

PUBLIC LIABILITY (CLAIMS MADE BASIS)

Operative clause

Damages which You shall become legally liable to pay consequent upon injury or damage which occurred in the course of or in connection with the business within the territorial limits and on or after the retroactive date shown in the schedule, and which results in a claim or claims first being made against You in writing during the period of insurance.

The limits of indemnity

The amount payable, inclusive of any legal costs recoverable from You by a claimant or any number of claimants and all other costs and expenses incurred with Our consent for anyone event or series of events that gave rise to the claim or claims, shall not exceed the limit of indemnity stated in the schedule.

Territorial limits

Anywhere in the world but not in connection with

- a. any business carried on by You at or from premises outside of
or
- b. any contract for the performance of work outside of the Republic of South Africa, Namibia, Botswana, Lesotho, Swaziland, Zimbabwe and Malawi.

Cross liabilities

Where more than one insured is named in the schedule, We will indemnify each insured separately and not jointly, and any liability arising between such insured shall be treated as though separate policies had been issued to each, provided that Our aggregate liability shall not exceed the limit of indemnity stated in the schedule.

Definitions

1. Injury

Means bodily injury, illness inclusive of mental, disease or death to any person.

2. Damage

Means the physical damage or loss of control to tangible property.

3. Employee

Means any person currently (or who at the time of the claim event was) employed under a contract of service with You including partners, executive and non-executive directors, consultants and temporary employees employed by You.

4. Product

Means any tangible property (inclusive of containers and labels) after it has left Your custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired inclusive of any gratuitous or technical advice given by You in the promotion of such product. **This shall exclude food and drink provided as a staff benefit to employees by You.**

5. Pollution

Means the emission, discharge, release, dispersal, disposal, seepage or escape of any liquid, solid, gaseous or thermal irritant, contaminant inclusive of the generation of smell, noises, vibrations, light, electricity, radiation, changes in temperature or any other sensory effects upon land, water or the atmosphere.

6. Proposal

Means the application for the insurance cover provided by this policy including the proposal form identified in the schedule together with any other documentation or information submitted to Us for consideration of the risk.

7. Schedule

Means the schedule attaching to this Policy, incorporating all Endorsements.

8. North America

Means The United States of America and Canada and or any other territory that may be operating under the laws of these two respective countries.

9. Policy

Means the contents of this document together with the schedule, incorporating all Extensions and Endorsements, issued from time to time by Us and the proposal which shall all be read together as evidencing the contract of insurance.

10. Insured

Means any person or persons, company, or other entity as listed as Insured in the schedule acting as a director, member, partner or principal of the business:

- a. including their predecessors in that specific business as director, member, partner or principal and
- b. any person who becomes a director, member, partner or principal during the period of insurance, but limited to the extent that liability only attach to You.

11. Takeover or merger

Means any transaction whereby another company acquires control over the assets or management of the named Insured or whereby Your assets become vested in or under the control of another company including a transfer of whole or any part of a business, trade or undertaking that is transferred as a going concern.

Specific exceptions

We will not indemnify You in respect of:

1. liability consequent upon injury to any person employed by You under a contract of service or apprenticeship and arising from and in the course of such employment with You
2. damage to:
 - a. property:
 - i. belonging to You
 - ii. property in Your custody or control or any employee of Yours but this exception shall not be applicable to the premises (or contents thereof) temporarily occupied by You for work therein.
 - b. that part of any property on which You are or have been working if such damage results directly from such work.
3. liability consequent upon injury or damage caused by or through or in connection with:
 - a. any advice or treatment of a professional nature (other than first aid treatment) given or administered by or at Your direction.
 - b. the ownership, possession or use by or on Your behalf of any mechanically propelled vehicle (other than a pedal cycle or lawnmower) or trailer or of any watercraft exceeding 5 meters in length or of any watercraft 5 meters and less but that is not used on inland waterways only, locomotive or rolling stock. This exception shall not relieve Us of liability to indemnify You in respect of liability consequent upon injury or damage caused or arising in connection with the loading or unloading of any vehicle, insofar as such injury or damage is not insured by any other insurance policy.

- c.
 - i. the refuelling of aircraft
 - ii. the ownership, possession, maintenance, operation or use of aircraft or an airline
 - iii. the ownership, hiring or leasing of any airport, airstrip or helicopter pad.
 - d. goods or products (including containers and labels) sold or supplied and happening elsewhere than on premises occupied by You other than food and drink supplied incidentally for consumption on the premises.
- 4. damage caused by vibration or by the removal or weakening of or interference with support to any and, building or other structure.
- 5. assumed by You by agreement unless such liability would have attached in the absence of such agreement.
- 6. fines, penalties, punitive, exemplary or vindictive damages.
- 7. damages in respect of judgements delivered awarded or settlement made within North America or to any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part.
- 8. Damages which shall include costs and expenses of litigation recovered by any claimant from You ,in respect of any claim arising from an event known to You which is not reported to Us in terms of General Condition 6 Claims.
- 9. the first amount payable as per schedule.
- 10. liability consequent upon injury or damage arising out of deliberate disregard by You of the need to take reasonable precautions to prevent any event or circumstance which may give rise to a claim
- 11. any claim or claims whether actual or alleged howsoever arising in connection with or based upon or arising from or in any way involving actual or alleged unlawful competition, unfair practices, abuse of monopoly power, cartel activities or as may otherwise arise from or be based upon or relate to any breach of a provision of the Competition Act 89 of 1998 (as amended) or any similar provision, act or regulation as may be in force in any jurisdiction or country in which the liability arose.
- 12. any liability arising from pollution inclusive of the cost of nullifying or cleaning up of the pollution provided that it will not apply for any claims arising from a sudden, unintended and unexpected occurrence.

Memorandum

In respect of this section only, General exception 1 is deleted and replaced by the following:

“This section does not cover injury, damage to property or liability directly or indirectly caused by, related to, or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, mutiny, insurrection, rebellion, revolution, military or usurped power.”

Specific conditions

1. Any claim first made in writing against You as a result of a defined event reported in terms of General condition 6 shall be treated as if it had first been made against You on the same day that You reported the event to Us.
In the event of cancellation or non-renewal of the policy, You may report an event in terms of General condition 6 to Us for up to 30 days after cancellation or non-renewal, provided such event occurred during the period of insurance.
2. Any series of claims made against You by one or more than one claimant during any period of insurance consequent upon one event or series of events with one original cause or source shall be treated as if they all had first been made against You
 - a. on the date that the event was reported by in terms of General condition 6
 - or
 - b. if You were not aware of any event which could have given rise to a claim, on the date that the first claim of the series was first made in writing against You.

Manifestation Clause

Where the facts do not speak for themselves and We and You cannot mutually agree when the injury or damage occurred, then for the purpose of determining the indemnity granted:

- a. injury shall be deemed to have occurred when the claimant first consulted a qualified Medical Practitioner in respect of such Injury, whether or not it was correctly diagnosed at the time, If no such consultation took place, then Injury shall be deemed to have occurred when You were first advised of the Injury
- b. damage shall be deemed to have occurred when it first became evident to the claimant, even if the cause was unknown.

Extensions

Extended reporting option

At Your option and subject to payment of an additional premium to be determined and subject to all the terms, exceptions and conditions of this section, We agree to extend the period during which You may report an event in terms of General condition 6 for a period to be agreed, but in no circumstances exceeding 36 months (hereinafter referred to as the “extended reporting period”),

provided that:

- a. this option may only be exercised in the event of We cancel or refuse to renew this section
- b. this option must be exercised by You in writing within 30 days of cancellation or non-renewal
- c. once exercised, the option cannot be cancelled by either You or Us
- d. You have not obtained insurance equal in scope and cover to this section as expiring
- e. We shall only be liable for a defined event which occurred after the retroactive date but prior to date of cancellation or non-renewal
- f. claims first made against You for any reported event by You during the extended reporting period shall be treated as if they were first made or reported on the last day preceding the cancellation or non-renewal
- g. the total amount payable by Us for claims made or reported events during the extended reporting period shall not have the effect of increasing the limit of indemnity applicable as on the last day preceding the cancellation or non-renewal.

Additional insured

We will also, as though a separate policy had been issued to each, indemnify:

- a. in the event of Your death, any personal representative of Yours in respect of liability incurred by You;
- b. any partner or director or employee of Yours (if You so request) against any claim for which You are entitled to indemnity under this insurance;
- c. to the extent required by the conditions of any contract (and notwithstanding Specific exception 5), and in connection with any liability arising from the performance of the contract, any employer named in any contract entered into by You for the purposes of the business;
- d. in respect of the activities of any social or sports club, welfare organisation, first aid, fire or ambulance service, canteen or the like, belonging to or formed by You for the benefit of their employees:
 - i. any officer or member thereof;
 - ii. any visiting sports team or member thereof,

provided that:

1. Our aggregate liability is not increased beyond the limits of indemnity stated in the schedule
2. any person or organisation to which this extension applies is not entitled to indemnity under any other policy
3. the indemnity under a, b and c applies only in respect of liability for which You would have been entitled to indemnity if the claim had been made against You.

For the purposes of this extension, We waive all rights of subrogation or action which they may have or acquire against any of the above, and each party to whom the indemnity hereunder applies shall observe, fulfil and be subject to the terms, exceptions and conditions (both general and specific) of this insurance in so far as they can apply.

Tool of trade

Specific exception 3, b shall not apply to the operation as a tool of any vehicle or plant forming part of such vehicle or attached thereto, **provided that We shall not be liable hereunder in respect of so much of any liability as falls within the scope of any form of motor insurance or compulsory third party insurance legislation, notwithstanding that no such insurance is in force or has been effected, nor shall We be liable where any other form of motor insurance has been effected by You covering the same liability.**

Employees' and visitors' property

Specific exception 2 a (ii) shall not apply to property belonging to any partner, director or employee of Yours or any visitor to the Insured's premises.

Unattached trailers

Specific exception 3 b shall, as far as it relates to trailers, not apply in respect of any trailer that was attached to any mechanically propelled vehicle that became unintentionally detached from that vehicle, **provided that We shall not be liable hereunder in respect of so much of any liability:**

- a. which is insured by or would, but for the existence of this section, be insured by any other policy or policies effected by You
- b. as falls within the scope of any compulsory third party insurance legislation, notwithstanding that no such insurance is in force or has been effected.

Emergency medical expenses

We will indemnify You for all reasonable expenses incurred by You for such immediate medical treatment as may be necessary at the time of an accident causing injury to any person who may be the subject of a claim for indemnity by the Insured in terms of this section.

Car parks

Notwithstanding the provisions of specific exception 2, a (ii), We will indemnify You in respect of liability as herein provided arising from loss of or damage to vehicles and their contents and accessories, the property of tenants, customers, visitors or employees of Yours using parking facilities provided by You.

Tenant's liability

Specific exceptions 2 a (ii) and 3 b of this section shall not apply to premises occupied by You as tenant (but not as the owner) thereof.

Gratuitous advice

Notwithstanding anything to the contrary contained in specific exception 3 a We will indemnify You in respect of Defined Events caused by the unintentional failure of Yours to perform the legal duty to exercise due care owed to another person or party in providing technical information or advice to such person or party **provided that this section does not cover liability:**

- a. arising out of Your insolvency
- b. arising out of financial services and/or cost estimates provided by or on Your behalf
- c. arising out of defamation
- d. arising out of design, formula, supervision, treatment or advice given by or on Your behalf in exchange for a fee or benefit of some kind
- e. arising out of technical information or advice given in connection with a Product unless the extension for Products Liability is included in the schedule.

If at the time of any event giving rise to a claim under this extension, indemnity is also provided under any other insurance, **this extension shall not be drawn into contribution with such other insurance** except in respect of any amount for which You are liable over and above the cover provided by such other insurance subject at all times to the limit of indemnity.

Acquisitions and new businesses

The indemnity granted by this section of the policy extends to any company formed or acquired by You during the period of insurance for a period of 90 days of such formation or acquisition, provided always that:

- a. the retroactive date in respect of such new company shall be deemed to be the date when a newly formed or acquired company first purchased liability insurance of the type hereby insured on a "Claims Made" basis, subject to a declaration from the newly acquired company's previous management of no known or reported claims or circumstances likely to give rise to a claim at the date of acquisition. In the absence of such a declaration, the retroactive date shall be the date of such acquisition
- b. Your business activities remain unchanged;
- c. the annual turnover of all newly formed or acquired companies does not exceed 5% (five percent) of Your estimated annual turnover as advised to the insurance company at inception hereof
- d. You shall advise the insurance company of such formations or acquisitions before the expiry of 90 days thereof and the insurance company may amend the terms of this section of the policy accordingly.

Wrongful arrest and defamation (if stated in the schedule to be included)

The defined events are extended to include damages:

- a. resulting from wrongful arrest (including assault in connection with such wrongful arrest);
- b. in respect of defamation, provided always that the limits of indemnity as stated shall not exceed R250 000 under each of a and b in anyone (annual) period of insurance.

Products liability (if stated in the schedule to be included)

Notwithstanding anything to the contrary contained in specific exception 3(d), We will indemnify You in respect of defined events

happening anywhere in the territories stated in the schedule elsewhere than at premises occupied by You, and caused by any Product sold or supplied (including wrongful delivery and delivery of incorrect goods) by You in connection with the nature of business.

The amount payable under this extension, inclusive of any Legal Costs recoverable from You by a claimant or any number of claimants, and all other costs and expenses incurred with Our consent, for anyone event or series of events with one original cause or source or during anyone (annual) period of insurance, **shall not exceed in the aggregate the limit of indemnity for this extension stated in the schedule.**

Additional specific exceptions (applicable to products liability extension)

This extension does not cover liability:

1. for the cost of repair, alteration, recall, reconditioning or replacement of the Product or part thereof causing injury or damage. For the purposes of this additional specific exception the term "replacement" shall be deemed to include any credit or refund granted or alternative Product provided by or on Your behalf in lieu of replacement of the defective Product
2. for the cost of demolition, breaking out, dismantling, delivery, rebuilding, supply and installation of the Products and any other property essential to such repair, alteration or replacement unless physically damaged by the Product
3. arising from the failure of any Product or any part thereof to fulfil its intended function or to perform as specified, warranted or guaranteed but this exception shall not apply to consequent Injury or Damage
4. arising from Products intended to be installed and installed in, or intended to form part of and forming part of, an aircraft
5. in respect of injury or damage happening in the United States of America or Canada caused by or through or in connection with any Products of Yours sold or supplied by You or to Your order, if such Products have, to Your knowledge, been exported to the United States of America or Canada by or on Your behalf.

6. for any defect in any Product or any part thereof of which You were aware prior to the inception of this extension.

PROFESSIONAL INDEMNITY

You, as named in the Schedule having applied to the Us for the Insurance and having agreed that any proposal or other information supplied by You or on Your behalf shall be the basis of this contract of insurance, We agree, in consideration of the payment of the premium, to indemnify You as provided for within the Insuring Agreements of each Section of this Policy subject to the terms, Exclusions and Conditions of this Policy.

You have provided the Us with a proposal and other information which shall form the basis for this Insurance Cover and, in consideration of payment of the premium, We shall indemnify You during the insured period up to the Limit of Indemnity subject to the Terms, Exclusions and Conditions of this Policy read together with the Schedule.

Insuring agreement

1. We agree to indemnify You against its legal liability to pay damages and costs in respect of claims made against You:
 - 1.1 and notified to Us during the Period of Insurance for liability incurred in the conduct of Your Professional Business as a result of a negligent act, breach of professional duty, error or omission arising in the course of the Business activities as stated in the Schedule
 - 1.2 restricted to the territorial limits, and by a Court of competent jurisdiction in accordance with the law of the Republic Of South Africa or a regulatory body created by statute, subject to the Circumstance occurring within the Geographical limits as set out in the Schedule, but excluding any judgement, payment, settlement or award made under any laws of a country which falls under North American jurisdiction, and also to any order in part or full to enforce such award, settlement or judgement, made anywhere else in the world
2. Limits of indemnity means the sum stated in the Schedule which is the maximum amount applicable to any and all Claims, inclusive of all costs and expenses including Defence Costs, for which indemnity is provided under this Policy. **Our aggregate liability during the Period of Insurance shall not exceed the Limit of Indemnity.**
3. We agree that the party named as the Insured in the Schedule will act on behalf of all the Insured's covered in terms of this Policy in respect of the giving and receiving of notice of claim or termination of cover, the payment of premiums and the receiving of any return premiums that may become due under this Policy, the agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this Policy.

Definitions and interpretations

Various words and phrases have a standard meaning within this Policy and such meanings are defined in this section. Where a more general meaning applies this will be apparent from the way it is used in this Policy.

In any instance where there is conflict, Specific conditions shall override General conditions.

The titles and headings to the various paragraphs and sections in this Policy, including endorsements attached, are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such paragraphs and sections to which they relate

Insured means

1. any person or persons, company, or other entity as listed as Insured in the Schedule acting as a director, member, partner or principal of the business and
2. includes their predecessors in that specific business who acted as director, member, partner or principal; and
3. any person who becomes a director, member, partner or principal during the period of insurance, but limited to the extent that liability only attach to You.

Documents means

All forms of documents of whatsoever nature including computer system records (provided You maintain duplicates of computer system records).

Employee means

Any person currently (or who at the time of the Circumstance was) employed under a contract of service with You including partners, executive and nonexecutive directors, consultants and temporary employees employed by You.

Circumstance means

An event, or series of events arising out of one originating cause, which gives, or is likely to give, rise to a Claim or Claims against any Insured and is the subject of indemnity provided under this Policy.

Defence Costs means

All costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses incurred with Our prior written consent (which consent shall not be unreasonably withheld) in the investigation, defence or negotiation of the settlement of any Claim. Defence Costs do not include Your overheads, including but not limited to the salaries, wages or benefits of any of its directors, officers, Employees, in-house lawyers or other in-house professional advisers.

Moreover, **Defence Costs shall not include:**

1. the cost of conducting disciplinary hearings;
2. the cost of conducting pre-dismissal arbitrations unless We give prior written consent to such Arbitration taking place.

The First Amount Payable does apply to Defence Costs.

First Amount Payable means

The amount stated in the Schedule as the First Amount Payable to be borne by You and We shall only be liable for the amount of Loss arising from a claim against this Policy which is in excess of the First Amount Payable which shall remain uninsured

Limit of Indemnity means

The sum stated in the Schedule which is the maximum amount applicable to any and all Claims, inclusive of all costs and expenses including Defence Costs, for which indemnity is provided under this Policy. **Our aggregate liability during the Period of Insurance shall not exceed the Limit of Indemnity.**

North America means

The United States of America and Canada and or any other territory that may be operating under the laws of these two respective countries.

Period of Insurance means

The period stated in the Schedule.

Policy means

The contents of this document together with the Schedule, incorporating all Extensions and Endorsements, issued from time to time by Us to attach to this insurance together with the Proposal which shall all be read together as evidencing the contract of insurance.

Pollutants means

Any substance located anywhere in the world exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by any governmental agency in the country where the pollutants are situated or as defined in South Africa. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. Pollutants shall also mean any other air emission, odour, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, electric or magnetic or electromagnetic field and noise.

Professional duties means

Advice given, services performed and or duties of a professional nature for gain undertaken by or on Your behalf in the course of Your normal business activities and any other business as may be specifically stated in the Schedule.

Proposal means

The application for the insurance cover provided by this Policy including the proposal form together with any other documentation or information submitted to Us for consideration of the risk.

Schedule means

The schedule attaching to this Policy which shall incorporate all Endorsements and Extensions.

Subsidiary means

Any organisation in which the Parent Company either directly or indirectly through one or more of its subsidiaries:

1. holds more than 50% of the issued share capital; or
2. has the right to appoint or remove a majority of its board of directors; or
3. controls alone, pursuant to a written agreement with other shareholders, more than 50% of the voting rights therein.
4. any Company other than those referred to in 1, 2 or 3 above in respect of which We have given prior written consent to its coverage as a subsidiary Company under this Policy.

Takeover or Merger means

Any transaction whereby another company acquires control over the assets or management of the named Insured or whereby Your assets become vested in or under the control of another company including a transfer of whole or any part of a business, trade or undertaking that is transferred as a going concern.

Specific exclusions

This Section of the Policy shall not indemnify You in respect of any Claim, Loss, liability or expense arising directly or indirectly out of:

- 1. Bodily Injury and Property Damage**
 - 1.1 any bodily, mental or emotional injury, sickness, disease or death, or
 - 1.2 any loss of or damage to property, other than covered under Insuring Agreement 2 of any third party unless such Claim, loss, liability or expense arises from negligent advice.
- 2. Breach of Contract of Employment**

Any contract of service or obligation owed by You as employer including any Claim for wrongful or unfair dismissal.
- 3. Computer Network and Data Corruption**
 - 3.1 the corruption, erasure, theft, alteration of; or
 - 3.2 the access or lack of access to; or
 - 3.3 the interference with electronically held data of or held by You wholly or partly caused by any computer virus or by any person not being a partner, director or employee currently employed by You.
- 4. Computer Records**

Loss, distortion or erasure of computer records

 - 4.1 whilst stored on any computer for use or processing unless caused by any negligent act or omission on Your part or
 - 4.2 resulting from wear, tear, vermin or gradual deterioration or
 - 4.3 caused by climatic or atmospheric conditions or extremes of temperature or
 - 4.4 due to the presence of magnetic flux or due to loss of magnetism.
- 5. Controlling Interest / Associated Companies**

Any Claim by

 - 5.1 any parent or subsidiary company of Yours or any company having the same parent Company as You or
 - 5.2 any other company in which You have a shareholding in excess of 50% or
 - 5.3 any other company in common ownership with You unless such Claim emanates from an independent third party.
- 6. Dishonesty**

The dishonesty of You or any Employee.
- 7. Employers' Liability**

Bodily injury, sickness, disease or death sustained by any person arising out of and in the course of their employment by You in any capacity.
- 8. Geographical and Jurisdiction Limits**
 - 8.1 work in connection with any contract performed outside the Geographical Limits or
 - 8.2 any judgement, award, payment or settlement made within countries which operate under the laws of the United States of America and or Canada or
 - 8.3 any order made anywhere in the World to enforce any judgement, award or settlement either in whole or in part, made in the courts of or under the laws of the United States of America or Canada.
- 9. Insolvency**

or from the insolvency, curatorship, bankruptcy, liquidation or financial inability to pay, of You or any insurance company, reinsurance company, underwriter, syndicate, agent, broker or intermediary, benefit plan, self-insurance plan, insurance pool or risk retention group, financial institution or other risk bearing entity with whom, or through whom, coverage has been placed or obtained.
- 10. Financial Guarantee**

Financial default, bankruptcy or insolvency of any party or person, whether a party to this contract or not, other than in respect of Claim(s) arising from any negligent act, error or omission committed or alleged to have been committed by You. For the purposes of this Exclusion the term "negligent act, error or omission" shall include but not be limited to misstatement, misleading statement, breach of duty, breach of trust, breach of warranty of authority.
- 11. Defamation or Breach of Confidentiality**

Defamation or breach of confidentiality committed or allegedly committed by You.
- 12. Suitability of Insurers**

Breach of Your duty to advise on the suitability (which expression shall include but not be limited to financial standing) of any insurance company, insurer or underwriter with whom insurance or reinsurance is placed.

- 13. Warranty or Guarantee**
The giving by You of any warranty, indemnity or guarantee or financial obligation assumed by Us under contract unless such liability would have attached to You notwithstanding such express agreement.
- 14. Disclosure of Commission**
A dispute concerning the payment of commission, fees or other remuneration to Us.
- 15. Failure to Account for Monies**
Failure on Your part to account for money.
- 16. Market Fluctuation**
The depreciation or loss of investments however caused or arising
- 17. Loss of Documents**
Against any reasonable cost or expense incurred by You in replacing and restoring Documents.
- 18. Compliance officer errors and omissions**
To indemnify You in Your role as a compliance officer against his liability to pay compensation (including claimants costs and fees and expenses) to the claimant and any other third party as a result of an actual or alleged (other than by You) negligent act, error or omission in the performance of the Professional duties undertaken as compliance office in the normal cause of business.

General exclusions

This Policy shall not indemnify You or any person or entity insured in terms of this Policy in respect of any claim, loss, liability or expense arising directly or indirectly out of :-

- 1. Asbestos and Toxic Mould**
or in any manner related to, asbestos and Fungi. For the purposes of this clause, Fungi shall mean any fungus or mycota or any by-product or type of infestation produced by such fungus or mycota, including but not limited to mould, mildew, mycotoxins, spores or any biogenic aerosols.

In any claim and in any action, suit or other proceedings to enforce a claim under this Policy, the burden of proving that such claim does not fall within this Exclusion shall be upon You

This Exclusion does not apply in respect of any claim, loss, liability or expense, arising directly or indirectly out of Your negligent failure of to place insurances on behalf of clients for the above named events, or any other breach of professional duty, by You or any person or firm acting on Your behalf. In the event that any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall continue to be in full force and effect.

- 2. Claims and Circumstances known at inception**
Any Claim or Circumstance known to You prior to the inception of this Policy or which in Our reasonable opinion ought to have been known to You and which was not declared.
- 3. Nuclear Risks and War/Terrorist Risks**
Or caused by or contributed to by
 - 3.1 ionising radiations or contamination by radioactivity from any nuclear fuel, waste or substance; or
 - 3.2 the radioactive, toxic, explosive or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof; or
 - 3.3 war, invasions, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or
 - 3.4 any act or acts, or threat thereof, of terrorism, force or violence for political, religious or other ends directed towards the overthrowing or influencing of the government, or for the purpose of putting the public in fear, by any person or persons acting alone or on behalf of or in connection with any organisation.

In any claim and in any action, suit or other proceedings to enforce a claim under this Policy, the burden of proving that such claim does not fall within this Exclusion shall be upon You.

In the event any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall continue to be in full force and effect. This Exclusion does not apply in respect of any claim, loss, liability or expense arising directly or indirectly out of the negligent failure to place insurances on behalf of clients for the above named events, or any other breach of professional duty by You

- 4. Pollution**
Based upon or attributable to
 - 4.1 the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal Of pollutants into or on real or personal property, water or the atmosphere; or
 - 4.2 any direction or request that You, or any person or entity to whom indemnity is extended, to

Test for, monitor, clean up, remove, contain, treat, detoxify or neutralise pollutants, or any voluntary decision to do so; based upon, arising out of, or attributable to the matters described in this Exclusion. This Exclusion does not apply in respect of any claim, loss, liability or expense, arising directly or indirectly out of Your negligent failure to place insurances on behalf of clients for the above named events, or any other breach of professional duty, by You or any person or firm acting on Your behalf.

5. Punitive or Exemplary Damages

Any fines, penalties, punitive or exemplary damages imposed on any Insured.

6. Retroactive Date

Any act, error, omission or Wrongful Act committed or alleged to have been committed prior to the Retroactive Date(if any applicable) specified in the Schedule.

General conditions

1. Material change in risk

It is hereby agreed that, beginning with Your Proposal and continuing to the end of the Period of Insurance, You are under a continuing duty to disclose to Us as soon as is reasonably practicable all material changes that shall or might have a bearing on whether We would accept the risk or at different terms.

1.1 You must pay to the Us all premiums due to the Us;

1.2 You must not notify any claim knowing it to be false or fraudulent as regards amount or otherwise;

1.3 Beginning with Your Proposal and continuing to the end of the Period of Insurance You are under a continuing duty to disclose to Us as soon as is reasonably practicable, all material changes, including notice of any extension of underwriting authority.

Any breach of General Condition 1.1, 1.2 or 1.3 above by You will entitle Us at their discretion to terminate the Policy from the date of inception and all claims shall be forfeited.

2. Claims Conditions Precedent to Liability

The following conditions are conditions precedent to Our liability and accordingly, no claim will be paid unless full and complete adherence to these Conditions are maintained by You.

2.1 Notification

You shall give notice to Us as soon as reasonably practicable of:

2.1.1 any Claim made against You and/or

2.1.2 any Circumstance of which You become aware during the Period of Insurance.

Provided that such notice as required in 2.1.2 of this Condition has been given during the Period of Insurance any resultant Claim arising from such matters notified, shall be deemed to have been made during the Period of Insurance, provided however that this deeming provision shall only have effect if You comply within a reasonable time and at their own expense with: -

2.1.3 Our standard requirement that the notification should state precisely why a Claim is likely and if so, from whom, and

2.1.4 any reasonable request by Us for further information in relation to the matters notified and

2.1.5 any request by the Us for steps to be taken to reduce or avert the said risk.

For the avoidance of doubt, no other Condition of this Policy shall have the effect of limiting Our right to refuse to give effect to this deeming provision in the event of a failure by You to comply with a request under 2.1.3, 2.1.4 and 2.1.5 above.

2.2 Co-operation

Following the occurrence of a Loss, Claim or Circumstance, You shall: -

2.2.1 at Your own expense give all information and assistance to Us; and

2.2.2 make no admission of liability, arrangement, compromise, offer, promise or payment without Our consent..

2.2.3 as soon as reasonably practicable, inform the police of any theft and take all practicable steps to discover the guilty party and to recover the stolen property.

3. Our Rights

Following the notification of a Claim or a Circumstance We will be entitled:

3.1 at its discretion, to take over and conduct in Your name the investigation, defence or settlement of any such matter;

3.2 at any time, to pay to You the amount of the Limit of Indemnity (less the First Amount Payable and any sum already paid during the Period of Insurance) or any lesser amount for which, in the Our opinion, any Claim or Claims can be settled and shall then cease to have conduct and control of the Claim or proceedings and be under no further liability in respect of such costs or Claim. We shall not be liable for any loss which You may claim to have sustained by reason of Us having so acted;

3.3 to be subrogated to all rights of recovery You may have against any party and You shall do nothing to prejudice such rights. It is agreed, however, that We shall not exercise such rights against any Employee except in respect of any claim arising out of the dishonesty of such Employee. You shall execute all papers required and shall do

everything necessary to secure and preserve such execution of such documents necessary to enable Us effectively to bring suit in Your name..

4. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by an authorised representative of the Ours.

5. Fraud

If any claim under this Policy is in any respect fraudulent or if any fraudulent means or devices are used by You or anyone acting on Your behalf or with their knowledge or consent to obtain any benefit under this Policy or if any event is occasioned by the wilful act or with Your connivance, then all benefits afforded under this Policy shall be forfeited.

6. Action Against Us

No action shall lie against the Us unless, as a condition precedent thereto, there shall have been full compliance with all the terms and conditions of this Policy. You shall not join Us as a party to any action instituted against an Insured. You and Your legal representatives shall assist Us as much as is reasonably possible. Liquidation or insolvency of an Insured or of the estate of any Insured shall not relieve Us of Our obligations nor Deprive Us of Our rights or defences under this Policy.

7. Administrative Conditions Policy Disputes

Any dispute or difference between You and Us arising from this Policy shall be referred to Senior Counsel or such other expert mutually agreed upon between You and Us or failing such agreement, to a Senior Counsel appointed by the Johannesburg Bar Society of Advocates. The findings of the appointed Senior Counsel or expert shall be binding upon You and Us, and the costs of such an exercise shall be allocated by the Senior Counsel or expert on the basis he/she considers fair and equitable.

8. Prevention of Loss

You shall take all reasonable steps and precautions to prevent Losses/Claims.

9. Other Insurance

If any Loss arising from any claim is Insured by another valid and collectible policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other policy or policies, whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically in excess of this Policy by reference in such other policy to this Policy's Policy Number.

10. Take Over and Merger

In the event of a Take-over or Merger any coverage hereunder shall apply only to an Unfair Labour Practice or Wrongful Act committed or breach of Professional duty or Loss due to a Defined Event insured in terms of the Fidelity Guarantee Section occurring prior to the date of such Take-Over or Merger.

11. Cancellation of Policy

You may cancel this insurance at any time by giving immediate notice to Us. We may cancel this Policy for non-payment of premium by sending not less than ten (10) days' notice to You at Your last known address. We may cancel this Policy under any other circumstances by giving 30 days' notice to You in which event You will be entitled to a pro rata return of premium. In the event of You cancelling this Policy, We shall retain the customary short rate premium. Payment of any unearned premium by Us shall not be a condition precedent to the effectiveness

12. Waiver of Right to Cancel

In the event of Us being entitled to avoid this Policy ab initio We may at its election instead give notice in writing to You that they regard this Policy as of full force and effect save that there shall be excluded from any payment afforded hereunder any Loss which has arisen or which may arise and which is related to the circumstances which entitle Us to avoid this Policy. This Policy shall then continue in full force and effect but shall be deemed to exclude the particular Loss referred to in the said notice (as if the same had been specifically endorsed ab initio).

13. Registration required by law

You are required at all times to adhere to and or be registered by applicable legislation in terms of his or her Profession and to ensure that all levies and fees are paid up to date. Non compliance will result in repudiation of any claims.

General provisions

1. Aggregate Limit of Indemnity Clause

The maximum amount payable by Us in respect of all the covers provided by this Policy in respect of any one Loss or Claim and in the aggregate in any one Period of Insurance shall not exceed the Limit of Indemnity stated in the Schedule. If the Limit of Indemnity or First Amount Payable shall be increased at any time subsequent to the inception of the Period of Insurance such increased amount shall apply only to Circumstances arising after the date of such increase. Renewal of this insurance from period to period or any extension of any Period of Insurance shall not have the effect of accumulating or increasing Our liability beyond the Limit of Indemnity stated in the Schedule. For the avoidance of doubt it should be noted that the indemnity afforded under the terms of this Policy is provided

jointly to all parties constituting You and for all purposes this Policy shall be considered as a joint policy with one Limit of Indemnity.

2. First Amount Payable

You shall be responsible for the First Amount Payable stated in the Schedule in respect of any one claim arising from any one Circumstance. All Claims arising out of the same Wrongful Act shall be deemed to be one Claim and such Claim shall be deemed to be first made on the date that You advise Us of such Claim or Circumstance.

No First Amount Payable shall be payable in respect of Claims under Insuring Agreement A of the Directors' and Officers' Liability section. If Loss arising from a single Claim is covered in part under Insuring Agreement A and in part under Insuring Agreement B, the applicable First Amount Payable set forth in the Schedule shall be applied to that part of the Loss covered by Insuring Agreement B.

3. Territory and Valuation

All premiums, Limits of Indemnity, First Amounts Payable and claims are expressed and payable in the currency of the Republic of South Africa.

4. Representations

You agree that in the event that the particulars and statements contained in the Proposal are untrue, We shall not be liable to indemnify :

- 4.1. any Insured Person who knew at the inception date of the Policy that the facts concerning himself / herself were not truthfully disclosed in the Proposal;
 - 4.2. the named Insured, if a director or any executive officer knew at the inception date of this Policy that The facts were not truthfully disclosed in the Proposal.
- No fact pertaining to or knowledge possessed by any Insured Person shall be imputed to any other Insured Person for purposes of applying the exclusions set forth in this clause 4.

5. Acquisition of the Named Insured

If during the Period of Insurance

- 5.1 the named Insured merges into or consolidates with another organisation, or
- 5.2 another organisation, or persons or group of organisations and/or persons acting in concert acquires shares or voting rights which result in ownership or voting control by the other organisation(s) or persons(s) of more than fifty percent (50%) of the voting shares then Your Policy shall terminate with immediate effect except in respect of insured Circumstances having been notified to Us prior to such merger, consolidation or acquisition.

6. Communication

Wherever this Policy provides that notice be given to Us, such notice shall be given to:

Physical Address: 54 Maxwell Drive, Woodmead North Office Park, Woodmead, 2021

Postal Address:

Telephone No: 086

Fax No: (011)

Automatic extensions

1. Computer Crime

Covers loss resulting from a fraudulent entry of data into or change of data elements or programs within Your proprietary computer system or a computer system listed in the Schedule, provided the fraudulent entry or change causes: property to be transferred paid or delivered; or an account of the insured or its customers to be added, deleted, debited or credited; or an unauthorized account or a fictitious account to be debited or credited.

2. One Automatic Reinstatement of Limit of Indemnity

You shall be entitled to one automatic reinstatement of the Limit of Indemnity provided that any one claim shall not exceed any one Limit of Indemnity.

3. Breach of Confidentiality Extension

Notwithstanding Specific Exclusion 11, this Section is hereby extended to indemnify You in respect of any Claim made against You and notified to Us during the Period of Insurance incurred in the conduct of Your Professional Business as a result of any unintentional breach of confidentiality.

Provided that Our liability shall not exceed in respect of any one Claim made in terms of this Breach of Confidentiality Extension and in the aggregate in the Period of Insurance, the sub-limit stated in the Schedule.

Additional extensions

1. Defamation Extension

Notwithstanding Specific Exclusion 11, this Section of the Policy is hereby extended when requested and granted at additional premium consideration to indemnify the You in respect of Claims made against You and notified to Us during the Period of Insurance incurred in the conduct of Your Professional Business as a result of defamation committed

without intentional malice by You. Provided that Our liability shall not exceed in respect of any one Claim made in terms of this Defamation Extension and in the aggregate in the Period of Insurance, the sub-limit stated in the Schedule.

2. Support staff extension

Notwithstanding anything to the contrary contained in this policy, this Section of the Policy is hereby extended when requested and granted at additional premium consideration to include claims arising out of any dishonest, malicious, fraudulent act or omission or error in the normal conduct of business as stated in the schedule by any Employee, who is not a director, member, partner or principal of the business.

3. Liability following Loss of Documents

Notwithstanding anything to the contrary contained in this policy, this Section of the Policy is hereby extended when requested and granted at additional premium consideration to include claims following the loss of documents which are Your responsibility in the conduct of Your Professional Business, which are discovered to be lost or damaged and notified to the Us during the Period of Insurance, but excluding any consequential loss with regards to the actual documents.

4. Compliance officer errors and omissions

Notwithstanding anything to the contrary contained in this policy, this Section of the Policy is hereby extended when requested and granted at additional premium consideration to indemnify You in Your role as a compliance officer against Your liability to pay compensation (including claimant's costs and fees and expenses) to a claimant and any other third party as a result of an actual or alleged (other than by You) negligent act, error or omission in the performance of the Professional duties undertaken as compliance office in the normal cause of business. The duties of the compliance officer are defined in the Financial Advisory and Intermediary Services act 2002 (as amended) as well as adherence to the Financial Centre Intelligence Act 2001 (as amended) and or any other relevant legislation applicable to the professional conduct of a Compliance Officer. Claims forthcoming from an event where You acted as Your own compliance officer are not covered in terms of this Extension.

5. Fidelity Guarantee

Direct financial losses first discovered, and reported to Us, by You during the Period of Insurance arising in connection with the Business:

- 5.1. for any direct loss of money or other property whatsoever belonging to You or for which You are legally liable in consequence of any dishonest or fraudulent act or omission of any of Your employees. Provided that
 - 5.1.1. We shall not indemnify any person committing, making or condoning any dishonest or fraudulent act or omission;
 - 5.1.2. for the purposes of paragraph 2(a) and the Dishonesty of Staff Extension, "employee" shall not include a director of a corporate Insured owning more than 20% of Your equity and "former employee" shall be construed accordingly;
 - 5.1.3. You shall give immediate notice to Us where there is any reasonable suspicion of fraud or Dishonesty being committed by any person whether giving rise to a claim or not under this Policy;
 - 5.1.4. We shall be entitled to pursue recovery of all monies paid or payable under this Policy against the persons concerned or their estates or personal representatives or trustees or assignee in bankruptcy;
 - 5.1.5. You shall provide all reasonable information and assistance requested by Us in pursuance of Such recovery and shall in particular withhold monies due to or held by You but belonging to the dishonest or fraudulent person or persons, their estates or personal representatives or trustee or or will suffer as a result of the said persons dishonesty;
 - 5.1.6. You shall whenever requested by Us take all necessary steps for prosecuting or convicting such persons causing the loss;
 - 5.1.7. the amount of any claim for costs and expenses incurred in replacing or restoring any documents shall be supported by bills and accounts which shall be subject to approval by a competent person nominated by Us.
- 5.2. Property does not include premiums due to Us.