



# LIABILITY

Non-tangible risks and exposure claims are on the rise. Being the solution providers we are, Howdie offers a comprehensive liability programme that can act as a stand-alone or be combined with our commercial and business offerings.

Changing legislation, multiple lines of exposure from third parties, employees and new cyber disruptor risks have created the need for a 'complete' package. Howdie's liability cover is just that – the complete package – that carry the necessary extensions to safeguard your business today and in the future.



## DIRECTORS' AND OFFICERS' LIABILITY

### *What is D&O?*

Directors' and officers' liability insurance (often called D&O) is liability insurance payable to the directors and officers of a company, or to the organisation itself, as reimbursement for losses or advancement of defense costs in the event an insured suffers such a loss as a result of a legal action brought for alleged wrongful acts in their capacity as directors and officers.

### *Who is personally liable under the Companies Act?*

- Public and private companies
- Listed and unlisted companies
- State owned companies
- Section 21 companies (not for profit companies)

### *The definition of directors has been expanded under the Companies Act to include:*

Board members, audit committee members, company secretaries, prescribed officers, and employees in managerial positions.

### *What is at risk for companies and directors under the Companies Act?*

Directors' personal assets, property, savings and investments are all subject to exposure whether they have acted deliberately, negligently or innocently.

### *Advantages of D&O cover*

- Cost of litigation (could exceed net worth of company – balance sheet protection)
- Protect company and director assets
- Reassure clients/business partners
- Banks may be more inclined to provide funding
- Attract talent to the board

### *Policy & cover extensions*

- Emergency defence costs
- Retired director or officer (10 years)
- Takeover & mergers run-off, post 'transaction' 72 months
- Tax (personal liability for unpaid taxes where company is insolvent)
- Occupational Health & Safety, Defence costs/legal representation expenses



## CYBER

From the Internet and email to social media and mobility, in our professional and personal lives we are connected and generating data on a daily basis. But while technological and data-processing advances bring opportunities for dynamic growth, efficiency and increased client engagement, and can function as a core business differentiator, our adoption of digital technology has left us more vulnerable than ever to cyber and data risks.

### *Typical cyber risks include:*

- Costs incurred to respond to a data breach
- System unavailability and downtime
- Reputational damage
- Loss of revenue, data and/or competitive advantage
- Loss of investor and/or client confidence
- Litigation arising from compromised systems or data
- Industry and regulatory fines and penalties

### *Core exposures*

- Data breach
- System unavailability

### **WHAT IS COVERED?**

#### *First party expenses*

Expenses for security specialists, attorneys, forensic investigators and loss adjusters to contain, manage and recover from an incident.

#### *Crisis management and notification expenses*

- Costs for communications during the crisis, especially to keep affected parties informed
- Notifications to affected parties
- Public relations campaigns to limit reputational damage
- Remediation services to safeguard affected parties e.g. credit monitoring.

#### *Cyber Liability*

Defence and settlement third party liability claims arising from the compromised data, e.g victims of fraud resulting from their data being compromised, or clients whose IP has been leaked to a competitor, suing for damaged.

Defence and settlement of third party liability claims as a result of system security failures causing harm to third party systems and data.

Fines and penalties, to the extent insurable by law.

#### *Common causes of incidents include*

- Unauthorised access
- Rogue employees
- Accidents and negligence
- Third party access



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## EMPLOYER PRACTICES' LIABILITY

EPLI cover protects the Directors and Officers' as well as the Company (entity), against claims made by both potential, past and current employees for any actual or alleged wrongful acts relating to employment practice infringements in the workplace. This cover is designed for all types and sizes of companies. It is important to note though that, in the event of a claim under the policy, companies need to show that they have followed all legislative procedures prior to retrenchments, dismissals, etc.

### Cover extends to:

- Legal fees
- Damages
- Awards
- Settlements

### Following an allegation of:

- Unfair dismissal
- Sexual harassment
- Discrimination
- Failure to employ

### Brought about at:

- the CCMA
- a Bargaining Council
- the Labour Court
- an arbitration proceeding



## FUNDS PROTECT - PHISHIELD

- EFT Fraud event
- EFT duping event
- Unauthorised transfer of funds event
- Cyber extortion event