



# Directors & Officers Liability Insurance

Terms & Conditions



**dialdirect**

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# Directors & Officers Liability Cover

## We will pay on behalf of:

### Director's & Officers Liability

any Loss that the Director is legally liable to pay;

### Company Reimbursement

any Loss that the Company is legally required or permitted to pay the Director as advancement or indemnity under any applicable company law or agreement;

any such Criminal Defence Costs arising from a Wrongful Act or an Employment Practices Wrongful Act provided that the Claim is first made against the Director during the Period of Insurance or discovery period if applicable.

### Defence and Investigation Costs

We will pay on behalf of the Director:

- 1 Defence Costs and Expenses in the defence, investigation or settlement of any Claim.
- 2 Defence Costs and Expenses in the investigation of any circumstance (which is likely to give rise to a Claim).
- 3 Defence Costs and Expenses in the defence or investigation of an Identity Theft Claim.
- 4 Investigation Costs and Expenses.
- 5 Criminal Defence Costs and Expenses.
- 6 Pollution and Contamination Defence Costs and Expenses.
- 7 Extradition Proceedings Defence Costs and Expenses.
- 8 Asset and Liberty Proceedings Defence Costs and Expenses.
- 9 Public Relations Costs.

### We will pay on behalf of the company the cost of any shareholder derivative action.

If you are legally liable to pay damages as a result of any negligent act, error or omission, misrepresentation, or misstatement committed by you in the provision of your services and the claim for damages was first made against you and notified to us during the period of Insurance.

The maximum we will pay any claimant or any number of claimants, inclusive of legal costs, for any one event or series of events with one original cause or source, or during any one annual period of insurance, will not exceed the sum insured as stated in the policy schedule.

Any one annual period means 12 consecutive months from the inception date of your policy.

### Definitions

For the purposes of this policy:

- 1 "You" or "Your/s" includes:
  - a. the company, partnership, close corporation, association or person named in the policy schedule;

- b. any of your past, present or future directors, partners, members, principals or “In-house” consultants;
  - c. any of your present or former employees whose activities are conducted within the course and scope of their employment with you;
  - d. any of your predecessors but only if liability attaches to you; and/or
  - e. in the event of the death, incapacity, insolvency or bankruptcy of any person (cited in clauses a, b, c and d above), their estate, legal representatives and/or heirs.
- 2 **“Excess”** means the amount stated in your policy schedule which you are liable to pay for the first part of any claim. The excess is applicable per claim or series of claims arising from one originating cause or source.
- 3 **“Employee”**:
- a. any person you employ under a contract of service or apprenticeship;
  - b. any person engaged by or seconded to you (including volunteer worker) whilst performing any function for or on your behalf;
  - c. any person provided to you by an employment contractor, agency or labour broker to perform employee duties under your supervision;
  - d. any person who you remunerate on a commission basis but only whilst they act on your behalf; and/or
  - e. any work experience student or trainee.
- 4 **“Environmental Impairment/Pollution”** – the emission, discharge, release, dispersal, disposal, seepage or escape of solid, liquid, gaseous or thermal contaminants or irritants, including vapours, smells, odours, humidity, fumes; smoke, soot or other airborne particulates; acids, alkalis, chemicals and waste; electromagnetic waves, noise, vibrations; other emission of effluent or noxious substances into or upon the soil, the atmosphere or any watercourse or body of water which changes the natural state or condition of the soil, the atmosphere or any watercourse or body of water other than by a sudden, accidental and identifiable event; the depositing or storing of effluent, noxious substances, nuclear material or nuclear waste and the breach of any legislation relating to any of the above.
- 5 **“Product”** – any property, after it is out of your custody or control, which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by you or on your behalf, excluding food and drink supplied primarily to your employees as a staff benefit.
- 6 **“Retroactive Date”** – is the date stated on the policy schedule after which claims may occur and be covered under this policy. However, you are still obligated to disclose all material facts, details of claims made or outstanding claims or events likely to give rise to a claim. In the event of an increase of the sum insured, the retroactive date applicable to the increase will be the effective date of the increase.
- 7 **“Claim”** – each separate act, error or omission contained in a written demand received by you or contained in any legal or arbitration proceedings served on you claiming compensation against you.

- 8 **“Bodily Injury”** – bodily injury to any person and shall include death, illness and disease, mental injury, anguish or nervous shock sustained by any person as a result of actual or threat of bodily injury, death, illness or disease.
- 9 **“Asset and Liberty Proceeding”** – proceedings brought against the Director by anybody (including the Financial Services Board) other than the Company, so authorised for the purpose of examining the affairs of the Company or the conduct of the Director in such a capacity, seeking:
- a. confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of a Director;
  - b. a charge over real property or personal assets of such Director;
  - c. a temporary or permanent prohibition on such Director from holding the office of or performing the function of a Director; and/or
  - d. a restriction of such Director following revocation of otherwise proper, current and valid immigration status for any reason other than such Director’s conviction of a crime.
- 10 **“Asset and Liberty Proceeding Defence Costs and Expenses”** – defence Costs and Expenses incurred by the Director in dealing with an Asset and Liberty Proceeding, providing that such proceeding is commenced during the Period of Insurance.
- 11 **“Company”** – the entity(ies) named in the Schedule, including any Subsidiary, but excluding any firm or company acting in their capacity as liquidator, external auditor, receiver or administrative receiver.
- 12 **“Criminal Defence Costs and Expenses”** – defence Costs and Expenses incurred by the Director in defending any criminal investigations or proceedings commenced during the Period of Insurance and brought against them by any government body for any Wrongful Act including gross breach of duty of care that causes the death of another person and proceedings.
- 13 **“Defence Costs and Expenses”** – defence Costs and Expenses incurred by or on behalf of the Director with our prior written consent. It does not include any Director’s or the Company’s own costs and expenses (including salaries) or any value attributable to the time spent by the Director, Company or any Employee in dealing with a Claim. Defence Costs and Expenses will include premium paid for insurance instruments or for bonds which may be required.
- 14 **“Director”** –
- a. any natural person who is, was or becomes a director or officer of the Company during the Period of Insurance or holds any equivalent position in any jurisdiction;
  - b. any natural person who is, was, or becomes an Employee of the Company during the Period of Insurance:
    - i. acting at the specific prior written request of the Company in the capacity of Outside Director; or
    - ii. acting in a managerial or supervisory capacity; or
    - iii. named as co-defendant with any director or officer; or

- c. any director or officer's lawful spouse or civil partner where in receipt of a Claim because of the Wrongful Act of the director or officer; or
- d. the estate, heirs, legal representative or assigns of any person within (a) or (b) above.

All references to directors and officers apply equally to non-executive and executive directors.

It does not include any person acting in their capacity as administrator, liquidator, external auditor, receiver and administrative receiver.

15. **“Employment Practices Wrongful Act”** – any actual or alleged:

- a. discrimination with respect to the terms or conditions of Employment on the basis of an individual's race, colour, religion, age, sex, national origin, disability, pregnancy, sexual orientation or preference or other status protected under applicable law;
- b. harassment, including unwelcome sexual or non-sexual advances, requests for sexual favours and any unwelcome verbal, visual or physical contact of a sexual nature which;
  - i. is explicitly or implicitly a term or condition of Employment;
  - ii. creates a hostile or offensive working environment; and/or
  - iii. when rejected or opposed by a person becomes a basis for decisions regarding that person's Employment;
- c. defamation which relates to a person's job skills, job performance, qualifications for Employment, professional reputation, disciplinary history or termination of Employment;
- d. wrongful termination of Employment or refusal to hire; and/or
- e. adverse change in the terms and conditions of a person's Employment in retaliation for that person's exercise of his or her rights under law or support of the rights of another.

16. **“Extradition Notice”** –

- a. any request for the extradition of any Director, any warrant for the arrest of any Director or other proceedings under the provisions of any applicable legislation;
- b. any associated appeal; and/or
- c. the equivalent of the above in any jurisdiction; arising from a Wrongful Act.

17. **“Extradition Proceedings Defence Costs and Expenses”** – defence Costs and Expenses incurred by the Director in dealing with an Extradition Notice, provided the Extradition Notice is first served on the Director during the Period of Insurance.

18. **“Identity Theft Claim”** – a Claim made by a third party to enforce an agreement entered into with another person or entity fraudulently representing themselves as a director in connection with the company business notified to the Insurer during the Period of Insurance.

19. **“Insurer”** – Dialdirect Insurance Limited.

20. **“Investigation”** – a formal investigation, enquiry or request for information of or attendance by the Director initiated by a third party with a legal right other than the Company authorised so to compel the Director for the purpose of evaluating the conduct of the Director.
21. **“Investigation Costs and Expenses”** – defence Costs and Expenses incurred in the context of an Investigation provided that such Investigation is first commenced during the Period of Insurance.
22. **“Loss”** – an award of compensatory damages made by a competent court or tribunal including third party costs or any settlement incurred with our prior written consent.
- Loss does not include:
- a. director or Employee remuneration, benefits, stock or share options or severance payments; or
  - b. taxes, fines or civil, regulatory or criminal penalties; or
  - c. punitive, aggravated or exemplary damages; or
  - d. in respect of any Employment Practices Wrongful Act;
    - i. any salary or wages earned while in the Employment of the Company;
    - ii. any Employment related benefits to which the claimant would have been entitled had the Director or the Company provided the claimant with a continuance, reinstatement or commencement of Employment;
    - iii. contractual damages based upon the terms of a contract of Employment; and/or
    - iv. any liability or costs incurred to modify any building or property in order to make such a building or property more accessible or accommodating to any disabled persons.
23. **“Management Buy Out”** – a change of ownership of the Company whereby at least 50% of the issued share capital of the Company is transferred to the existing Directors and/or members of the Company.
24. **“Outside Director”** – a Director acting in the capacity of a director formally appointed on the written authority and request of the Company to the board or equivalent position in any organisation in which the Company holds a shareholding, any not-for-profit entity, any entity specified in the Schedule or any other entity which has been agreed to in writing by us other than:
- a. the Company; or
  - b. any entity that:
    - i. has its securities listed or traded on any exchange; or
    - ii. possesses any tangible or intangible asset located within the USA and/or Canada.
25. **“Pension/Employee Benefit Scheme”** – a money purchase (defined contribution) pension or employee benefit scheme which is registered in the Republic of South Africa and governed by the laws of the Republic of South Africa.

26. **“Pollution and Contamination Defence Costs and Expenses”** – defence Costs and Expenses incurred by the Director in defending any proceedings brought against them during the Period of Insurance in relation to any Wrongful Act involving Pollution.
27. **“Outside Entity”** – outside Entity means an entity which is not within the definition of the Company and
- a. which is a Non-Profit Entity, trade association or registered charity; or
  - b. any joint venture or other company in which the Company holds any issued shares.
28. **“Public Relations Costs”** – reasonable fees, costs and expenses of the public relations consultant incurred by a Director with our prior written consent to be given at our absolute discretion where we are satisfied that such fees, costs and expenses will mitigate or reduce the adverse effect on such Director’s reputation from a Claim first made against the Director during the Period of Insurance.
29. **“School, Charity or Charitable Organisation”** –
- a. a place or institution for teaching and learning;
  - b. a body registered as an official Charity; and/or
  - c. a voluntary organisation which does not distribute its surplus funds to owners or shareholders, but instead uses them for the benefit of its members or charitable purposes; in the Republic of South Africa.
30. **“Shareholders Derivative Costs”** – reasonable fees, costs and expenses incurred by any shareholder of the Company in pursuing a Claim first made during the Period of Insurance against a Director for a Wrongful Act by way of a shareholder derivative action on behalf of the Company but only to the extent that the Company is legally liable to pay such fees, costs and expenses pursuant to an order of the Court.
31. **“Subsidiary”** – an entity in which the Company:
- a. owned or owns directly or indirectly more than 50% of the voting rights or more than 50% of the share capital issued in such entity;
  - b. had or has the right to appoint or remove the majority of such entity’s board of directors; and/or
  - c. controlled or controls alone pursuant to a written agreement with other shareholders or members the majority of the voting rights in such entity, provided that the Company is also a shareholder in it; but only in respect of Wrongful Acts committed in relation to the Subsidiary while a Subsidiary of the Company.
32. **“Total Gross Assets”** – the total gross assets of the Company and its Subsidiaries as shown in its unaudited consolidated group accounts most recently preceding the Period of Insurance.
33. **“Wrongful Act”** – an act or alleged act, error, omission, misstatement, negligent act, negligent error, negligent omission or negligent breach of duty committed or attempted by a Director acting in their capacity as a director or officer of the Company.

## Cover automatically included to assist you

### Additional limit

In the event that payments are made exhausting the Limit of Indemnity and all other applicable insurance policies operating in excess of this Policy, and any other source available to provide indemnification for Loss to the Director has been exhausted, then We will provide each Director an additional Limit of Indemnity for any subsequent Claim made within the Period of Insurance. Each such additional Limit of Indemnity is subject to the aggregate limit for all Directors of the amount stated in the Schedule.

Provided that:

1. the Claim is brought against a Director; and/or
2. the Claim is payable under Directors & Officers Liability.

### Automatic acquisition

We will indemnify you, as part of the sum insured stated in the policy schedule, for Loss arising out of a Claim against any Director of any newly created or acquired Subsidiary, including by merger, provided:

- a. the Total Gross Assets of the Company at the commencement of the Period of Insurance are not increased by the acquisition or creation of such Subsidiary or Subsidiaries by more than 50%; and
- b. any Wrongful Act takes place while the Subsidiary is a Subsidiary of the Company.

This extension shall not apply to any Director of a new Subsidiary that:

- i. has its securities listed or traded on any exchange; or
- ii. possesses any tangible asset located within the USA and/ or Canada.

Where the coverage for the Directors of a newly created or acquired Subsidiary is not automatically covered as a consequence of (a) or (b) above, then the Company may request that the Policy be extended to cover the Directors of such Subsidiary and we, may alter the terms and conditions of this Policy accordingly including the charging of an additional premium.

### Automatic extended reporting period

If either party to the contract cancels or chooses not to renew your policy, you have the right, following the effective date of the cancellation or non-renewal, to a period of sixty (60) days (herein referred to "automatic extended reporting period") in which to give us written notice of claims first made against you during the automatic extended reporting period, for any wrongful acts that occurred prior to the end of the policy period and otherwise covered by this policy.

The automatic extended reporting period does not apply to claims that are covered under any subsequent insurance you purchase.

### Emergency defence costs

We will indemnify you, as part of the sum insured stated in the policy schedule in the event that you are unable to contact us to obtain consent to authorise Defence Costs and Expenses following a Claim. In relation to any Claim that the Director is legally liable to pay, we agree to reimburse you for emergency Defence Costs and expenses incurred during the period of up to fourteen days from the date the Claim was first made and up to the amount stated in the Schedule.

### **Outside entity**

This Policy shall extend to any Wrongful Act committed by you in your capacity of Outside Director, but only in excess of the aggregate of:

- a. the amount of Loss in the Outside Director serving on the outside board is indemnifiable by the Outside Entity; and/or
- b. any other potentially applicable cover, whether or not it actually responds.

### **Personal appointments**

This Policy shall extend to any actual or alleged act, error, omission, misstatement, negligent act, negligent error, negligent omission or negligent breach of duty committed or attempted by a Director whilst serving in a personal capacity as a governor or trustee of a School, Charity or Charitable Organisation but only in excess of the aggregate of:

- a. the amount of Loss indemnifiable by the School, Charity or Charitable Organisation to the Director; and
- b. any other potentially applicable cover, whether or not it actually responds.

Provided that:

- i. the Director is formally appointed on written authority; and
- ii. the maximum aggregate payable by us shall not exceed the amount stated in the Schedule.

### **Retirement run-off**

In the event that, on the expiry of the Period of Insurance, this Policy is not renewed or replaced with any other Directors and Officers policy cover broadly equivalent to this Policy in scope, then any Directors who had voluntarily retired or resigned from the Company during the Period of Insurance or a previous policy with the Insurer which is linked by continuous renewal to this Period of Insurance shall automatically have a discovery period of 72 months immediately following the date of retirement in respect of any Claim covered under any Claim made in this automatic discovery period shall be deemed to have been first made during the Period of Insurance and shall be subject to the following conditions:

- a. cover shall apply only in relation to a Claim arising out of a Wrongful Act occurring prior to the date of their voluntary retirement or resignation;
- b. the maximum aggregate payable by us shall not exceed the amount stated in the Schedule;
- c. the automatic discovery period will run concurrently with any other discovery period; and
- d. cover shall lapse in the event that the Directors who voluntarily retired or resigned from the Company effects a Directors and Officers policy broadly equivalent to this Policy in scope.

This extension does not apply to any Director who:

- i. has been or is disqualified from holding the position of director;
- ii. has left the Company as a result of a merger, consolidation or acquisition as detailed in the Takeovers and Mergers clause; or

- iii has left the Company as a result of the appointment of an insolvency practitioner (or equivalent) appointment as a liquidator, administrator or receiver (or equivalent) of the Company.

### **Takeovers and mergers run-off**

If during the Period of Insurance the Company merges with or consolidates into another entity or any person or entity acquires 50% or more of its issued share capital (other than by Management Buy Out):

- a. the Policy shall thereafter apply only to claims resulting from Wrongful Acts occurring prior to the effective date of such merger, consolidation or acquisition;
- b. the Company may cancel the remainder of this Policy on behalf of the Company and all Directors by sending written notice to us at the address shown in the Schedule, stating the date from which the cancellation is to take effect; or
- c. the Company may request that the Policy be extended for up to 72 months to cover Wrongful Acts occurring prior to the effective date of such merger, consolidation or acquisition. Such extension will be at our sole discretion and may be subject to additional and altered terms and conditions of this Policy including the charging of an additional premium, and:
  - i. clauses Automatic Extended Reporting Period and Retirement Run-off will not apply to any such extension;
  - ii. cover shall lapse in the event that the Company effects a Directors and Officers policy cover broadly equivalent to this Policy in scope; and
  - iii. cover shall not be provided to any Director who has been or is disqualified from holding the position of director.

### **Defamation**

We will indemnify you, as part of the sum insured stated on the policy schedule, for any unintentional defamation committed by you.

### **Dispute resolution**

If any contract which you have entered into with your clients contains a provision for Arbitration and/or Alternative Dispute Resolution (ADR), and this provision is also in the contract with the party lodging a claim against you, then we will indemnify you, as part of the sum insured stated on the policy schedule, for any expenses that you incur, with our prior written approval, in the Arbitration and/or ADR proceedings.

# Directors & Officers Liability Terms & Conditions

## What makes up your policy of insurance

Your schedule, terms and conditions, together with any correspondence sent to you, as well as any verbal agreements we make, form the policy of insurance between you and us. Please ensure that you are familiar with the contents of all the documents and that all the details noted on your schedule are correct in every respect.

## How we indemnify you

Subject to the terms of your policy, we have the option to pay out, or defend you through a service provider of our choice.

## Policy changes and cancellation

We may change or cancel your policy by giving you 30 days' notice. We may give notice verbally, by fax, e-mail, SMS or post to your last-known address. Any change or cancellation that you make will be effective from the time and date agreed to. Please note that if you cancel your policy during the course of an insured month, the premium paid for the rest of that month will not be refunded to you.

If you cancel your policy because you also have cover for the same risk with another insurer, then your premium refund will be limited to premiums actually paid in the 12 months prior to cancellation.

## Payments

Your policy is an annual policy payable monthly and you must make the monthly payments in advance on the deduction date stated on the schedule. If your deduction date falls on a weekend or public holiday, your debit order may be lodged for an earlier date.

## Payments not received

If we do not receive the payment for your policy on the deduction date as stated on the schedule, you will not have any cover for the period for which you did not pay. From the second month's due payment, if payment is not made, we will allow a 15-day period of grace for payment. We will then also charge a non-refundable deduction fee.

If your premium is not received on your preferred deduction date, an attempt to collect your premium on a more suitable deduction date may be made in an effort to keep you covered. If we do not receive your payment for two consecutive months, the policy will be cancelled immediately.

## Reinstatement of interrupted cover

When cover is interrupted because we did not receive your payment, we have the right to debit your account to reinstate your cover. We will then charge a reinstatement fee and debit your account as soon as possible. In addition to the reinstatement fee, you must also make a normal monthly payment for the cover to recommence.

## Your obligations

If you do not fulfil any of the following obligations, cover may be cancelled.

Your obligations are to:

1. give us true and complete information;
2. comply with all our reasonable requests;
3. assist us in any way possible in recovering indemnification from any other person who caused the loss for which you claim;
4. use all reasonable care and take all reasonable precautions to prevent or minimise loss, damage, death, injury or liability;
5. not admit any fault, nor make any offer to settle or make settlement, without our written agreement;
6. inform us if any of the policy details or declarations are incorrect or if any of these details or declarations change;
7. tell us about anything you have not yet disclosed, but that may be important for us to know in order to accept the policy, or about anything that changes that may be important for us to continue accepting the policy;
8. allow us to enter your premises and carry out an audit of your records; and
9. allow us to use your name in any legal action against any other person to recover any amounts settled, or that we agree to settle, in respect of a claim under this policy.

## Important time limits

We will indemnify you for a claim if you:

1. inform us immediately of any claim or circumstance that may lead to a claim;
2. give us any documents that you receive in connection with any summons issued against you immediately; and
3. give us all the information and documentation that we may ask for.

## General clauses

### Other parties' rights

No other party except you, the policyholder, may claim against this policy.

### Non-adherence to the policy

If you do not adhere to the terms and conditions of this policy, we have the right to not indemnify you for any claim.

### Disputed claims

After we inform you of our decision on a claim, we will allow you 90 days to make representations to us about our decision. If you do not comply with this time limit, we will not reconsider the disputed claim. If we do receive representations, the decision will then be reviewed and the outcome communicated to you.

If, after review, we do not indemnify you for a claim or any part of it and you wish to challenge our decision, you must serve legal process on us within six months calculated from the expiry of the 90-day period referred to above. If you do not comply with this time limit, you will be prevented from proceeding with legal process.

## **Contribution**

If a claim is also covered by another policy, we will only indemnify you for our portion.

## **The right to offset**

We have the right to deduct and offset any and all amounts owed by you under this policy, from any payment under a payable claim. In the event of a claim or series of claims having reached the maximum sum insured stated in the policy schedule, we will deduct the remaining unpaid premium for the entire period of insurance, even if such payment was not yet due, from any amount payable to you.

## **Other provisions affecting cover**

- 1 We will not defend you if you refuse to consent to a settlement that we recommend and the claimant will accept. In this case, you must then defend the claim at your own expense. As a consequence of your refusal, our liability shall not exceed the amount for which we could have settled such a claim (had you consented) plus claim expenses incurred prior to the date of such refusal.
- 2 We will not try to recover any amounts we have paid, from any person, unless the claim was brought about or contributed to by a dishonest, fraudulent, criminal or malicious act or omission of such person, and in such event any amounts recovered from this person or from their estate or legal representatives, shall be applied in the first instance in reduction of what we paid you.
- 3 If the limit of indemnity is increased during the period of insurance, our liability in respect of claims made against you or for circumstances of which we were notified, or should have been notified, prior to the increase, shall not exceed the limit of indemnity applicable prior to such increase.
- 4 The date of any claim first made in writing against you as a result of a defined event shall be treated as the date of loss under this policy.

***If we say that a claim is not covered because of any of the above, then you must prove the contrary.***

## **We do not indemnify you for claims:**

- 1 arising from circumstances known to you at the inception or renewal date of this Policy which could reasonably have been foreseen to give rise to a Claim against the You;
- 2 arising from any circumstances advised to the insurers of any other policy prior to the inception date hereof;
- 3 arising from any circumstance occurring or alleged to have occurred prior to the applicable Retroactive Date stated in the Schedule provided that nothing contained within this exclusion shall be interpreted as releasing you from your obligation to disclose as a material fact all details of Claims made or outstanding or events likely to give rise to a Claim;
- 4 based upon or attributable to you gaining any personal profit, advantage, remuneration or reward to which you are not legally entitled to;
- 5 arising out of any deliberate, willful, dishonest, fraudulent, criminal or malicious act or omission committed by you or on your behalf;

This exclusion shall apply to the Director that is actually guilty of the above conduct, as established through a final adjudication by any court, tribunal or other similar body, or admission by the Director.

6. based upon payments, commissions, gratuities, benefits or any other favour to or for the benefit of any:
  - a. political group or party;
  - b. government or armed services official; and/or
  - c. director, officer, employee or any person having a proprietary interest in any customer of the Company.
7. whether in the name of the Company or not, and instigated by any Insured Person against another Insured Person but this exclusion shall not apply to:
  - a. any Claim brought or maintained by an Insured Person for contribution or indemnity, if the claim directly results from another Claim otherwise covered under this Policy;
  - b. any shareholder derivative action brought or maintained on behalf of the Company without the solicitation, assistance or participation of any Insured Person or the Company;
  - c. any Claim brought or maintained by a curator, liquidator or administrator either directly or derivatively on behalf of the Company without the solicitation, assistance or participation of any Insured Person or the Company;
  - d. any Claim brought or maintained by any former director, officer or employee of the Company;
  - e. any Employment Practice Claim brought or maintained by any Insured Person; and/or
  - f. Costs and Expenses only, in respect of any other action instituted by any other Insured Person.
8. arising directly or indirectly out of actual or alleged insider trading irrespective of whether you obtained any financial or other benefit therefrom;
9. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any pension, profit sharing or employee benefit or welfare programme or share option, share incentive scheme or trust established in whole or in part for the benefit of any directors, officers or employees of the Company;
10. as a result of or failure to effect or maintain insurance cover of any kind;
11. arising out of:
  - a. any actual or alleged threatened presence, discharge, release, migration or escape of pollutants;
  - b. any direction, request or effort to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants; and/or
  - c. respond to or assess the effects of pollutants.
12. arising out of the insolvency, liquidation or judicial management of any party who enters into any agreement with you;
13. arising out of or attributable to the insolvency of the Company;
14. arising out of business activities conducted outside the borders of South Africa, Mozambique, Namibia, Botswana, Lesotho, Swaziland, Zambia, Zimbabwe and Malawi;

15. any claim not held in South African courts under the legal system of South Africa;
16. arising from bodily injury, sickness, disease, emotional distress, mental anguish, mental stress or the death of any person, except:
  - a. emotional distress, mental anguish and mental stress in respect of an Employment Practices Wrongful Act; or
  - b. in respect of Criminal Defence Costs and Expenses in any criminal proceedings or investigation under health and safety/ manslaughter or corporate manslaughter legislation for gross breach of duty of care that causes the death of another person or the equivalent in any jurisdiction.
17. made against you arising from or connected with the giving of professional advice or service whether or not for remuneration or any act, error or omission relating thereto;
18. any claim for loss, damage, death, injury or liability that is caused by or results from:
  - a. any riot, strike or public disorder (including civil commotion, labour disturbances or lock-out) or any act or activity resulting in or calculated to bring about riot, strike or such disorder;
  - b. war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
  - c. mutiny, military uprising, military or usurped power, martial law, state of siege or any other event or cause that determines the proclamation or maintenance of martial law or state of siege, insurrection, rebellion or revolution;
  - d. any act or threat of any act (whether on behalf of any organisation, body, person or group of persons) calculated or directed to overthrow or influence any state or government or any provincial, local or tribal authority with force or by means of fear, terrorism or violence;
  - e. any act that is calculated or directed to bring about loss or damage in order to further any political aim, objective or cause or to bring about any social or economic change or in protest against any state, government or any provincial, local or tribal authority or for the purpose of inspiring fear in the public or any section thereof;
  - f. any attempt to perform any act referred to in clause (d) or (e) above; or
  - g. the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in any of clauses (a) to (f) above.
19. Any occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act 1976 (Act No. 85 of 1976) of the Republic of South Africa or any similar act operative in any of the territories to which your policy applies.
20. Nuclear material, fission, fusion, weapons, explosives, waste, ionizing, radiations or contamination by radioactivity from any nuclear fuel, or from any nuclear waste, or from the combustion of nuclear fuel that includes any self-sustaining process of nuclear fission.
21. for bodily injury, sickness, disease, death or emotional shock or distress of any person, or damage to or destruction of any tangible property, including loss of use thereof or for defamation of character or violation of a person's right of privacy;

22. Nationalisation, confiscation, commandeering or requisition by any lawfully constituted authority;
23. based upon or attributable to the actual or intended private placement or public offering of any Securities of the Company;
24. Death, injury, illness, costs, or expenses of whatsoever type related to asbestos; and/or
25. arising out of, based upon or attributable to or in any way involving any actual or alleged act of Money Laundering. The burden of proving that any loss does not fall within this exclusion shall be upon the Insured.
26. Notwithstanding anything to contrary contained in this wording this policy excludes all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount incurred by or accruing to "You", directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
  - a. Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
    - i. The substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
    - ii. The method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
    - iii. The disease, substance or agent can cause or threaten bodily injury, illness, emotional distress or damage to human health, human welfare or property damage.
27. In connection with any **Cyber Loss**, notwithstanding anything to contrary contained in this wording.
  - a. **Cyber Loss** means any loss, damage, liability claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, rising out of or in connection with a **Cyber Act** or **Cyber Incident** including but not limited to, any action taken in controlling, preventing, suppressing or remediating any **Cyber Act** or **Cyber Incident**.
    - i. **Cyber Act** means an unauthorized, malicious or criminal act or series of related unauthorized, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **Computer System**.
    - ii. **Cyber Incident** means:
      - Any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer System**; or
      - Any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **Computer System**.

- iii. **Computer System** means any computer, hardware, software, communications system, electronic device (including but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, **Data** storage device, networking equipment or back up facility.
- iv. **Data** means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer System**.

### Undertaking in respect of the Ombudsman

We have given the National Financial Ombud Scheme South Africa (NFO) a written undertaking that we will always abide by his or her formal rulings in respect of any matter referred to him or her by a client.

The NFO can be contacted on 0860 800 900 or through their website [www.nfosa.co.za](http://www.nfosa.co.za).

[www.dialdirect.co.za](http://www.dialdirect.co.za)

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