

# PERSONAL UMBRELLA LIABILITY SECTION

## DEFINED EVENTS

Damages which the Insured or a Co-insured shall become legally liable to pay in their private capacity consequent upon Injury or Damage occurring anywhere in the world during the period of insurance of this section subject to the basis of indemnification set out below.

## DEFINITIONS

**Co-insured** shall mean the spouse of the Insured and any other member of the family of the Insured or member of the family of the spouse of the Insured, provided that:

1. the aforesaid member(s) is/are normally residing with the Insured;
2. such Co-insureds are not entitled to indemnity under any other insurance;
3. each such Co-insured shall as though they were the Insured observe, fulfil and be subject to the terms, exclusions and conditions of this section and of this policy in so far as they can apply.

**Costs and expenses** shall mean costs, charges, expenses and legal costs recoverable from the Insured or a Co-insured by a claimant or any number of claimants or incurred by the Company or incurred by the Insured with the Company's prior consent:

1. in the defence or settlement of any claim under this section of the policy or any action or prosecution brought against the Insured or a Co-insured in respect of Injury or Damage or other liability as insured in terms of this section of the policy.
2. in the representation at any inquest or accident inquiry in respect of Injury which may form the subject of indemnity under this section of the policy and/or in defending any proceedings in a Court of applicable jurisdiction in respect of matters which may form the subject of indemnity by this section of the policy.

**Damage** shall mean accidental loss of or physical damage to tangible property.

**Injury** shall mean accidental death, bodily injury or illness (mental or physical) or disease of any person other than injury to:

1. the Insured, any Co-insured or other family member of the Insured, or
2. any person employed by the Insured or Co-insured if such death, bodily injury or illness (mental or physical) or disease arises out of and/or in the course of the employment of such person by the Insured or Co-insureds.

**Insured** for the purposes of this section shall mean and be restricted to those individuals named in the schedule of the Personal Legal Liability section of this policy as being covered.

**Underlying insurance** shall mean an existing insurance policy in force with:

1. A registered South African insurer in South Africa which covers one or more of the following:
  - 1.1 Personal Liability;
  - 1.2 Property Owner's Liability;
  - 1.3 Tenant's Liability;
  - 1.4 Motor Liability;
  - 1.5 Watercraft Liability;

2. Any insurer outside of the Republic of South Africa which covers one or more of the following:

2.1 Motor Liability;

2.2 Watercraft Liability;

2.3 Property Owners Liability;

but not an insurance policy in respect of any motor vehicle hired, leased or owned by the Insured or Co-insured, or for any watercraft or property owned by the Insured or Co-insured outside of the Republic of South Africa, Lesotho, Swaziland, Mozambique, Zimbabwe, Botswana, Namibia and Malawi.

## LIMITS OF INDEMNITY

The amount payable, inclusive of any Costs and Expenses, for any claim or number of claims for any one event or series of events with one originating cause or source, shall not exceed the Limit of Indemnity stated in the schedule.

Where more than one period of insurance of this policy, following its renewal or replacement may apply to an originating cause or source, the Company's liability will be limited to the maximum Limit of Indemnity for any one such period of insurance. If the premium is paid monthly by debit order, the words "period of insurance" are amended to read "for any one period of 12 consecutive months from the inception or anniversary date".

Where the Insured is, in addition to this section, insured in his business name under the Public Liability section and/or Commercial Umbrella Liability section of this policy, the Company will indemnify the business and individual separately and not jointly, provided that the aggregate liability of the Company shall not exceed the sum of the Limit of Indemnity stated in the schedule for the Personal Legal Liability section and Personal Umbrella Liability or, alternatively the sum of the Limit of Indemnity of the Public Liability section and Commercial Umbrella section whichever is the higher.

## BASIS OF INDEMNIFICATION

The Defined Events of this section provide indemnity as defined under Basis 1, 2 and 3 below:

**Basis 1: Excess layer protection:** This basis provides indemnity subject to the Defined Events of this section where the claim is covered by the terms of the Underlying Insurance only to the extent that the claim is not met in full by such Underlying Insurance solely because of the inadequacy of the underlying limit of indemnity provided that:

1. the cover provided by this basis is subject to the same terms, exclusions and conditions as the Underlying Insurance;
2. the Underlying Insurance and the underlying Insurer has paid or has admitted liability or has been held liable to pay the full limit of indemnity in terms of such Underlying Insurance;
3. indemnity under this basis will operate above the Underlying Insurance limit of indemnity or the limits stated in the schedule of this section called "Minimum Underlying Insurance limit of indemnity" whichever is the higher.

**Basis 2: Difference in conditions protection:** This basis provides indemnity subject to the Defined Events of this section where the claim is within the Defined Events of the Underlying Insurance but where such claim is rejected because of an exclusion of the Underlying Insurance.

**Basis 3: Additional risks protection:** This basis provides indemnity where the claim is outside the scope of the Defined Events of any Underlying Insurance but within the scope of Defined Events of this section.

## SPECIFIC EXCLUSIONS

The Company will not indemnify the Insured in respect of

1. any judgement, award, payment or settlement made within countries which operate under the laws of the United States of America or Canada (or to any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part);
2. liability arising out of or in the course of the Insured's employment, business or profession including but not limited to the sale of any goods or the rendering of any services for a fee, reward or any other consideration;

3. liability arising out of the letting and/or hiring out of any movable or immovable property or part thereof for a fee, reward or any other consideration. This exclusion does not apply if the property is a building or structure, including the land on which it is situated, used as a private residence and such liability is covered by any Underlying Insurance;
4. liability arising out of the reckless disregard by the Insured of the possible consequences of his acts or omissions;
5. liability of one Insured or Co-insured to another Insured or Co-insured or a former Insured or Co-insured in respect of any occurrence during any period when such former Insured or Co-insured was insured by the Underlying Insurance;
6. liability arising out of loss of or damage to property to the extent that such liability is indemnifiable under any other insurance policy;
7. liability arising out of the ownership or use of any aircraft other than model aircraft and hang gliders;
8. liability for death of or bodily injury which is the subject of statutory or similar legislation controlling the use of motor vehicles or trailers and in respect of which liability
  - 8.1 the Insured is compelled to effect insurance or to furnish security or
  - 8.2 the state or other governmental body or authority has accepted responsibility;
9. any claim in respect of motor liability other than as provided for under basis 1 or because any loss is excluded solely by reason of it occurring outside of any territorial restrictions;
10. any claim in respect of watercraft liability:
  - 10.1 other than as provided for under basis 1 or because any loss is excluded solely by reason of it occurring outside of any territorial restrictions;
  - 10.2 where the overall length of the water craft exceeds 15 metres;
11. loss of or damage to any self-propelled land vehicle, trailer, caravan, watercraft or aircraft in the Insured's care custody or control;
12. liability arising out of any dishonest, fraudulent or malicious act of the Insured or acts of physical assault or seduction committed by the Insured;
13. liability for the payment of any fine, penalty, multiple punitive or exemplary damages or arising out of liquidated damages, clauses, penalty clauses or performance warranties except to the extent that it can be proved that liability would have been attached in the absence of such clauses or warranties;
14. any debt;
15. the failure to pay maintenance or alimony or any amounts following a breach or promise;
16. liability arising out of the purchase, sale, barter or exchange of any property movable or immovable or the failure of the Insured to comply with any obligations in relation thereto;
17. liability arising out of any condition directly or indirectly caused by or associated with Human Immune Virus (HIV) or the mutants, derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome (AIDS) or any syndrome or condition of a similar kind howsoever it shall be named;
18. liability arising out of confiscation, nationalisation or requisition or destruction of or damage to property by or under the order of any government de jure or de facto or any public authority.

## SPECIFIC CONDITIONS

1. Indemnity granted by this section is conditional upon there being in force at the time of the occurrence an Underlying Insurance policy which substantially provides cover for the type of liability for which indemnity is sought hereunder, and upon the Insured not being in breach of the conditions of such Underlying Insurance.
2. This section will be governed by the laws of the Republic of South Africa whose courts shall have exclusive jurisdiction in any dispute between the Company and the Insured.
3. In respect of any claim not covered at least in part by an Underlying Insurance, the Company may take over and conduct in the name of the Insured the defence or settlement of any claim or prosecute in the name of the Insured for their own benefit and will have full discretion in the conduct of any proceedings and in the settlement of any claim. The Insured will give all necessary information and assistance as may be required

by the Company.

4. Payments under this section shall be payable in the Republic of South Africa in the currency of the Republic of South Africa.
5. The due observance and fulfilment of all provisions in this section and the General section that require anything to be done or complied with by the Insured is precedent to any liability of the Company in respect of any occurrence for which the Insured makes a claim under this section.
6. No admission, offer, promise or payment in relation to a claim under this section may be made or given by or on behalf of the Insured without the written consent of the Company. The Insured will take all reasonable steps to ensure that the underlying insurers will comply with this condition and co-operate with the Company in the defence and settlement of any claim which is indemnifiable under both an Underlying Insurance and this section, and in the exercise of any subrogation rights. The costs incurred in exercising such rights and any amounts recovered shall be apportioned to each party according to the sums paid or payable under the respective policies.

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