for the purpose of cleaning, inspection, repair or installation at another location within the premises, provided such machinery has successfully completed its performance acceptance test.



## Provisions

### **Memo 1 - Benefits from Other Premises**

If during the indemnity period goods are sold or services are rendered elsewhere than at the premises for the benefit of the business either by the Participant or by others acting on his behalf, the money paid or payable in respect of such sales or services shall be taken into account in arriving at the turnover during the indemnity period

### **Memo 2 - Return of Contribution**

If the Participant declares at the latest six months after the expiry of any Certificate year that the gross profit earned during the accounting period of twelve months most nearly concurrent with any period of Takaful, as certified by the Participant's auditors, was less than the sum covered thereon, a pro rata return of contribution not exceeding one third of the contribution paid on such sum covered for such Period of Takaful shall be made in respect of the difference.

If any accident has occurred giving rise to a claim under this Certificate, such return shall be made in respect only if so much of said difference as is not due to such accident.

### **Memo 3 - Relative Importance**

The term "relative importance" referred to in the list of machinery and plant covered shall be the percentage effect which a breakdown of a particular machine will have on the total gross profit, disregarding any loss-minimizing measures. If in the event of an accident affecting an covered item of machinery the percentage of relative importance stated, in the list of machinery and plant covered for this item is lower than the actual percentage of relative importance subsequently arrived at for the period of interruption, the Takaful Operator shall only be liable to indemnify the proportion which the percentage of relative importance stated in the list of machinery and plant covered bears to the actual percentage.

### **Memo 4 - Overhauls**

In calculating the loss, due allowance shall be made for the time spent on any overhauls, inspections or modifications carried out during any period of interruption.

### **Memo 5 - Benefits after Recommissioning**

If during a period of six months immediately following the recommissioning of covered machinery after an accident, the Participant derives benefits from deferred sales or from increased production and/or profits as a consequence of an interruption such benefits shall be taken into account in determining the indemnity payable under this Certificate.

### **Memo 6 - Reinstatement of Sum Covered**

For the period following the occurrence of an accident up to the end of the Certificate period the sum covered shall be reinstated by payment of an additional contribution on a pro rata basis, such contribution to be calculated from that part of the sum covered which corresponds to the indemnity paid; the agrees sum covered shall remain unaltered.

### **Memo 7 - Material Damage Cover for Machinery Covered**

The machinery described in the list of machinery and plant covered shall be covered against machinery breakdown during the currency of this Certificate.

## Memo 5 - Operational Status

At the time of any explosion or collapse of any boiler or other apparatus covered hereunder the Participant shall be in possession of the unqualified permission in writing of the competent inspecting authority to operate the said boiler or apparatus. If the maximum pressure or load upon the safety valve immediately prior to the explosion or collapse was in excess of that stipulated by the said authority, the Participant shall not be entitled to any compensation or indemnity under this Certificate in respect of such explosion or collapse.

## CLAUSES

The following Clauses are applicable to this Takaful Certificate:

### 1) Contribution Warranty

It is fundamental and absolute special condition of this contract of takaful that the contribution due must be paid and received by the Takaful Operator within sixty (60) days from the inception date of this takaful certificate /endorsement/renewal takaful certificate.

If this condition is not complied with then this contract is automatically cancelled and the Takaful Operator shall be entitled to the pro rata contribution for the period they have been on risk.

Where the contribution payable pursuant to this warranty is received by an authorized agent of the Takaful Operator, the payment shall be deemed to be received by the Takaful Operator for the purpose of this warranty and onus of proving that the contribution payable was received by a person, including a takaful agent, who was not authorized to receive such contribution shall lie on the Takaful Operator.

Subject otherwise to the term and conditions of this takaful certificate.

### 2) Property Damage Clarification Clause

Property damage covered under this Certificate shall mean physical damage to the substance property.

Physical damage to the substance of property shall not include damage to data or software, in particular any detrimental change in data software or computer programs that it caused by a deletion, a corruption or a deformation of the original structure.

Consequently the following are excluded from this Agreement:

- A. Loss of or damage to data of software, in particular any detrimental change in data, software or computer programs that is caused by a deletion, a corruption or a deformation of the original structure, and any business interruption losses resulting from such loss or damage.

Notwithstanding this exclusion, loss of or damage to data or software in the direct consequence of covered physical damage to the substance of property shall be covered.

- B. Loss or damage resulting from an impairment in the function, availability, range of use or accessibility of data, software or computer programs, and any business interruption losses resulting from such loss or damage.

### 3) Theft By Deception Clause

The Takaful Operator shall not be liable for any loss or damage caused by or attributed to the act of cheating by any person within the meaning of the definition of the offence of cheating set out in the Penal Code. Cheating as defined in the Penal Code is as follows:-

"Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and, which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'."

#### 4) Property Electronic Data And Internet Endorsement

The Takaful Operator will not pay for Damage or Consequential loss directly or indirectly caused by, consisting of, or arising from:

1. Any functioning or malfunctioning of the internet or similar facility, or of any intranet or private network or similar facility,
2. Any corruption, destruction, distortion, erasure or other loss or damage to data, software, or any kind of programming or instruction set,
3. Loss of use or functionality whether partial or entire of data, coding, program, software, any computer or computer system or other device dependent upon any microchip or embedded logic, and any ensuing inability or failure of the Participant to conduct business.

This Endorsement shall not exclude subsequent damage or Consequential loss, riot otherwise excluded, which itself results from a Defined Peril. Defined Peril shall mean: Fire, Lightning, Earthquake, Explosion, Falling Aircraft, Flood, Smoke, Vehicle Impact, Windstorm or Tempest.

Such Damage or Consequential loss described in 1, 2 or 3 above is excluded regardless of any other cause that contributed concurrently or in any other sequence.

All other terms, conditions and exclusions of this Certificate remain unchanged.

#### 5) Date Recognition Clause

It is noted and agreed that this Takaful Certificate is hereby amended as follows:

- A. The Takaful Operator will not pay for any loss or damage including loss of use with or without physical damage or any consequential loss directly or indirectly caused by, consisting of, or arising from, the failure or inability of any computer, data processing equipment, media microchip, operating systems, microprocessors (computer chip), integrated circuit or similar device, or any computer software, whether the property of the Participant or not, and whether occurring before, during or after the year 2000 that results from the failure or inability of such device and/or software as listed above to:
  1. Correctly recognize any date as its true calendar date;
  2. Capture, save, or retain, and/or correctly manipulate, interpret or process any data or information or command or instruction as a result of treating any date other than its true calendar date; and/or
  3. Capture, save, retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software being a command which causes the loss of data or the inability to capture, save, retain or correctly process such data on or after any date.
- B. It is further understood that the Takaful Operator will not pay for the repair or modification of any part of any electronic data processing system or any device and/or software as listed above in A.
- C. It is further understood that the Takaful Operator will not pay for any loss or damage including loss of use with or without physical damage or any consequential loss directly or indirectly arising from any advice, consultation, design, evaluation, inspection, installation, maintenance, repair or supervision done by the Participant or for the

Participant or by or for others to determine, rectify or test any potential or actual failure, malfunction or inadequacy described in A above.

- D. It is further understood that the Takaful Operator will not pay for any consequential loss resulting from any continuing inability of the computer and equipment described in A above to correctly recognize any date as its true calendar date after the lost or damaged property has been replaced or repaired.

Such loss or damage or any consequential loss referred to in A, B, C, or D and above, is excluded regardless of any other cause that contributed concurrently or in any other sequence to the same.

**Saving clause:**

This endorsement shall not exclude subsequent loss or damage or consequential loss which itself results from a Defined Peril. Defined Peril shall mean fire, lightning, explosion, aircraft or vehicle impact, falling objects, windstorm, hurricane, cyclone, typhoon, riot, strike, civil commotion, vandalism, malicious mischief, earthquake, volcanic eruption, flood, bursting or overflowing of water tanks or pipes, subsidence and landslip and spontaneous combustion.

**6) Institute Cyber Attack Exclusion Clause (CL 380) 10/11/03**

- 6.1 Subject only to clause 6.2 below, in no case shall this agreement cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system.
- 6.2 Where this clause is endorsed on certificates covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 6.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software program or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

**7) Exclusion of Terrorism**

Notwithstanding any provision to the contrary within this takaful or any endorsement thereto it is agreed that this takaful excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Takaful Operator allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this takaful the burden of proving the contrary shall be upon the participant.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

### 8) Total Asbestos Exclusions

It is hereby understood and agreed that this contract shall not cover any actual or alleged liability whatsoever for any claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

### 9) Jurisdiction Clause

This takaful certificate shall be governed by and construed in accordance with Malaysia Law. The Takaful Operator and the Participant agree that the Courts of Malaysia shall have the sole jurisdiction over any legal action or proceeding arising out of or in connection with this takaful certificate, including but not limited to the execution, interruption and compliance with this takaful certificate, and that any final order or judgment of such courts shall be conclusive. The Takaful Operator hereby waive any objection to proceeding in such courts on the grounds that the proceedings have been brought in an inconvenient forum.

## General Provision

### Right to terminate due to Anti-Money Laundering and Counter Financing of Terrorism

If we discover, or have justified suspicion, that the Certificate is exploited for money laundering activities or to finance terrorism, we reserve the right to terminate the Certificate immediately. We shall deal with all contributions paid and all benefits or sums payable in respect of the Certificate in accordance with any applicable laws.

## Important Notice

The Ombudsman for Financial Services (OFS) and Bank Negara Malaysia's Laman Informasi, Nasihat & Khidmat (LINK) alternative avenues for members of the public to seek redress against unfair market practices.

### Procedure for Complaint to OFS

The Ombudsman for Financial Services (OFS) may be contacted by the Claimant or Participant, in the event that the Claimant or Participant is dissatisfied with the decision of Etiqa General Takaful Berhad to a dispute, or Etiqa General Takaful Berhad's failure to respond to a complaint within sixty (60) days. The OFS contact details are as follows:

Email: enquiry@ofs.org.my OR Facsimile Number: +603 2272 1577 OR

Postal address:

Chief Executive Officer  
Ombudsman for Financial Services  
Level 14, Main Block, Menara Takaful Malaysia  
No.4, Jalan Sultan Sulaiman  
50000, Kuala Lumpur

Alternatively, the Claimant or Participant may file the dispute in person at the OFS office.

The OFS must be contacted within six (6) months from the date of the final decision from Etiqa General Takaful Berhad to the dispute of the Claimant or Participant.

For further details on the OFS, please obtain the information pamphlets from Etiqa General Takaful Berhad or visit the OFS website at [www.ofs.org.my](http://www.ofs.org.my)

Engagement of the OFS is subject to the terms of reference pursuant to section 138 of the Islamic Financial Services Act 2013. Contacting the OFS does not affect the Claimant's or Participant's right to take legal action against Etiqa General Takaful Berhad should they be dissatisfied with the outcome by the OFS.

### **Procedure for Complaint to LINK**

Any Participant or Claimant who is not satisfied with the conduct of the Takaful Operator may write to LINK, giving details of the complaint, the name of the Takaful Operator and the Certificate number or the claim number.

Copies of the correspondence (if any) between the Participant or the Claimant and the Takaful Operator may be sent to facilitate tracing the case file kept by the Takaful Operator.

The contact details are as follows:

Director, Jabatan LINK dan Pejabat Wilayah  
Bank Negara Malaysia  
Jalan Dato' Onn  
50480 Kuala Lumpur  
Telephone Number: 1 300 88 5465  
Facsimile Number: +603 2174 1515  
E-mail: bnmtelelink@bnm.gov.my

### **Our Commitment to High Standard of Customer Service**

We do everything We can to ensure that You receive the high standard of service You expect. If We fall below these standards, or You are unhappy with Our service, please write to Our Head of Feedback Centre who will ensure that Your feedback is dealt with instantly.

The address is:

Etiqa General Takaful Berhad  
Complaint Management Unit  
Level 6, Tower B, Dataran Maybank  
No 1, Jalan Maarof  
59000 Kuala Lumpur, Malaysia  
Telephone Number: 1300 13 8888 or +603 2780 4500  
Email: complaint\_cmu@etiqa.com.my