

## EMPLOYMENT PRACTICE LIABILITY (CLAIMS MADE BASIS)



The **Insurer** in consideration of payment of the premium and on the basis that any information provided in connection with any proposal or submission made to the **Insurer** will be the basis of and incorporated into this Policy, will, subject to the terms, conditions, exclusions and limitations contained within this Policy, provide an indemnity on the basis as set out herein.

### SECTION 1: INSURANCE COVER

The following insurance cover applies to **Claims** first made during the **Period of Insurance** and reported to the **Insurer** as required by this Policy.

1. **Individual Liability:**

The **Insurer** will pay the **Loss** arising from a **Claim** first made against an **Insured Person** during the Period of Insurance due to an **Employment Practice Violation**, except to the extent that the **Insured Person** has been indemnified by the **Company** for the **Loss**.

2. **Company Reimbursement:**

The **Insurer** will reimburse the **Company** for the **Loss** arising from a **Claim** first made against an **Insured Person** during the Period of Insurance due to an **Employment Practice Violation** and in respect of which the **Company** has indemnified the **Insured Person**.

3. **Company Liability:**

The **Insurer** will pay the **Loss** of each **Company** due to an **Employment Practice Violation** against the **Company**.

4. **Outside Entity Directors**

The **Insurer** will pay the **Loss** arising from a **Claim** first made against an **Outside Entity Director** during the Period of Insurance due to an **Employment Practice Violation** relating to that **Outside Entity** and provided that:

- (i) the **Outside Entity** is unable to indemnify that **Loss** due to a legislative prohibition or the insolvency of that **Outside Entity**; or
- (ii) the **Loss** is not covered under any other applicable collectible insurance issued to the **Outside Entity** or for the benefit of its directors, officers and employees.

The **Insurer** will subject to the provisions of this Policy make payments of **Defence Costs** in respect of any **Claim** which is the subject of the insurance cover provided above.



**Provided that in respect of the insurance cover:**

- a) The **Insurer's** total liability in respect of any one **Claim** for all amounts payable in accordance with the insurance cover, the extensions, claimant's costs and expenses, **Defence Costs** and any other amounts payable by the **Insurer** under this Policy will not exceed the **Limit of Indemnity** stated in the Schedule during the **Period of Insurance**.
- b) The renewal of this insurance from period to period or any extension of any **Period of Insurance** will not have the effect of accumulating or increasing the liability of the **Insurer** beyond the **Limit of Indemnity** stated in the Schedule.
- c) The **Insurer** is under no obligation to provide an indemnity unless the **Employment Practice Violation** first takes place on or after the **Retroactive Date** stated in the Schedule.

**SECTION 2: EXTENSIONS**

Subject to all the terms and conditions of this Policy, and on the basis that all amounts will be paid in accordance with any stated sub-limit and are, unless expressly stated to the contrary, inclusive of the **Limit of Indemnity**, cover is extended to include the following:

1. **Extended Discovery Period**  
In the event that the **Policyholder** elects not to renew or extend this Policy, and the **Policyholder** does not affect any similar legal liability insurance in substitution and the **Policyholder** specifically declares same to the **Insurer** prior to the expiry of the Policy, then the insurance provided under this Policy will be extended for a period of sixty (60) days to include written notification of any **Claim** first made against an **Insured** during such extended discovery period or the **Period of Insurance**, for any **Employment Practice Violation** occurring prior to the expiry of the **Period of Insurance**, and notified to the **Insurer** during the extended discovery period (which will commence immediately following the date of expiry of the Policy). The **Employment Practice Violation** must have occurred subsequent to the **Retroactive Date** and prior to the expiry of the Policy.
2. **New Subsidiaries**  
If the **Policyholder**, during the **Period of Insurance**, incorporates or acquires a new **Subsidiary**, cover is extended as follows:
  - a) if the newly incorporated or acquired **Subsidiary's** total gross assets, as set out in the latest audited annual financial statements, exceeds the **Policyholder's** total gross assets, as declared at inception of the Policy, by more than 25% (twenty five percent), or the **Subsidiary** has a previous claims history, or is incorporated or domiciled or operates whether wholly or partly within the **United States and/or Canada**, then the **Policyholder** will give the **Insurer** such information as it may require and, if the **Insurer** elects to include such **Subsidiary** under this Policy, the **Policyholder** will pay the reasonable additional premium within forty five (45) days of such creation or acquisition;



- b) if the newly incorporated or acquired **Subsidiary's** total gross assets, as set out in the latest audited annual financial statements, does not exceed the **Policyholder's** total gross assets, as declared at inception of the Policy, by more than 25% (twenty five percent), and the **Subsidiary** does not have a previous claims history, and is not incorporated or domiciled or operates whether wholly or partly within the **United States and/or Canada**, then cover will apply automatically without payment of any additional premium.

Provided that, in both instances above cover will only apply to an **Employment Practice Violation** committed or alleged to have been committed after the date of purchase or incorporation and will cease as of the effective date of the sale or dissolution of that **Subsidiary**.

### SECTION 3: DEFINITIONS

1. **Affiliate** means:
  - (i) any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is in common control with; or
  - (ii) any entity that directly, or indirectly through one or more intermediaries, is a successor in interest to;the **Company**.
2. **Companies Act** means the Companies Act No 71 of 2008, as amended.
3. **Claim** means:
  - (i) a written demand;
  - (ii) a civil, regulatory, mediation, administrative or arbitration proceeding seeking compensation or other legal remedy;
  - (iii) a criminal proceeding;made or brought against an **Insured** for an alleged **Employment Practice Violation**.  
**Claim** shall be extended to include -
  - (a) with respect to insured persons, an **Investigation**In no event shall the term **Claim** include any labour or grievance proceeding which is subject to a collective bargaining agreement.
4. **Company** means the **Policyholder** or any **Subsidiary**.
5. **De facto Director** means a natural person who is not formally appointed as a director of the **Company** but who in fact performs the acts or duties of a director.



6. **Defence Costs** means the reasonable costs and expenses incurred with the **Insurer's** prior written consent in connection with the investigation, defence, settlement or appeal of a **Claim**. **Defence Costs** does not include remuneration, cost of time or costs or overheads of the **Policyholder** or any **Insured Person**. **Defence Costs** may include the reasonable fees, costs and expenses of an accredited expert retained through defence counsel approved by the **Insurer**, to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in connection with the assessment or defence of a **Claim**.
7. **Employee** means past, present or future employee of a **Company**, whether such employee is in a supervisory, co-worker or subordinate position, including any part-time, seasonal or temporary employee in his or her capacity as such.

Any individual who is contracted to perform work for a **Company**, or who is an independent contractor for the **Company** shall also be an employee, but only if the **Company** provides indemnification to such individual in the same manner as that provided to the **Company's** employees, and such individual is specifically included as an employee by written endorsement to this Policy.

An individual who is seconded to a **Company** shall also be an employee, but only if the **Company** provides indemnification to such seconded individual in the same manner as is provided to the **Company's** employees; and provided that the Insurer shall not be liable to pay any Loss arising out of a Claim against that seconded individual unless:

- (i) the seconding company or entity is unable to indemnify that **Loss** due to a legislative prohibition or the insolvency of that company or entity; or
  - (ii) the **Loss** is not covered under any other applicable collectible insurance issued to that company or entity or for the benefit of its directors, officers and employees.
8. **Employment Practice Violation** means any actual or alleged:
- (i) unfair or wrongful dismissal, discharge or termination, either actual or constructive, of employment, including breach of an implied contract;
  - (ii) employment-related misrepresentation;
  - (iii) employment-related defamation or humiliation, infliction of emotional distress, invasion of privacy or wrongful failure to employ or promote;
  - (iv) wrongful deprivation of career opportunities;
  - (v) wrongful demotion;
  - (vi) wrongful discipline;
  - (vii) failure to furnish accurate job references;
  - (viii) failure to grant tenure;
  - (ix) negligent employee evaluation;
  - (x) sexual or workplace or racial or disability harassment of any kind (including the alleged creation of a harassing workplace environment);



- (xi) unlawful employment-related discrimination, including but not limited to discrimination based upon age, gender, race, colour, national origin, religion, conscience, belief, political opinion, HIV status, sexual orientation or preference, pregnancy or disability;
- (xii) failure to provide adequate employee policies and procedures;
- (xiii) **Retaliation**;
- (xiv) violation of an **Employee's** civil rights relating to any of the above; or
- (xv) any other basis for a **Claim** pursuant to the Basic Conditions of Employment Act 1997 (as amended) or the Labour Relations Act No 66 of 1995 (as amended) or any equivalent legislation found in other jurisdictions;

provided that the foregoing act, error omissions or basis relates to the employment or prospective employment of any past, present, future or prospective **Employee** of the **Company**.

9. **Employment-related Benefits** means:

- (i) perquisites and fringe benefits;
- (ii) payments due under any employee benefit plan or pension scheme;
- (iii) stock or share options or any other right to purchase, acquire or sell stock or shares of any **Company**; or
- (iv) incentive or deferred compensation or any other type of compensation other than salary, wages or bonus compensation.

10. **Insured** means any **Company** and any **Insured Person**.

11. **Insured Person** means any natural person who was, is or during the **Period of Insurance** becomes:

- (i) a director or alternate director;
- (ii) a **Non-Executive Director**;
- (iii) a **De facto Director** or prospective director named as such in any listing particulars or prospectus issued by the **Company**;
- (iv) a prescribed officer as defined in the **Companies Act**, including the company secretary;
- (v) an **Employee**;
- (vi) an **Outside Entity Director**;



and who is acting in such capacity.

For purposes of this Policy, an **Insured Person** will also be deemed to include:

- (i) the spouse of an **Insured Person** (whether that status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) as a result of his or her status as the spouse of that **Insured Person**, including any **Claim** that seeks damages recoverable from the marital community property or property jointly held by that **Insured Person** and the spouse; provided, however, that this extension will not afford cover for any **Claim** for any **Employment Practice Violation** of the spouse and this extension applies only to an **Employment Practice Violation** committed by the **Insured Person**;
- (ii) the executor, heirs or legal representatives of an **Insured Person** who has died, or the lawfully appointed legal representatives of an **Insured Person** who has been declared incompetent, insolvent or liquidated, to the extent that in the absence of such death, incompetence, insolvency or liquidation, such a **Claim** against the **Insured Person** concerned would have been covered under this Policy.

**Insured Person** shall not include any agent, independent contractor, external auditor, legal or other advisor, consultant or insolvency office-holder or business rescue practitioner of the **Company**.

12. **Insurer** means Hollard Insurance Company Limited.

13. **Investigation** means any formal or official hearing, investigation or inquiry by any **Official Body** concerning any **Employment Practice Violation** by an **Insured**, once an **Insured**:

- (i) Is required to attend or produce documents to, or answer questions by or attend interviews with that **Official Body**; or
- (ii) is identified in writing by an investigating **Official Body** as a target of the hearing, examination or inquiry, but not including any routine regulatory supervision, inspections or compliance reviews, internal investigations or any investigation which is an industry-wide hearing or examination or inquiry.

An **Investigation** shall be deemed to be first made when an **Insured** is first so required or so identified.

14. **Investigation Costs** means the reasonable fees, costs and expenses (except remuneration of any **Insured**, cost of their time or costs or overheads of any **Company**), incurred with the **Insurer's** prior written consent, of any legal advisor retained in connection with an **Investigation** by or on behalf of an **Insured**.



15. **Limit of Indemnity** means the maximum amount in the annual aggregate of the **Insurer's** liability in respect of any **Claim** under this Policy, as stated in the Schedule.

Any **Claim** or **Claims** arising out of, based upon or attributable to –

- a) the same cause; or
- b) a single **Employment Practice Violation**; or
- c) a series of continuous, repeated or related **Employment Practice Violations**;

will be considered a single **Claim** for purposes of this Policy.

16. **Loss** means any amount which the **Insured** is legally liable to pay resulting from a **Claim, Defence Costs**, and any other awards of damages (excluding punitive and exemplary damages), awards of costs or settlements (including claimant's legal costs and expenses), pre- and post- judgment interest on a covered judgment or award.

**Loss** also includes **Investigation Costs** and any other payments made by the **Insurer** under any extension.

**Loss** shall not include:

- (i) civil or criminal fines or penalties imposed by law;
- (ii) non-compensatory damages including punitive, exemplary or multiple damages;
- (iii) taxes;
- (iv) any amount for which an **Insured** not legally liable;
- (v) amounts in respect of disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, retirement benefits, social security benefits or compensation payable in respect of contractual or statutory notice periods;
- (vi) **Employment-related Benefits**;
- (vii) any liability or costs incurred by an **Insured** to modify any building or property in order to make that building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to any claim alleging discrimination or other employment practice violation; or
- (viii) matters which are uninsurable in law.

17. **Non-Executive Director** means a member of the **Company's** board of directors who is not dedicated on a full time basis to the management of the **Company** and/or who does not receive a monthly or annual salary from the **Company**.

18. **Official Body** means any regulatory authority or commission, government body, official trade body, or any other body empowered to investigate the affairs of a **Company** or an **Insured Person**.



19. **Outside Entity** means any entity other than an entity that –
- (ix) is a **Subsidiary**; or
  - (x) is incorporated, domiciled or has any of its securities listed on a securities exchange or market within the United States of America, is or has securities that are legally required to be the subject of any registration statement filed with the United States Securities and Exchange Commission (the "SEC"), or is subject to any obligation to file reports with the SEC in accordance with Section 13 of the U.S. Securities Exchange Act of 1934; or
  - (xi) is a bank, clearing house, credit institution, undertaking for collective investment in securities, investment firm, investment advisor/manager, investment fund or mutual fund, private equity or venture capital company, stock brokerage firm, insurance company or any similar entity.
20. **Outside Entity Director** means a natural person who did or does, or during the **Period of Insurance** begins to serve, at the specific request of a **Company**, as a director, officer, trustee (except a pension trustee), governor or equivalent of an **Outside Entity**.
21. **Period of Insurance** means the period from the inception date to the expiry date as specified in item \_\_\_ of the Schedule.
22. **Policyholder** means the entity specified in item \_\_\_\_ of the Schedule.
23. **Retaliation** means an **Employment Practice Violation** by any **Insured** relating to or alleged by any claimant to be in response to any of the following activities:
- (i) the disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency or authority of any act by an **Insured** which act is alleged to be a violation of the law, rule or regulation of any government, state, official body, territory, jurisdiction, or political subdivision thereof;
  - (ii) the actual or attempted exercise by an **Employee** of any right that such **Employee** has under law, including rights under any law relating to **Employee** rights;
  - (iii) the filing of any claim under any law affording "whistle-blower" protection including the Protected Disclosures Act No 26 of 2000 and foreign legislation such as the Public Interest Disclosure Act 1998 (United Kingdom), False Claims Act (United States of America), Sarbanes-Oxley Act of 2002 (United States of America) or any equivalent legislation;
  - (iv) any **Employee** strike, work to rule, lockout or other similar action.





24. **Retroactive Date** means the date specified in the Schedule.

This Policy only provides cover for **Loss** arising from a **Claim** for an **Employment Practice Violation** committed on or after the date specified in the Schedule and prior to the end of the **Period of Insurance**.

25. **Subsidiary** means any company in which the **Policyholder** either directly or indirectly –

- a) controls the composition of the board of directors;
- b) controls more than half of the shareholder or equity voting power;
- c) holds more than half of the issued share capital or equity.

In respect of any **Subsidiary**, cover provided by this Policy for any **Employment Practice Violation** will only commence following the date of purchase or incorporation of that Subsidiary and will cease as of the effective date of the sale or dissolution of that **Subsidiary**.

26. **Transaction** means any one or a combination of the following events –

- a) the **Policyholder** consolidates with or merges into, or sells all or a greater part of its assets or undertaking to, any other person or entity or group of persons or entities acting in concert;
- b) any person or entity or group of persons or entities acting in concert (other than a **Subsidiary**) becomes entitled to exercise more than 50% of the rights to vote at the **Policyholder's** general meetings or to control the appointment of directors who are able to exercise a majority of votes at meetings of the **Policyholder**.

27. **United States and/or Canada** means the United States of America and/or Canada and/or their respective possessions or protectorates and/or any country which operate under the laws of the United States of America or Canada.

#### **SECTION 4: EXCLUSIONS**

This Policy does not provide an indemnity in connection with any **Claim** or **Loss**:

1. **Illegal / Improper Conduct**

arising out of, based upon or attributable to:

- a) an **Employment Practice Violation** intended to secure or which does secure the gaining of profit or advantage to which the **Insured** was not legally entitled;
- b) intentional committing of, condoning of or conniving in dishonesty or fraud or a criminal act or breach of law or regulation;



In the event that any of the above is established by final adjudication of a judicial or arbitral tribunal, admission by the **Insured** or written finding of a regulator.

For the purpose of determining the applicability of this exclusion, the information or knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person** and only information and knowledge possessed by any past, present or future chief executive officer, chief operating officer, chief financial officer or chief legal officer (or the equivalent positions) of a **Company** shall be imputed to that **Company**.

2. **Property Damage and Bodily Injury**  
for bodily injury, sickness, disease, death or emotional distress, or damage to, destruction, impairment or loss of use of any property; provided, however, that any **Claim** for emotional distress will not be excluded with respect to an **Employment Practice Violation**.
3. **Benefits**  
arising out of, based upon or attributable to any obligation pursuant to any minimum wage regulations, workers' compensation, disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, retirement benefits, statutory maternity or sick pay, social security benefits or any similar law or obligation whatsoever; provided, however, that this exclusion shall not apply to any **Claim** arising out of **Retaliation**.
4. **Collective Bargaining**  
arising out of, based upon or attributable to the breach of any legislation relating to collective redundancies as contained in the Labour Relations Act 66 of 1995 and / or the Basic Conditions of Employment Act 1997, or any similar legislation in any jurisdiction; provided, however, that this exclusion shall not apply to any **Claim** for discrimination.
5. **Industrial Disputes**  
arising out of industrial disputes or negotiations, trade union activities, strikes and/or lockouts.
6. **Prior Claims and Circumstances**  
arising out of, based upon or attributable to:
  - a) any **Claim** made prior to or pending at the inception of this Policy;
  - b) any circumstance that, as of the inception of this Policy, may reasonably have been expected to give rise to a **Claim**;
  - c) any circumstance or **Claim** of which notice has been given under any policy existing or expired before or on the inception date of this Policy.



Provided that, nothing contained in this exclusion will be interpreted as releasing the **Insured** from the obligation to reveal as a material fact all details of **Claims** made or circumstances or events likely to give rise to a **Claim**.

7. **Employee Reinstatement**  
alleging arising out of, based upon or attributable to any judgment or order of a court or tribunal for the reinstatement of an **Employee**, provided, however, that this exclusion shall not apply to **Defence Costs** incurred in respect of such court or tribunal proceedings.
8. **Contractual Claims**  
arising out of, based upon or attributable to any actual or alleged contractual obligation or liability of the **Insured** under any express (written or oral) contract or agreement including, but not limited to, any severance agreement or golden parachute agreement, or any compensation agreement payable upon the termination of any **Insured**; provided, however, that this exclusion shall not apply to the extent that the liability does not arise out of such express contract or agreement, or an actual or alleged breach thereof.
9. **Employee Retirement Income Security Act 1974 (USA) and others**  
alleging arising out of, based upon or attributable to any actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (USA) the Fair Labor Standards Act (except the Equal Pay Act(USA)) the National Labor Relations Act (USA), the Worker Adjustment and Retraining Notification Act (USA), the Consolidated Omnibus Budget Reconciliation Act (USA), the Occupational Safety and Health Act (USA), the Health and Safety at Work Act 1974 (UK) the Pensions Act 1995 (UK) , the Pensions Act 2004 (UK) and any amendments thereto or any similar provisions of the law, common or statutory, of any state, territory, jurisdiction, or political subdivision thereof; provided, however, that this exclusion shall not apply to any **Claim** arising out of **Retaliation**.
10. **Trustees, Administrators and other Capacities**  
arising out of, based upon or attributable to any act or omission as trustee, fiduciary or administrator of any pension plan, welfare plan, retirement fund, profit sharing, share option, share incentive scheme or trust or any other employee benefit program; or any **Claim** arising out of an **Insured Person** serving in any capacity other than as an **Insured Person**.
11. **Fines and Penalties**  
for any fines or penalties, loss of licence, the payment of taxes or remuneration, liquidated or non-compensatory damages including punitive or exemplary damages, or the multiplied portion of multiple damages, or any amount which is deemed uninsurable by law or contrary to public policy.



12. **US Claims**  
arising out of, based upon or attributable to, directly or indirectly resulting from or in consequence of, or in any way involving any matter or **Claim** where relief is sought or legal action or litigation is threatened or pursued in a court of law or other authority, constituted in the **United States and/or Canada**, or arising out of any activities carried on in the **United States and/or Canada**.
13. **Professional Indemnity**  
arising out of, based upon or attributable to any actual or alleged breach of professional services provided to a third party for a fee, or any act, error or omission relating thereto.
14. **Shareholder Claims**  
alleging arising out of, based upon or attributable to any claim brought by a shareholder of the **Company** or an **Affiliate** in their capacity as such whether derivatively on behalf of the **Company**, or an **Affiliate**, or by direct or class action.
15. **Claims brought by Insureds**  
which is brought by any **Insured**; provided, however, this exclusion shall not apply to a **Claim** brought by an **Employee** of the **Company** other than an **Employee** who is or was a director of the **Policyholder** or a **Non-Executive Director** or an **Outside Entity Director**.
16. **Outside Entity Director Claims**  
for any **Employment Practice Violation** arising out of the **Insured** serving as an **Outside Entity Director** if such **Claim** is brought by another past or current director of the **Outside Entity** or any past or current shareholder of the **Outside Entity**.
17. **Asbestos**  
arising out of, based upon or attributable to, directly or indirectly resulting from or in consequence of, or in any way involving asbestos or any materials containing asbestos in any form or quantity.
18. **Sanctions**  
arising out of, based upon or attributable to, directly or indirectly resulting from or in consequence of, or in any way involving any matter or **Claim** where an indemnity provided or payment made under this Policy would be in breach or contravention of, or would expose the **Insurer** or any reinsurer to, any trade or economic sanction or prohibition or penalty or restriction imposed by the United Nations, the laws or regulations pertaining to the European Union, the United Kingdom or the **United States and/or Canada**.
19. **Absolute Exclusion - infectious disease / epidemic / pandemic**  
Notwithstanding anything to the contrary within this Policy, the insurer shall not be liable to make any payment under this Policy whatsoever in connection with, arising out of, based upon or attributable to:
  - i. any infectious or communicable virus, bacteria, disease;
  - ii. any declared or classified epidemic or pandemic, whether such declaration or classification takes place before or after the commencement of the Policy; and/or
  - iii. any mutation or variation of any such infectious or communicable virus, bacteria or disease, epidemic or pandemic.



20. **Terrorism and War**

arising out of, based upon or attributable to, directly or indirectly resulting from or in consequence of:

- a) war, any act of war, civil war, invasion, insurrection, revolution, use of military power or usurpation of government of military power;
- b) the intentional use of military force to intercept, prevent, or mitigate any known or suspected terrorist act;
- c) any terrorist acts.

For purposes of this exclusion:

- (i) War will mean war, whether declared or not, or any warlike activities including use of military force by any sovereign nation to achieve economic, geographic, nationalistic, political, racial, ethnic, religious or other ends;
- (ii) Terrorist act(s) will mean any actual or threatened use of force or violence directed at or causing damage, injury, harm or disruption, or commission of an act of force or violence dangerous to human life or property, against any individual, property or government, with the stated or unstated objective of pursuing economic, ethnic, nationalistic, political, racial or religious interests, whether such interests are declared or not. Thefts or other criminal acts, primarily committed for personal gain and acts arising primarily from prior personal relationships between perpetrator(s) and victim(s) will not be considered terrorist acts. A terrorist act will also include any act which is verified or recognised by the South African Government, or the government of the country in which the **Claim** is made against the **Insured**, as an act of terrorism.

21. **Commissions**

arising out of, based upon or attributable to, directly or indirectly resulting from or in consequence of:

- a) payments, commissions, gratuities, benefits or any other favours provided to or for the benefit of any full or part-time domestic or foreign government or armed services officials, agents, representatives, employees or any members of their family or any entity with which they are affiliated;
- b) payments, commissions, gratuities, benefits or any other favours provided to or for the benefit of any full or part-time officials, directors, agents, partners, representatives, principal shareholders, or owners or employees, or "affiliates" (as that term is defined in the Securities Exchange Act of 1934, including any officers, directors, agents, owners, partners, representatives, principal shareholders or employees of such affiliates) of any customers of the **Insured** or any members of their family or any entity with which they are affiliated; or
- c) political contributions, whether domestic or foreign.



## SECTION 5: CONDITIONS

### 1. **Deductible**

In the event that the **Insurer** has indemnified or has agreed to indemnify the **Insured**, the **Insurer** will only be liable for the amount of that **Loss** which exceeds the deductible. The deductible is not part of the **Insurer's** liability and the deductible per **Claim** is to be borne by the **Insured** and will remain uninsured.

### 2. **Claims Made and Reported**

The insurance provided under this Policy is afforded solely with respect to **Claims** first made against an **Insured** during the **Period of Insurance** or the Extended Discovery Period and upon the condition precedent that such **Claims** have been reported to the **Insurer** as soon as possible, but in all events no later than either during the **Period of Insurance** or the Extended Discovery Period, if applicable.

### 3. **Claim Notification**

The **Insured** will notify the **Insurer** in writing as soon as possible:

- a) after receiving a written demand, service of suit or institution of legal proceedings, arbitration or other alternate dispute resolution alleging an **Employment Practice Violation** or after the **Insured** becomes aware of the intention of any person to take such action against any **Insured Person**;
- b) after receiving written notice of any criminal prosecution of any **Insured Person** in their capacity as such;
- c) after receiving written notice requiring attendance at any **Investigation**;
- e) after becoming aware of any fact, circumstance or event which could give rise to any such demand or action contemplated by a) to e) at any time.

### 4. **Reporting of Circumstances**

The **Insured** may, during the **Period of Insurance**, notify the **Insurer** of any circumstance reasonably expected to give rise to a **Claim**. The notice must include the reasons for anticipating that **Claim** and full particulars as to dates, acts and persons involved. Any **Claim** arising out of such reported circumstances, if accepted by the **Insurer**, will then be deemed to have been made during the **Period of Insurance**.

### 5. **Severability and Reliance**

No statements made or knowledge possessed by any **Insured Person** in respect of any proposal for insurance shall be imputed to any other **Insured Person** to determine whether cover is available for any **Claim** made against such other **Insured Person**. Only the statements and knowledge of any chief executive officer, chief operating officer, chief financial officer or chief legal officer (or the equivalent positions) of a company shall be imputed to that company, but the knowledge of the same officers of the **Policyholder** will be imputed to all Companies.



6. **Defence and Settlement**

Any person making notification or indemnified hereunder must, at their own cost, render all reasonable assistance to and cooperate with the **Insurer**. Any such person will, in the event of any **Claim**, take all reasonable steps to mitigate loss. Except as otherwise provided in this clause, the **Insured** will have the right and duty to defend and contest any **Claim** made against it. The **Insurer** will be entitled to participate fully in the defence and negotiation of any settlement that involves or appears likely to involve the **Insurer**. The **Insurer** will also be entitled, if it so elects, to take over and conduct in the name of the **Insured** the defence or settlement of any **Claim** or to prosecute in the name of the **Insured** for the **Insurer's** own benefit any claim for indemnity or damages or otherwise. The **Insurer** will have full discretion in the conduct of any such proceedings and in the settlement of any such **Claim**.

The **Insurer** may at any time pay to the **Insured** in connection with any **Claim**, or series of **Claims**, the **Limit of Indemnity** after deduction of any sum or sums already paid, or any lesser amount for which the **Claim** or **Claims** can reasonably be settled. Upon such payment being made, the **Insurer** will relinquish the control and conduct of such **Claim** or **Claims** and be under no further liability in connection therewith.

7. **Admission of Liability**

The **Insured** will not admit or assume any liability, enter into any settlement agreement, or consent to any judgment without the prior written consent of the **Insurer**. Only judgments resulting from **Claims** defended in accordance with this Policy will be recoverable as a **Loss** under this Policy. If the **Insured** is in breach of this condition, this Policy will afford no cover in connection with that **Claim**.

8. **Advancement of Defence Costs**

The **Insurer** shall, in its sole discretion, advance to the **Insured** **Defence Costs** under this Policy before the final disposition of the **Claim** in so far as they are in excess of the deductible. The advance payments by the **Insurer** shall be promptly repaid to the **Insurer** by the **Insured**, in the event and to the extent that the **Insured** shall not be entitled to payment of **Loss** under the terms and conditions of this Policy.

9. **Allocation between the Insured and the Insurer**

The **Insurer** will only be liable to provide an indemnity for a covered **Claim** against an **Insured**. In the event that any **Claim** involves both covered matters and matters not covered under this Policy, a fair and proper allocation of any **Loss** shall be made between the **Insured** and the **Insurer** taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this Policy.



10. **No Cover to Apply**  
The **Insurer** will not be liable to provide any indemnity in connection with any **Claim** arising out of, based upon or attributable to an **Employment Practice Violation** committed after the occurrence of a **Transaction**.
11. **Other Insurance**  
This Policy will not be drawn into contribution with any other indemnity insurance except in respect of any excess beyond the amount payable under such other insurance.
12. **Subrogation**  
If an indemnity is granted under this Policy by the **Insurer**, the **Insurer** will be subrogated to all rights of recovery of the **Insured** whether or not payment has in fact been made and whether or not the **Insured** has been fully compensated for its actual loss or liability. The **Insurer** will be entitled to pursue and enforce such rights in the name of the **Insured**, who will provide the **Insurer** with all reasonable assistance and co-operation in doing so, including the execution of any necessary instruments and papers. The **Insured** will do nothing to prejudice these rights. Any amount recovered in excess of the **Insurer's** total payment will be restored to the **Insured** less the cost to the **Insurer** of such recovery.
13. **Fraud**  
If any matter reported under this Policy is in any respect fraudulent, or if fraudulent means or devices are used by the **Insured** or anyone acting on their 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 the connivance of the **Insured**, the benefit afforded under this Policy in respect of any such **Claim** will be forfeited.
14. **Notice and Authority**  
It is agreed that the **Policyholder** shall act on behalf of all **Insureds** with respect to the giving of notice under this Policy, including the giving of notice of claim, the payment of premiums that may become due under this Policy, the receipt and acceptance of any endorsements issued to form a part of this Policy and the exercising or declining to exercise any right to an Extended Discovery Period.





15. **Assignment**  
This Policy and any and all rights hereunder cannot be assigned without the prior written consent of the **Insurer**.
16. **Governing Law**  
The provisions of this Policy and the interpretation, construction, validity or operation of this Policy shall be subject to and determined by the law of the Republic of South Africa.
17. **Headings**  
The headings in this Policy are for convenience and reference purposes only and shall not be used in the interpretation of this Policy.

## Privacy

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### **The privacy of your personal information**

We care about the privacy, security and online safety of your personal information and we take our responsibility to protect this information very seriously. Below is a summary of how we deal with your personal information. For a more detailed explanation, please read our official Privacy Notice on our website.

- **Processing your personal information:** We have to collect and process some of your personal information in order to provide you with our products and services, and also as required by insurance, tax and other legislation.
- **Sharing your personal information:** We will share your personal information with other insurers, industry bodies, credit agencies and service providers. This includes information about your insurance, claims and premium payments. We do this to assess claims, prevent fraud and to conduct surveys.
- **Protecting your personal information:** We take every reasonable precaution to protect your personal information (including information about your activities) from theft, unauthorised access and disruption of services.
- **Receiving marketing from us:** Please contact us if you want to change your marketing preferences. Remember that even if you choose not to receive marketing from us, we will still send you communications about this product.