



**QUICK GUIDE  
TO LIABILITY  
INSURANCE**



**Camargue**

Specialised Liability Management

**THE POWER OF KNOWLEDGE**

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# Camargue

Specialised Liability Management

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**THE POWER OF KNOWLEDGE**

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## CAMARGUE PRODUCTS

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# A BRIEF DESCRIPTION OF CAMARGUE PRODUCTS

**General Liability** | Covers many of the liabilities arising out of harm or damage to other people or their property. This is the most common form of commercial liability insurance.

**Directors' & Officers' Liability** | Covers the company's directors and managers if they are sued in their personal capacity for not running the company properly.

**Employment Practices Liability** | Covers an employer's legal expenses and the awards made against it by the CCMA, bargaining councils and Labour Court for unfair labour practices.

**Professional Indemnity** | Covers financial losses arising out of professional services or advice.

**Cyber Risks** | Covers organisations against the risks arising out of operating a computer network.

**Commercial Crime Insurance** | Protects the Insured's money and other property against theft by employees.

**Financial Institutions Liability** | A comprehensive insurance product for financial institutions, which can include elements of the above products.

**Pension Fund Trustees Liability** | Covers the fund and the trustees from monetary losses caused by theft/fraud and professional negligence.

**Medical Malpractice** | A form of professional indemnity insurance designed specifically for medical practitioners and medical establishments.

# A SUMMARY OF THE CAMARGUE RISK MANAGEMENT SERVICES

Each Camargue policy includes at least one of the following risk management services

|  |  |
|--|--|
| <b>Compliance</b>  | Assisting clients with risk assessments and accreditations in various disciplines, including corporate governance, cyber security and ISO accreditations in the agricultural and food processing industries. |
| <b>Free Memberships</b>                                  | Institute of Directors and Employers' organisations  |
| <b>Education</b>   | IoDSA Being a Director (1&2), Labour Relations Act, human resources (HR) and industrial relations (IR) processes, emergency and medical procedures at lodges, IT security breach checklists, POPI and CPA    |
| <b>Advice</b>  | Telephonic support for most legal matters and one free consultation, 24/7 confidential crime reporting hotline, HR crisis support line, emergency medical assessment   |
| <b>Emergency</b>   | Evacuation, repatriation, payment guarantees for emergency admission   |
| <b>PR crisis management</b>                              | Skilled support in managing public relations crises and avoiding online media disasters  |
| <b>Arbitration, mediation &amp; dispute management</b>   | High level intervention to provide a quick and confidential alternative to litigation of disputes  |
| <b>Pension Fund Trustees Liability LIMIT assessments</b> | LIMIT is a highly sophisticated tool that can assess the pension fund's risk exposure and suggest minimum limits of indemnity  |

# INTRODUCTION TO LIABILITY INSURANCE

In the ordinary course of business a company could cause damage to the property of others, or even injure people. As a result the company may become legally liable for the negligence or wrongful acts of the company's employees, directors, subcontractors, customers, suppliers and shareholders - to name just a few.

Even though the company should do everything it reasonably can to prevent liability, it is simply not practical for a business to anticipate and prevent every possibility.

If the company is at fault, it might be sued for damages. The **Camargue liability policies** have been designed to pay for these damages - even if the matter is settled out of court. The policies would also cover legal costs incurred in defending the matter.

Most Camargue policies provide worldwide cover; however, there are usually restrictions in terms of the USA and Canada.



# THE SECRET TO UNDERSTANDING A LIABILITY POLICY

The terms Injury and Damage are capitalised because they have a special meaning e.g. Injury includes disease. The word Insured is also capitalised because it includes not only the insured company but often the staff when they become personally liable in the course of their employment duties.

There are usually **three** kinds of loss provided for in the policy:

- 1 Injury**, which includes death and illness.
- 2 Damage**, including theft and other loss to tangible property. On a General Liability policy for example, the consequential loss arising out of Injury and Damage is usually also covered.

*Example: The customer's printing machine is at the Insured's premises for servicing when it is destroyed by fire. As a result, the customer is unable to earn an income. That loss of income is a consequential loss.*

- 3 Pure economic loss** (where there has been no Injury or Damage). A pure economic loss is also referred to as a pure financial loss.

*Example: the Insured is sued for breach of copyright.*



## THIRD PARTY AND OWN DAMAGE LOSSES

Some Camargue policies only cover liability to third parties. The Insured, perceived as having caused the harm, is usually referred to as the first party (or the defendant) and the person to whom the Damage or Injury is done is the third party (or the plaintiff).

There are policies, such as **Commercial Crime** and **Cyber Risks**, that also cover own damage losses - in other words, they cover damage to property belonging to the Insured.

## CAMARGUE POLICIES IN BRIEF

| PRODUCT                                     | NATURE                          | INSURED                        | COVERS                 | CLAIMANTS                                      |
|---|---------------------------------|--------------------------------|------------------------|--|
| <b>General Liability</b>                    | Injury, Damage <sup>1</sup>     | Company                        | Liability              | Visitors and customers <sup>2</sup>            |
| <b>Directors' &amp; Officers' Liability</b> | Pure economic loss              | Directors and managerial staff | Liability              | Shareholders and unpaid creditors <sup>3</sup> |
| <b>Employment Practices Liability</b>       | Pure economic loss              | Company                        | Liability              | Staff  |
| <b>Professional Indemnity</b>               | Pure economic loss              | Company                        | Liability              | Customers                                      |
| <b>Cyber Risks</b>                          | Pure economic loss <sup>4</sup> | Company                        | Liability and own-loss | Insured and customers                          |
| <b>Commercial Crime</b>                     | Pure economic loss              | Company                        | Own-loss               | Insured  |

## PUTTING LIABILITY POLICIES IN CONTEXT

Sometimes insurance policies can appear to be confusingly similar. The table on the previous page has been prepared to highlight the differences between the various types of liability policies.

The table is intended purely for information purposes; as such it only reflects the main focus of the policy or its intended purpose.

### **Table footnotes:**

- 1** The policy does cover pure economic loss to some extent; however, this is not its main focus.
- 2** Any third party could bring a claim against the Insured, but these claims most often originate from customers or visitors to the Insured's premises.
- 3** There are many other parties who bring claims against directors and managers, but shareholders and unpaid creditors are generally the most common litigants.
- 4** A loss of data is not considered to be Damage, but rather a pure economic loss.

## LOSSES-OCCURRING VS CLAIMS-MADE

There are two ways in which a liability policy can be issued: losses-occurring or claims-made.

### LOSSES-OCCURRING BASIS

This means that the event which caused the claim must have occurred during the period of insurance. The claim will be covered even if the Insured finds out about the loss many years after the policy was lapsed.

### CLAIMS-MADE BASIS

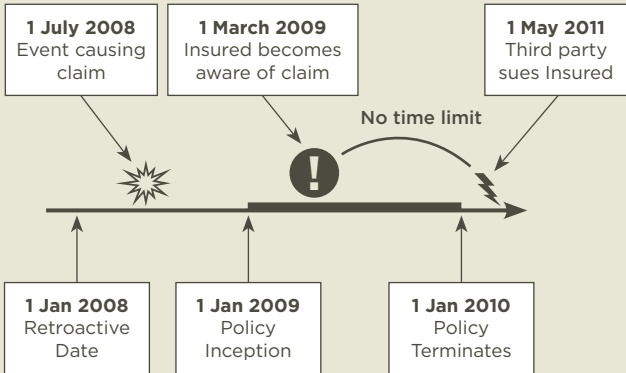
This means that the Insured must become aware of the claim during the period of insurance. The event giving rise to the claim could have occurred before the policy started (subject to retroactive date).

Camargue policies are issued on a **claims-made** basis and the following table explains the disadvantages of each basis of insurance.

| LOSSES-OCCURRING  | CLAIMS-MADE  |
|---|--|
| <p>The Injury or Damage giving rise to the claim must occur during the period of insurance.</p>   | <p>The event causing the claim must occur after the <b>retroactive date</b> but before expiry of the policy.</p>   |
| <p>The claim can be reported at any time during or after the period of insurance.</p>   | <p>The claim must be reported during the period of insurance.</p>  |
| <p><b>Disadvantages:</b></p> <ul style="list-style-type: none"> <li>• The claim may only come many years later when the indemnity limit is inadequate.</li> <li>• The Insurer might stop trading before the claim arises.</li> <li>• The client might need to keep their policy records indefinitely.</li> <li>• A gradually operating cause may span the periods of insurance of several different insurers (each with a different indemnity limit). Insurers may dispute their liability.</li> <li>• There is no cover for losses that occur before the period of insurance.</li> </ul> | <p><b>Disadvantages:</b></p> <p>Today's mistakes might only manifest themselves as a liability in many years' time. By then the insurance market might not be willing to provide the required type of cover (the most well known example of this is asbestosis).</p> |

## THE RETROACTIVE DATE

In terms of a claims-made policy, the event giving rise to a claim must occur on or after the retroactive date. This means that there is cover for liability caused by events which occurred before the policy started – provided that they happened on or after the retroactive date. The following diagram illustrates the retroactive date and other important dates.



## OTHER LEGAL TERMS TO REMEMBER

- **Prescription** is defined as the limitation of time beyond which an action, debt, or crime is no longer valid or enforceable. If someone has suffered a loss they have a limited time (usually 3 years) in which to start legal action to recover that loss from the wrongdoer. The prescription period only starts once the plaintiff is aware that they have been wronged.
- **Damage** refers to loss or harm to tangible property.
- **Damages** is an award, typically of money, to be paid in compensation for damage, loss or Injury caused to a third party. It is a singular noun, and should not be confused with Damage.
- A **natural person** is a human being.
- A **juristic person** is a company or other organisation.
- A **statute** is a written law passed by a legislative body.
- **Common law** is not necessarily written down and includes:
  - Common sense laws handed down through history  
e.g. do not murder
  - Customs – provided they are long established, certain, reasonable and uniformly observed
  - Judicial precedent i.e. case law
- **Strict liability** sometimes makes a person or organisation responsible for the harm that their actions or products cause, regardless of any 'fault' on their part.
- **Vicarious liability** is a form of strict liability that arises under the common law doctrine of agency. It makes a party responsible for the acts of their subordinates. An employer is, for example, automatically liable for the actions of their staff while they are performing their duties.

# WHAT IS A GENERAL LIABILITY POLICY?

A General Liability policy covers the Insured's liability to third parties arising out of Injury or Damage caused by the Insured in the course of its business activities.

Although this is a very broad explanation, the cover is subject to exclusions which are largely covered under the optional sections and extensions of the policy shown in the following table.

| SECTIONS  | COVER PROVIDED  |
|---|---|
| <b>Public Liability</b>                             | Injury to people or Damage to their property.   |
| <b>Pollution Liability</b>                          | The sudden and unforeseen release of pollutants into the environment.   |
| <b>Products Liability and Defective Workmanship</b> | Injury or Damage arising out of the harmful nature of the Insured's products or out of the Insured's negligence while working on a product. |
| <b>Negligent Advice</b>                             | Injury or Damage arising out of free advice given in promotion of the Insured's products or services.                                       |



## EXTENSIONS

|                                |   |
|--------------------------------|---|
| <b>Statutory Defence Costs</b> | Legal expenses in defence of a criminal action.   |
| <b>Wrongful Arrest</b>         | Wrongful arrest, false imprisonment and any related assault caused by the Insured.          |
| <b>Defamation</b>              | Defamatory statements whether written or verbal.  |
| <b>Employers Liability</b>     | Employees injured in the workplace.   |
| <b>Product Inefficacy</b>      | Financial losses caused to others because the Insured's product failed to perform properly. |
| <b>Custody and Control</b>     | Additional cover for Damage to third party property in the Insured's care.                  |
| <b>Errors and Omissions</b>    | Similar to Professional Indemnity.  |
| <b>Breach of Copyright</b>     | The Insured's legal defence costs arising out of accidental plagiarism                      |

## WHY DO I NEED IT?

Any organisation can cause harm to others and consequently face the risk of expensive litigation. The cover provided by a General Liability policy and its sections and extensions is best illustrated by way of some examples:

- A visitor to the Insured's premises is injured when she slips on the soapy floor. This is a general liability claim.
- A customer gets food poisoning after eating at the Insured's restaurant. This general liability claim would fall under the products liability section.
- The Insured is a mechanic who fits faulty brake-pads to a customer's car. The damage caused by the resulting car crash would fall under the products liability section.
- The Insured is a plumber. While installing a geyser it fell through the roof destroying the customer's dining room table. This would be a general liability claim.
- The Insured upgrades and maintains computer servers for their clients. While programming a client's server the Insured's employee spills a cup of coffee over the server resulting in damage to the client's server. This would be a general liability claim.

## WHAT IS NOT COVERED?

The cover available in terms of other types of liability policies is mostly excluded under this policy. This enables the Insured to build their insurance portfolio according to their risk exposure and budget. The following list highlights some of the important exclusions normally found on a general liability policy:

- Fines and Penalties – for example, liability arising from a fine which the court imposed on a company for maintaining poor safety standards.
- Deliberate acts by the Insured.
- Performance Warranties – for example, a failure to meet a contractual deadline.
- Claims arising out of a nature of business which is not specified in the policy schedule. If the Insured's disclosed business is a bakery, then there is no cover for liability arising out of their activities as a plumber.
- A material change to the Insured's risk of which the Insurers were not advised.
- Loss or Damage arising out of the confiscation of property by government.
- Claims brought against the Insured in the courts of the USA and Canada or arising out of operations domiciled there.
- Employee dishonesty – claims arising out of the dishonesty of employees, directors, partners, etc.
- Liability covered by other policies.
- Liability arising out of advice of a professional nature given for a fee. This would be covered by a professional indemnity policy.
- Liability arising out of owning vehicles, watercraft or aircraft is mostly excluded.

## SPONSORED RISK MANAGEMENT SERVICES

In addition to providing insurance cover, the policy also provides several important value added services which clients can use even when they are not claiming.

- **Free legal advice.** This advice covers most aspects of the Insured's business.
- **Advice on how to deal with the Consumer Protection Act, includes:**
  - Access to the Camargue sponsored CPA web advice site ([www.madeasy.co.za](http://www.madeasy.co.za))
  - Assistance in dealing with the CPA complaints handling unit
  - Subsidised vetting of disclaimers and contracts.
  - Subsidised CPA training courses and workshops for sales and customer service staff
- **Free private arbitration service.**

This service, provided through Tokiso Dispute Settlement, resolves disputes before they go to court. This saves time, money and manages reputational risk.
- **Emergency medical evacuation services.**

If the Insured is responsible for the injuries to visitors or clients. Provides emergency telephonic support, assessment, and, if necessary, evacuation, hospitalisation, and payment guarantees for admission.
- **High level assessment services.**

Compliance audits for the food processing, agricultural and other industries.
- **Crisis communication.**

Skilled support in managing public relations crises and avoiding online media disasters.



**GENERAL  
LIABILITY**

**1**

**LEGAL  
ADVISORY  
SERVICES**

**2**

**CPA  
SUPPORT**

**3**

**PRIVATE  
ARBITRATION**



**4**

**EMERGENCY  
MEDICAL  
SERVICES**

**5**

**CRISIS  
COMMUNICATION**

# WHAT IS DIRECTORS' AND OFFICERS' LIABILITY INSURANCE?

If the company's directors or managers are sued in their personal capacity for not running the company properly, then this policy will pay the Damages as well as the legal costs.

## WHY DO I NEED IT?

Many people mistakenly believe that if they are sued for mismanagement, their employer will come to their rescue; even if the company is willing and financially able to do so, the Company's Act makes it illegal for the company to do this in some cases. Since the advent of this Act in 2008 there have been many changes to the legal landscape which have greatly increased the risks which the company's management face.

A few of the many stakeholders who could hold the management of the company liable for bad decisions are:

- Shareholders, if the results of the business and hence the dividends or value of shares drop.
- Creditors, if they are not paid.
- Employees, if they were to lose their jobs.
- Customers who are seriously prejudiced when the company no longer provides supplies vital to the customer's business.
- Suppliers, especially those who incurred considerable expense to supply the company.
- State authorities, who could bring criminal charges for negligently failing to take the required steps to prevent accidents, injuries, damage or harm to the environment.
- SARS, if the company's taxes are not paid.

## WHAT IS NOT COVERED?

The following lists some of the important exclusions that are found on a Directors' and Officers' Liability (D&O) policy:

- Intentional wrongs committed by the Insured.  
*Well known examples include:*
  - Insider trading
  - Fraud and dishonesty
- Bribes and commissions. There is no cover for claims arising out of 'incentives' or donations paid to others.
- Professional services. Although the policy covers the directors and managers in their personal capacity, there is no cover for the company itself. The company's own liability would typically be covered under a Professional Indemnity or General Liability policy.
- Failing to buy insurance. This policy cannot serve as a substitute for other types of insurance. The Insured cannot, for example, cancel their motor insurance and when a loss arises simply plead mismanagement and rely on this policy to pay that claim.
- Sureties.
- Insured vs Insured. There is no cover if the directors sue each other for mismanaging the company in the USA and Canada.
- Occasionally these policies also exclude liability caused by the company's insolvency. This exclusion is typically only applied if the company is a start-up or if it was already insolvent at the time the policy inceptioned.
- Employee related benefits. There is no cover for claims related to pensions, profit sharing, share options or similar employee benefit programs.

## SPONSORED RISK MANAGEMENT SERVICES

In addition to providing the insurance cover, the policy also provides several important value added services which clients can use even when they are not claiming.

- **Corporate governance survey.**

This service assesses the company's standard of corporate governance and indicates where potential risks lie.

- **Free private arbitration service.**

This service, provided through Tokiso Dispute Settlement, resolves disputes before they go to court. This saves time, money and manages reputational risk. This has become important since both the new Companies Act and King III require that alternative dispute resolution be explored before taking the matter to court.

- **Sponsored membership** - depending on the premium, Camargue will sponsor free membership for the Insured directors with the **Institute of Directors**.





**DIRECTORS' &  
OFFICERS'  
LIABILITY**

1

MEMBERSHIP

2

TRAINING



4

PRIVATE  
ARBITRATION

3

CORPORATE  
GOVERNANCE  
SURVEY

# WHAT IS PROFESSIONAL INDEMNITY INSURANCE?

A Professional Indemnity (PI) policy is similar to a Commercial General Liability (CGL) policy in that it covers the Insured's liability arising out of its business activities. The difference is that a General Liability policy mostly covers Injury and Damage whereas a Professional Indemnity policy generally covers pure financial losses.\*

## POLICY DIFFERENCES ILLUSTRATED BY EXAMPLE

### General Liability example

While carrying the customer's computer, the Insured accidentally drops it. The cost of repairing that damage would be a CGL claim.

### Professional Indemnity example

The Insured recommends a certain type of computer to the customer. Later, it becomes apparent that this was the wrong advice. As a result the customer needs to sell those computers and buy new ones. The expense caused by this unnecessary transaction would be a PI claim.

*\* Note that a pure financial loss means a loss that was not caused by Injury or Damage.*

## **TYPES OF PROFESSIONAL INDEMNITY POLICY**

The most common form of PI policy is the miscellaneous PI policy which covers the pure financial losses arising out of the Insured's professional services. By contrast, if a doctor, for example, were to err in his professional services, the claim would most likely be for Injury and not a pure financial loss. PI policies differ significantly per industry due to the very different nature of each industry's professional services.

In addition to the miscellaneous PI policy, which caters for most businesses, Camargue also offers specialist PI covers for accountants, architects, construction and design, engineers, financial advisors, insurance brokers and surveyors.

## **WHAT IS NOT COVERED?**

The following lists some of the exclusions that are found on a miscellaneous PI policy:

- Injury and Damage is mostly excluded, although there are exceptions such as Damage arising from a loss of documents
- Loss of computer data is mostly excluded
- Losses caused by defective materials are excluded unless they were caused by the Insured's negligent design or specification
- Losses caused by products sold, installed, repaired or manufactured by the Insured are excluded

## SPONSORED RISK MANAGEMENT SERVICES

In addition to providing insurance cover, the policy also provides several important value added services which clients can use even when they are not claiming.

- **Advice on how to deal with the Consumer Protection Act, includes:**

- Access to the Camargue sponsored CPA web advice site ([www.madeasy.co.za](http://www.madeasy.co.za))
- Assistance in dealing with the CPA complaints handling unit
- Subsidised vetting of disclaimers and contracts.
- Subsidised CPA training courses and workshops for sales and customer service staff

- **Free private arbitration service.**

This service, provided through Tokiso Dispute Settlement, resolves disputes before they go to court. This saves time, money and manages reputational risk.

- **Crisis communication.**

Skilled support in managing public relations crises and avoiding online media disasters.



**PROFESSIONAL  
INDEMNITY**

**1**

**ADVICE**

**2**

**PRIVATE  
ARBITRATION**



**3**

**CRISIS  
COMMUNICATION**

## USEFUL COMPARISONS

What is the difference between **Directors' and Officers' Liability** and **Professional Indemnity** cover?

|                     | <b>DIRECTORS' &amp; OFFICERS'</b>  | <b>PROFESSIONAL INDEMNITY</b>   |
|---------------------|--|---|
| <b>Differences</b>  | <ul style="list-style-type: none"><li>• Covers directors and managers in their personal capacity when they are liable for mismanaging the company.</li></ul> | <ul style="list-style-type: none"><li>• Covers the company when it is liable for negligence in its professional activities.</li></ul>     |
|                     | <ul style="list-style-type: none"><li>• The complainant is usually the shareholders or creditors.</li></ul>  | <ul style="list-style-type: none"><li>• The complainant is usually a customer.</li></ul>  |
|                     | <ul style="list-style-type: none"><li>• This is usually a stand-alone policy.</li></ul>  | <ul style="list-style-type: none"><li>• This can either be an extension on the public liability policy or a stand-alone policy.</li></ul> |
| <b>Similarities</b> | <ul style="list-style-type: none"><li>• Both provide cover for pure economic loss (where people were not injured and property was not damaged).</li></ul>    |   |
|                     | <ul style="list-style-type: none"><li>• Both provide for liability arising out of work not being done properly.</li></ul>                                    |   |
| <b>NOTE</b>         | Professional Indemnity insurance is sometimes called Errors and Omissions Liability (E&O) cover.   |   |

MAKING NEW THINGS POSSIBLE...

BY EMBRACING THE CHALLENGE WITH COMMITMENT  
BY BEING THE FIRST TO FIND A NEW WAY  
FUELLED WITH THE SAME PASSION AS THE PEOPLE AROUND ME

# GOING BEYOND INSURANCE...

**BY BEING CAMARGUE.**

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# WHAT IS EMPLOYMENT PRACTICES LIABILITY INSURANCE?

This policy covers an employer's legal expenses and the awards made against it by the CCMA, Bargaining Councils and Labour Court for unfair labour practices such as unfair dismissal, sexual harassment, discrimination and failure to employ.

## WHY DO I NEED IT?

South Africa's labour force is possibly the most litigious community in the world. With an efficient and inexpensive means to sue their employers, employees have little to lose when bringing even the most hopeless cases against their employers. Consequently, employers frequently find themselves at the mercy of labour legislation; even efficient human resources departments run the risk of falling victim to inconsistent decision making processes at the dispute resolution forums.

This makes EPL insurance one of the most important elements of a company's insurance portfolio. In addition to the Damages award against the Insured, the cover also includes:

- The costs of legal expenses, out of court settlements, as well as back pay following a reinstatement order.
- Claims brought by past employees, current employees and job applicants.
- Claims brought by permanent employees, temporary employees and contractors who claim to be employees.



## WHAT IS NOT COVERED?

The following lists some of the important exclusions that are normally found on an EPL policy:

- Wilful acts or the failure to follow the labour advisor's guidance.
- Salaries, remuneration and taxes that would have arisen in the absence of the unfair labour practice.

*Example: If the employment contract specifies a one month severance period, then the policy will not pay the salary for that month because the Insured would have been obliged to pay it even if the dismissal had been fair.*

- Claims arising out of a takeover or merger.
- Claims arising out of industrial action (strikes etc.)
- The policy covers legal defence costs which arise from the time the employee notifies the CCMA or Bargaining Council of a dispute. In other words, there is no cover for the costs for running the company's internal disciplinary process before the dispute is referred.
- The policy covers unfair dismissals arising out of misconduct or incapacity, but not retrenchments.

## SPONSORED RISK MANAGEMENT SERVICES

In addition to providing insurance cover, the policy also provides several important value added services which clients can use even when they are not claiming.

- **Free legal advice** on labour matters. This telephonic advice is an invaluable tool in preventing disputes - saving the Insured time and money.
- **Free private arbitration service.**  
This service, provided through Tokiso Dispute Settlement, resolves disputes before they go to court. This saves time, money and manages reputational risk.
- Subsidised **industrial relations training.**
- **Free employer's organisation membership.**  
This makes it possible for experienced professionals to represent the Insured at the CCMA.
- **Labour audit.**  
Highlights labour practice shortcomings in the Insured's current labour practices.



**EMPLOYMENT  
PRACTICES  
LIABILITY**



## USEFUL COMPARISONS

What is the difference between Employment Practices Liability and Employer's Liability?

|                     | <b>EMPLOYMENT PRACTICES LIABILITY</b>   | <b>EMPLOYER'S LIABILITY</b>   |
|---------------------|---|---|
| <b>Differences</b>  | <ul style="list-style-type: none"> <li>Covers claims of unfair labour practice e.g. unfair dismissal.</li> </ul>  | <ul style="list-style-type: none"> <li>Covers Injury to employees at work.</li> </ul>   |
|                     | <ul style="list-style-type: none"> <li>Damages usually awarded by the CCMA and the Labour Court.</li> </ul>   | <ul style="list-style-type: none"> <li>Damages typically awarded in the Magistrate's Court or the High Court.</li> </ul>  |
|                     | <ul style="list-style-type: none"> <li>The Insured will be liable to pay the full amount. The government provides no assistance.</li> </ul>                     | <ul style="list-style-type: none"> <li>In South Africa, these Damages are normally paid by the government in terms of the Compensation of occupational injuries and diseases (COID) Act.</li> </ul> |
| <b>Similarities</b> | <ul style="list-style-type: none"> <li>Both provide cover for an employer's liability caused by losses that the employee suffered in the work place.</li> </ul> |   |

# I AM AN IDEALIST

AN ADVOCATE FOR WHAT KNOWLEDGE CAN ACCOMPLISH...

A PIONEERING EXPERT - FOR AS LONG AS A BETTER WAY REMAINS POSSIBLE. I AM A PROGRESSIVE SAGE - BUILDING ON WHAT HAS BEEN PROVEN - BUT NOT SETTLING THERE...

**I AM A BORN LEADER. I AM CAMARGUE.**

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# WHAT IS A CYBER RISKS POLICY?

Camargue's Cyber Risks policy covers organisations against the risks arising out of operating a computer network.

Depending on what options have been selected, this policy can include:

- Professional Indemnity, which covers liability arising out of negligence in the Insured's work.
- Multimedia Liability, which covers liability arising out of any physical or electronic publication issued by the Insured.
- Security and Privacy Liability, which covers liability arising out of the Insured's negligence in preventing a computer security breach.
- Data Recovery and Loss of Income, which provides a form of business interruption cover and also covers the cost of restoring the Insured's lost data.
- Privacy Regulatory Defence and Penalties, which covers liability as a result of the Insured not complying with laws relating to a breach of data.
- Crisis Management Costs, which covers the costs of mitigating potential damage to the Insured's brand as well as the Insured's liability arising out of compliance with privacy legislation.
- Data Extortion, which covers the cost of validating and terminating the threat of a security breach.

## WHY DO I NEED IT?

Many organisations believe that their firewalls and anti-virus programs provide them with sufficient protection against cyber risks, such as viruses and hacking. The shocking reality is very different and most businesses will, at some point, be exposed to the devastating effect of a cyber-attack, network downtime, loss of important data and loss of credibility when customer information is compromised (not to mention the litigation that would follow if the hacker were to use that information to plunder the customer's bank account). The complexity of the online environment makes it impossible for most businesses to address these risks, or even appreciate how serious the threat is.

## WHAT IS NOT COVERED?

The following lists some of the important exclusions that are found on a Cyber Risks policy:

- Reasonable foreseeability - there is no cover for liability arising out of acts which the Insured could reasonably have foreseen would lead to a claim.
- Third Party infrastructure failure - there is no cover for liability arising out of the failure of third party equipment which is not under the Insured's control. This applies to both electrical and mechanical failures. For example, liability caused by a general power failure (or load shedding) is not covered.
- Gradual deterioration - the policy excludes losses arising out of progressive or gradual deterioration.

## SPONSORED RISK MANAGEMENT SERVICES

In addition to providing insurance cover, the policy also provides several important value added services which clients can use even when they are not claiming.

- **Automated vulnerability assessment.** The security of the Insured's computer network is tested by security consultants in a controlled environment. The Insured will be provided with a confidential report highlighting network vulnerabilities, together with suggestions on how those threats can be addressed.
- **Free private arbitration service.** This service, provided through Tokiso Dispute Settlement, resolves disputes before they go to court. This saves time, money and manages reputational risk.
- **Business support documents.** The risk management support program includes documents the business owners and managers will find helpful, such as:
  - Protection of Personal Information (POPI) guidelines
  - A security breach checklist
  - Crisis Planning Guidelines





**CYBER RISKS**

**1**

**CRISIS  
PLANNING  
GUIDE**

**2**

**ADVICE**



**3**

**AUTOMATED  
VULNERABILITY  
ASSESSMENT**

**4**

**PRIVATE  
ARBITRATION**

## COMMERCIAL CRIME

# WHAT IS A COMMERCIAL CRIME POLICY?

A Commercial Crime policy protects the Insured's money and other property against theft by employees. It also covers malicious damage and theft committed by non-employees through computer hacking, extortion and fraudulent transfer instructions.

In addition, the policy also covers the contractual penalties which businesses often face when they can't deliver as a result of theft.

## WHY DO I NEED IT?

Many, if not most, South African companies have been the victim of theft committed by their own employees. Although cover for theft committed by an Insured's own employees is typically excluded from most property damage insurance policies, there are exceptions such as fidelity guarantee (FG) policies and the Camargue Commercial Crime policy.

A Camargue Commercial Crime policy offers significantly wider cover than an FG policy because it also covers theft arising out of cybercrime. Cybercrime is escalating at an alarming pace which could soon see it eclipse the world-wide profit from the illegal drug trade.

## WHAT IS NOT COVERED?

The following lists some of the important exclusions that are found on a Commercial Crime policy:

- Failure to take reasonable precautions to prevent a loss.
- The Insured behaving fraudulently towards the Insurers.
  - However, there is cover if the employee completing the proposal form does not disclose his own fraud.
- When a non-executive director, partner or member causes the loss.
  - Non-executive means someone who is not involved in the day to day running of the business.

## SPONSORED RISK MANAGEMENT SERVICES

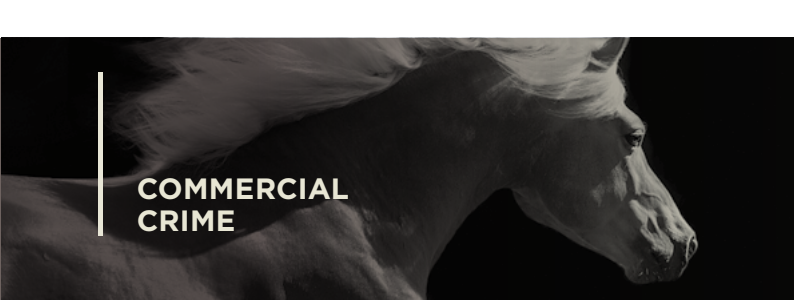
In addition to providing insurance cover, the policy also provides several important value added services which clients can use even when they are not claiming.

- Business risk assessments/audits.
- Account verification for large payments.
- Free private arbitration service. This service, provided through Tokiso Dispute Settlement, resolves disputes before they go to court. This saves time, money and manages reputational risk.
- Advice hotline. Provides telephonic advice on how to implement business procedures to limit the Insured's exposure to crime.
- Fraud hotline and reward for tip-offs.

## USEFUL COMPARISONS

What is the difference between a standard Fidelity Guarantee policy and a Camargue Commercial Crime policy?

|   | COMMERCIAL CRIME   | FIDELITY GUARANTEE                               |
|---|--|--|
| <b>Differences</b>  | • Covers computer fraud.   | • Computer fraud is excluded.                    |
|   | • Covers electronic data loss.   | • Excludes electronic data loss.                 |
|   | • Covers theft or malicious damage caused by a virus.                  | • Excludes computer viruses.                     |
|   | • Covers extortion.  | • Excludes extortion.                            |
|   | • Covers contractual penalties.  | • Excludes contractual penalties.                |
|   | • Covers fraudulent transfer instructions.                             | • Excludes fraudulent transfer instructions.     |
|   | • Includes losses from unidentifiable employees.                       | • Excludes losses from unidentifiable employees. |
|   | • Reinstatement of office records is covered.                          | • Reinstatement of office records is optional.   |
| <b>Similarities</b>   | • Both cover for theft committed against the Insured by its employees. |  |
| The Camargue Commercial Crime policy includes the FG cover and much more. |  |  |



**COMMERCIAL  
CRIME**

**1**

**RISK SURVEY**

**2**

**FRAUD  
HOTLINE**

**3**

**ADVICE**



**4**

**PRIVATE  
ARBITRATION**

# OVERVIEW OF OTHER CAMARGUE PRODUCTS

## **PENSION FUND TRUSTEES LIABILITY INSURANCE**

This policy covers the fund and trustees for monetary losses caused by theft/fraud and professional negligence.

## **MEDICAL MALPRACTICE INSURANCE**

This is a form of professional indemnity insurance designed specifically for medical practitioners and medical establishments. Camargue also provides a comprehensive policy for medical establishments which includes Medical Malpractice, General Liability, Products Liability and Professional Indemnity insurance.

## **FINANCIAL INSTITUTIONS BOND INSURANCE**

This is a comprehensive insurance product for financial institutions which includes elements of

- Commercial Crime insurance,
- Professional Indemnity insurance,
- Cyber Risks insurance, and an
- Office contents policy.

## **INVESTMENT MANAGERS INSURANCE POLICY**

This is a comprehensive insurance product for investment/asset managers which include elements of

- Commercial Crime insurance
- Professional Indemnity insurance (civil liability basis), and
- Directors' and Officers'

## E-LEARNING

Camargue launched the first ever Insurance Liability e-learning platform in South Africa in September 2014. The training is free to brokers and can be accessed on any device, anytime and anywhere. Fully customised for Camargue, the programme runs on Moodle (Modular Object-Oriented Dynamic Learning Environment) - the world's most popular learning management system (LMS).

It is designed to be fully interactive, with users being able to pose questions (which are answered by an industry expert within 48 hours). These questions and the responses are then made available online for the benefit other users.

Practical scenarios have been created so that users can see their learning in action. Users can also log out of the training session at any time and resume the session later.

The first module launched was Directors' & Officers' Liability, followed by Commercial Crime, Employment Practices Liability and Cyber Risks. All these courses carry recognition towards CPD hours at the Insurance Institute of South Africa.

An 80% pass is required for the module to be completed and before the user receives the relevant CPD hours and certificate of competency.

Visit **[www.camargueum.co.za/Academy/elab](http://www.camargueum.co.za/Academy/elab)** to register

Assistance with registration is available -  
email [training@camargueum.co.za](mailto:training@camargueum.co.za)

## ABOUT CAMARGUE

Camargue is an underwriter of **niche short-term commercial insurance products** which include specialised liability products, as well as various financial lines products. Camargue policies are underwritten by various Lloyd's syndicates.

The company was founded in 2001 and today insures

- The trustees of over 3000 pension/medical funds including many of the largest in the country.
- The directors of over 1000 boards including some of South Africa's premier, blue chip companies.
- Over 2500 companies across all industries against labour disputes, fraud and legal liability.

Camargue are also the innovators of the **unique “M<sup>3</sup> principle”**. Although clients can **M**migrate risks through insurance, it is invariably better to prevent the loss. Camargue provides a powerful loss prevention tool through its risk management services which enable clients to **M**anage and **M**itigate these risks. Significantly, these services are useful to the client even when there is no claim.



## CAMARGUE EDUCATION SERVICES

This booklet is brought to you by the **Camargue Liability Academy for Brokers (LAB)**. The Camargue LAB has been created to provide technical support to brokers enabling them to provide a better service to their clients.

For **more information** email us at [training@camargueum.co.za](mailto:training@camargueum.co.za)

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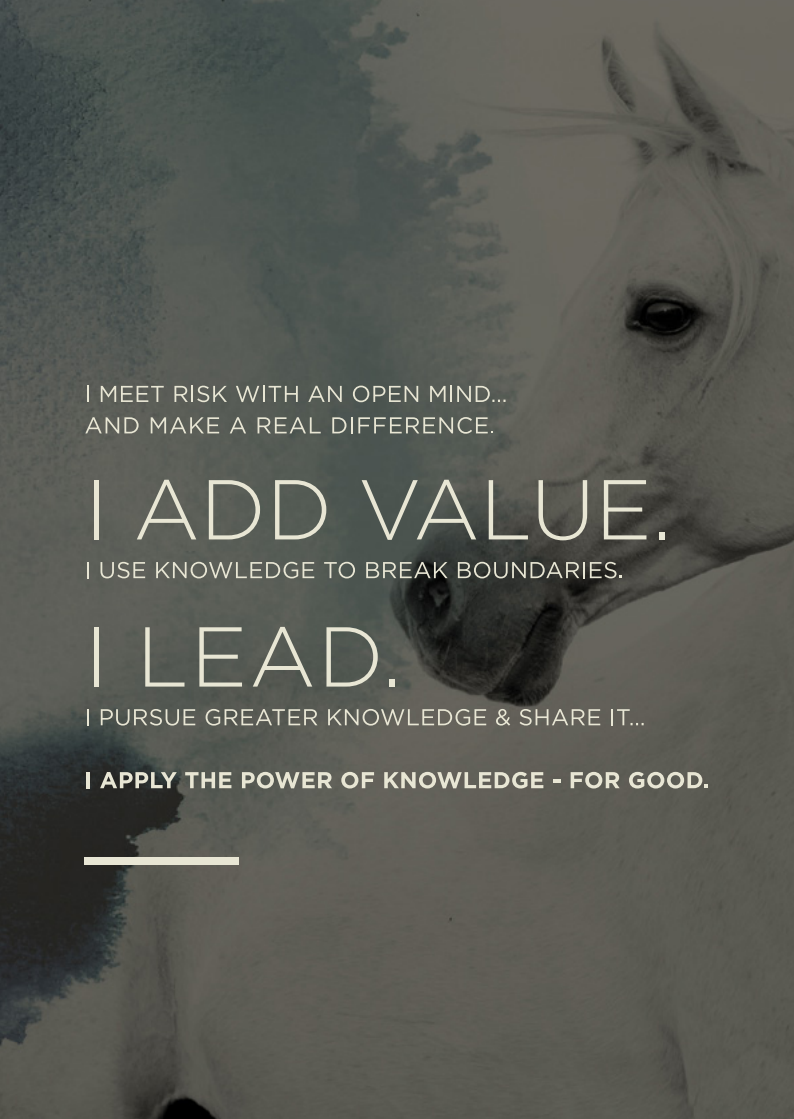
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Underwritten by

**LLOYD'S**





I MEET RISK WITH AN OPEN MIND...  
AND MAKE A REAL DIFFERENCE.

I ADD VALUE.

I USE KNOWLEDGE TO BREAK BOUNDARIES.

I LEAD.

I PURSUE GREATER KNOWLEDGE & SHARE IT...

**I APPLY THE POWER OF KNOWLEDGE - FOR GOOD.**

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## THE POWER OF KNOWLEDGE

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**AUTHORISED FINANCIAL SERVICES PROVIDER, LICENCE NUMBER: 6344.**

**APPROVED LLOYD'S COVERHOLDER PIN: 107824DRW**

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