

DIRECTORS' AND OFFICERS' LIABILITY INSURANCE POLICY

Subject to the terms, exceptions and conditions (precedent or otherwise) and in consideration of and conditional upon the prior payment of the premium by or on behalf of the Insured, the Insurers agree to indemnify the Insured and/or the Insured Persons up to the limit of indemnity stated in the schedule in respect of claims first made during the period of insurance for wrongful acts occurring on or after the retroactive date stated in the schedule.

INSURING AGREEMENTS

(A) Directors' and Officers' Individual Cover

The Insurers shall pay on behalf of the Insured Persons loss for which they are not indemnified by the Insured and which the Insured Persons become legally obligated to pay on account of any claim first made against them, individually or otherwise, during the period of insurance or, if exercised, during the discovery period, for a wrongful act taking place on or after the retroactive date shown in the schedule.

(B) Company Reimbursement Cover

The Insurers shall reimburse the Insured for loss arising from company indemnification to the Insured Persons, as permitted or required by law, and which the Insured Persons have become legally obligated to pay on account of any claim first made against them, individually or otherwise, during the period of insurance or, if exercised, during the discovery period, for a wrongful act taking place on or after the retroactive date shown in the schedule.

DEFINITIONS

When used in this Policy

Claim means

- (1)** a written demand, or
- (2)** a civil proceeding including third party proceeding, counterclaim, or arbitration proceeding, commenced by the service of a writ, summons, or similar proceeding, or
- (3)** a criminal proceeding commenced by the lodging of an indictment or similar process, or
- (4)** a formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document, or
- (5)** an arbitration proceeding for a wrongful act, including any appeal therefrom.

Defence Costs means

that part of any loss consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the Insured) incurred in defending or investigating claims.

Defence costs shall also include premium paid for insurance policies or bonds which may be required in order to institute an appeal or incurred in appealing any adverse judgment provided that a Senior Counsel selected by the Insurers shall be of the opinion that such an appeal should be likely to succeed.

Defence costs shall also include premium paid for insurance policies or bonds which may be required in order to institute an appeal.

Employment Related Wrongful Act means

any act giving rise to a claim or series of related claims relating to a past present or prospective employee of the Insured and arising out of any actual or alleged unfair or wrongful dismissal, discharge or termination, either actual or constructive, of employment, employment-related misrepresentation, wrongful failure to employ or promote, wrongful deprivation of career opportunities, wrongful discipline; failure to furnish accurate job references; failure to grant tenure or negligent employee evaluation; or sexual or workplace or racial or disability harassment of any kind (including the alleged creation of a harassing workplace environment); or unlawful discrimination, whether direct, indirect, intentional or unintentional, or failure to provide adequate employee policies and procedures.

Executive Officer means

the chairperson, chief executive officer, managing director, chief financial officer or in-house general counsel of the Insured.

Insured means

the company or organization named in the schedule including its subsidiaries.

Insured Person(s) means

- (1) any natural person who has been, is or shall become duly elected or appointed director or officer of the Insured; and
- (2) an employee of the Insured but only to the extent that such employee is acting in a managerial or supervisory capacity or outside directorship, or with respect to any claim in which such employee is named as co-defendant with a director or officer

Insured Person does not include external auditors appointed by the Insured.

Loss means

the amount which the Insured Person(s) or the Insured become legally obligated to pay on account of each claim and for all claims in the period of insurance and the discovery period, if exercised, made against them for wrongful acts for which cover applies, including, but not limited to, damages, judgments, settlements and defence costs including adverse court cost orders or Insurer sanctioned agreement to pay legal costs.

Loss does not include:

- (1) any amount for which the Insured and/or Insured Person(s) are absolved from payment;
- (2) taxes, fines or penalties imposed by law;
- (3) the multiple portion of any multiplied damage award or punitive or exemplary damages incurred by Insured Person(s); or
- (4) matters deemed uninsurable under law;

provided this definition does not exclude punitive or exemplary damages incurred by the Insured Person(s) to the extent such damages are insurable under applicable law.

Non-Profit Entity means

any non-profit corporation, community chest, fund or foundation that is

- (1) not included in the definition of Insured; and
- (2) exempt from income tax as an organisation described in Section 21 of the Company Act No. 61 of 1973 as amended.

Officer means

any natural person who is employed by the Insured in a managerial or supervisory position.

Outside Directorship means

the position of director, officer, manager, trustee or other equivalent executive position held by an Insured Person in their insured capacity in any outside entity provided that such position is assumed and maintained at the specific request of the Insured.

Outside Entity means

an entity which is not within the definition of the Insured and

- (1) in which the Insured holds any issued share; or
- (2) which is a tax exempt non-profit entity, trade association or registered charity.

Parent Company means

the company or organisation named in the schedule as the Insured.

Period of Insurance means

the period stated in the schedule, subject to prior termination in accordance with Condition 14 Termination of Policy.

Policy means

the proposal form, this policy form, the schedule and any endorsements hereto.

Pollutants means

any substance exhibiting any hazardous characteristics as defined by or identified by the Hazardous Substances Act 1973. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials.

Pollutants shall also mean any other air emission, odour, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, electric or magnetic or electromagnetic field and noise.

Proposal means

all signed proposals, including attachments and materials submitted therewith, for this policy or for any policy of which this policy is a renewal or replacement. All such proposals, attachments and materials are deemed attached to and incorporated into this policy.

Security(ies) means

any shares in the capital of a company and includes stock and debentures convertible into shares and any rights or interests in a company or in respect of any such shares, stock or debentures.

Subsidiary means

any organization in which the parent company either directly or indirectly through one or more of its subsidiaries

- (1) holds a majority of the voting rights; or
- (2) has the right to appoint or remove a majority of its board of directors; or
- (3) controls alone, pursuant to a written agreement with other shareholders, a majority of the voting rights therein.

Wrongful Act means

- (1) any error, misstatement, misleading statement, act, omission, negligence, or breach of duty actually or allegedly committed or attempted by any of the Insured Persons, individually or otherwise, in their capacity as such, or
- (2) any matter claimed against an Insured Person solely by reason of his serving in such capacity.

Except as may be otherwise specifically provided in this policy, wrongful act does not include any conduct actually or allegedly committed or attempted by Insured Persons in their capacity as a director, officer, trustee or employee of any organization other than the Insured, even if service in such capacity is with the knowledge and consent of, at the direction or request of, or part of the duties regularly assigned to the Insured Person by the Insured.

Interrelated Wrongful Acts means

all wrongful acts that have as a common nexus any fact, circumstances, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.

EXCEPTIONS

The Insurer shall not be liable for loss arising from any claim

1. based upon, arising out of, or attributable to any fact, circumstance or situation which has been the subject of any written notice given under any policy of which this policy is a renewal or replacement;
2. based upon, arising out of, or attributable to any prior or pending litigation against the Insured or any Insured Person as at the inception of this policy or the same or substantially the same fact, circumstance or situation underlying or alleged therein;
3. brought or maintained by or on behalf of the Insured or any Insured Person in any capacity except:
 - (a) a claim that is a derivative action brought or maintained on behalf of the Insured by one or more persons who are not Insured Persons and who bring and maintain the claim without the solicitation or instigation of the Insured or any Insured Person;
 - (b) a claim brought or maintained by any Insured Person for contribution or indemnity, if the claim directly results from another claim covered under this policy; or
 - (c) a claim brought or maintained by any employee of the Insured described in the definition of Insured Person sub-paragraph (2); or
 - (d) a claim brought or maintained by any Insured Person for any actual or alleged employment related wrongful act;
4. for a wrongful act by an Insured Person in an outside position if such claim is brought or maintained by or on behalf of the entity in which the Insured Person serves or by or on behalf of any director, officer or trustee of such entity except a claim that is a derivative action brought or maintained on behalf of such entity by one or more persons who are not directors, officers, or trustees of such entity and who bring and maintain the claim without the solicitation, assistance or active participation of such entity or such directors, officers or trustees;
5. 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 any share option, share incentive scheme or trust established in whole or in part for the benefit of any of the directors, officers or employees of the Insured;
6. for bodily injury, mental anguish, emotional distress, sickness, disease or death of any person, or for 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;

Provided this exclusion shall not apply in respect of any actual or alleged mental anguish, emotional distress, libel, slander, defamation of character or violation of a person's right of privacy in any claim by a past, present or prospective employee of the Insured for any employment-related wrongful act.
7. based upon, arising out of, or attributable to
 - (a) the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of pollutants into or on real or personal property, water or the atmosphere; or
 - (b) any direction or request that the Insured or the Insured Persons test for, monitor, clean up, remove, contain, treat, detoxify or neutralise pollutants, or any voluntary decision to do so; including without limitation any securities claim or any other claim by or on behalf of the Insured, its securities holders or creditors based upon, arising out of, or attributable to the matters described in this exception;
8. arising from any wrongful act which occurred prior to the retroactive date stated in the schedule provided that nothing contained within this exception shall be interpreted as releasing the Insured from their obligation to disclose as a material fact all details of claims made or outstanding or events likely to give rise to a claim;
9. for any deliberately fraudulent act or omission or any willful violation of any statute or regulation if a judgment or other final adjudication adverse to such Insured Person establishes that such Insured Person committed in fact such an act, omission or willful violation; or
10. based upon, arising out of, or attributable to such Insured Person gaining in fact any personal profit; remuneration or financial advantage to which such Insured Person was not legally entitled;
11. based upon, arising from or in consequence of the rendering of or failure to render professional services;

12. based upon, arising from or in consequence of the failure to arrange, maintain or buy insurance;

13. Initial Offering/Secondary Offering/Prospectus Exclusion

based on, arising from or attributable to any actual or intended private placement or public offering of any securities of the Insured;

However, in the event of any private placement or public offering the Insurers may consider removal of this exclusion but consideration of such removal is subject to receipt from the Insured of:

- (i) a written declaration signed and dated by the Chairman or Chief Executive Officer stating that the offering is not in contravention of the Articles of Association, Constitution, laws or bye-laws of the Insured and that after enquiry to the best of his knowledge and belief he is not aware of any circumstance which could give rise to a claim against the Insured Person(s) or the Insured; and
- (ii) a copy of all filings and/or documents which have been or are presented to any relevant authority and/or the existing and/or prospective shareholders or stockholders of the Insured; and
- (iii) such additional premium together with agreement to any revised terms, conditions and/or exclusions as may be required by the Insurers.

14. Nuclear Exclusion

based upon and or arising out of or in any way involving any loss, destruction, consequential loss, or legal liability of whatsoever nature caused by or contributed to either directly or indirectly by ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or by radioactive, toxic, volatile or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

15. War and Terrorism Exclusion

Notwithstanding any provision to the contrary within this policy or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

- (a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- (b) any act of terrorism.

For the purpose of this exception any act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization or government committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear.

This exception also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (a) and/or (b) above.

If the Insurer alleges that by reason of this exclusion any loss, damage, cost or expense is not covered by this policy the burden of proving the contrary shall be upon the Insured.

16. Major Shareholder Exclusion

The Insurers shall not be liable for any claim brought by a major shareholder against an Insured Person for any actual or alleged wrongful act.

For the purpose of this exception a major shareholder is a shareholder of the Insured

- (a) who owns or controls more than 50% percentage of the ordinary shares; or
- (b) who has the right to appoint or remove directors holding more than 50% percentage of the voting rights at meetings of the board; or
- (c) who has the sole control of more than 50% percentage of the voting rights in the Insured, whether pursuant to an agreement with other members or otherwise.

17. Commissions and Bribes Exclusion

The Insurers shall not be liable for any claim arising from or in consequence of alleged or actual

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

18. Money Laundering Exclusion

The Insurer shall not be liable to make any payment in connection with any loss 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 the Money Laundering Exclusion shall be upon the Insured.

Solely for the purposes of this Exclusion, the following Definition applies:

"Money Laundering" means the actual or attempted conspiracy to commit or commission, aiding, abetting, counselling, procuring, or inciting of any act which is in breach of and/or constitutes an offence or offences under

- (a) any money laundering legislation (or any provision and/or rule or regulations made by any Regulatory Body or Authority thereunder), including any act which, if it occurred in a part of the United Kingdom, would be unlawful under Part 7 of the Proceeds of Crime Act 2002 (c.29) et seq. and/or any act which, if it occurred in a part of the United States, would be unlawful under Racketeer Influenced and Corrupt, Organisation Act 18 United States Code 1961 et seq.; or
- (b) any legislation which implements or is designed to implement the European Council Directive, 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering as amended (including Part 3 of the United Kingdom Terrorism Act 2000 (c.11) et seq.), and/or,
- (c) any offence under the International Convention for the Suppression of Financing of Terrorism.

CONDITIONS

1. Limit of Indemnity and First Amount Payable

- (a) For the purposes of this policy, all claims arising out of the same wrongful act and all interrelated wrongful acts of the Insured Persons shall be deemed one claim, and such claim shall be deemed to be first made on the date the earliest of such claims is first made against them, regardless of whether such date is before or during the Period of Insurance.
- (b) The Insurers maximum liability for loss on account of all claims first made during the same period of insurance, whether covered under one or more insuring agreements, shall be the limit of indemnity for each period of insurance set forth in the schedule.
- (c) Except as otherwise provided in this clause the Insurer's liability in respect of loss arising from each claim shall apply only to that part of loss which is excess of the applicable first amount payable stated in the schedule and such first amount payable shall be borne by the Insured uninsured and at its own risk.
- (d) No first amount payable shall apply to loss covered by Insuring Agreement A, except as otherwise provided in paragraph 2. below. If Loss arising from a single claim is covered in part under Insuring Agreement A and in part under Insuring Agreement B, the applicable first amount payable stated in the schedule shall be applied to that part of the loss covered by Insuring Agreement B. The largest applicable first amount payable set forth in of the schedule shall be the maximum first amount payable applicable to all loss on account of such claim.

- (e) Defence costs shall be part of and not in addition to the limit of indemnity stated in the schedule, and said limit of indemnity shall be reduced by the amount of such defence costs.
- (f) For purposes of this clause the limit of indemnity for the discovery period, if exercised, shall be part of and not in addition to the limit of indemnity for the period of insurance.
- (g) The exercise of the discovery period option shall not increase or reinstate the limit of indemnity stated in the schedule, which shall be the maximum liability of the Insurers for all loss on account of all claims first made during the period of insurance and discovery period, combined.

2. Indemnification

If the Insured is permitted or required by common or statutory law but fails or refuses, other than for reason of financial impairment, to advance defence costs or indemnify the Insured Persons for loss, then notwithstanding any other terms, conditions or exceptions of this policy to the contrary, any payment by the Insurers of such defence costs or other loss shall be subject to

- (a) the first amount payable stated in the schedule as applicable to Insuring Agreement B; and
- (b) all other terms, conditions and exceptions as set forth in the policy.

For purposes of this clause the shareholder and board of directors resolutions of the Insured shall be deemed to provide indemnification for such defence costs or other loss to the fullest extent permitted by law.

3. Notification of Claims

The Insured shall, as a condition precedent to their rights under this policy

- (a) advise the Insurers as soon as reasonably possible of any claim, but in no event later than 30 days after such claim is first made against an Insured Person;
- (b) advise the Insurers as soon as reasonably possible after they become aware of any circumstances which could give rise to a claim; any claim subsequently arising from such circumstances shall be deemed to have been made at the time that the circumstances were first reported;
- (c) give to the Insurers such information and cooperation as the Insurers may reasonably require, including but not necessarily limited to a description of the claim or circumstances, the nature of the alleged wrongful act, the nature of the alleged or potential damage, the names of actual or potential claimants and the manner in which the Insured first became aware of the claim or circumstances.
- (d) Notice to the Insurer under this policy shall be given to Camargue Underwriting Managers (Pty) Ltd either:
 - (i) by post at Postnet Suite 250, Private Bag X4, Bedfordview 2008, South Africa; or
 - (ii) by facsimile (fax) at +27 11 356 4847; or
 - (iii) by e-mail at camargue@camargueum.co.za.

Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee or two days following the date such notice is sent, whichever is earlier.

4. Defence and Settlement of Claims

- (a) It shall be the duty of the Insured and the Insured Person(s) and not the duty of the Insurers to defend any claim.
- (b) The Insured and Insured Person(s) agree not to settle or offer to settle any claim, incur any defence costs or otherwise assume any contractual obligation or admit any liability with respect to any claim without the Insurers written consent. The Insurers shall not be liable for any settlement, defence costs, assumed obligation or admission to which it has not consented.
- (c) In respect of any claim submitted under this policy, the Insurers shall have the right and shall be given the opportunity to effectively associate with, and shall be consulted in advance by, the Insured and Insured Person(s) regarding:

- (i) the selection of appropriate defence attorneys and counsel;
 - (ii) substantive defence strategies, including, without limitation, decisions regarding the filing and content of substantive motions;
 - (iii) settlement negotiations.
- (d) The Insured and Insured Person(s) shall provide the Insurers with all information, assistance and co-operation which the Insurers reasonably request and agree that in the event of a claim they will do nothing that shall prejudice the Insurers position or their potential or actual rights of recovery. The Insurers may make any investigation they deem necessary.
- (e) The Insurers may, with the written consent of the Insured, settle any claim for solely a monetary amount which the Insurer deems reasonable. If the Insured withholds consent of such settlement, the Insurers liability for all loss on account of such claim shall not exceed the amount for which the Insurer could have settled such claim plus defence costs accrued as of the date such settlement was proposed in writing by the Insurers to the Insured.

5. Advancement of Costs

Subject to Condition 6 Allocation, the Insurer may at its sole discretion advance on behalf of the Insured Person(s) defence costs which the Insured Person(s) have incurred in connection with claims made against them, prior to the final disposition of such claims, provided that

- (a) the Insured Person(s) shall give to the Insurers a written undertaking that, in the event it is finally established that any such defence costs are not covered under this policy, they agree to repay the Insurers such defence costs.
- (b) any such advancement of defence costs shall reduce the limit of indemnity for such claim to the extent that they are not repaid to the Insurer in accordance with (a) above, whether or not it is finally established that the Insurer has any liability for such claim.

6. Allocation

If in any claim the Insured and/or Insured Person(s) incur loss jointly with others, or incur loss partly covered by this policy and partly not covered, then the Insured and the Insurers shall allocate such amount between loss covered and not covered based upon the relative legal exposures of the parties to matters covered and not covered.

If there can be an agreement on an allocation of defence costs, the Insurer shall advance on a current basis defence costs allocated to the covered loss. If there can be no agreement on an allocation of defence costs, the Insurers shall advance on a current basis defence costs which the Insurers believe to be covered under this policy until a different allocation is negotiated, arbitrated or judicially determined. Any advancement of defence costs shall be subject to, and conditional upon receipt by the Insurers of a written undertaking by the Insured and/or Insured Person(s) that such advanced amounts shall be repaid to the Insurers by the Insured and Insured Person(s) severally according to their respective interests if and to the extent they shall not be entitled under the terms and conditions of this policy to cover for such defence costs.

Any negotiated, arbitrated or judicially determined allocation of defence costs on account of a claim shall be applied retroactively to all defence costs on account of such claim, notwithstanding any prior advancement to the contrary. Any allocation or advancement of defence costs on account of a claim shall not apply to or create any presumption in respect of the allocation of other loss on account of such claim or any other claim.

7. Other Insurance

If any loss arising from any claim made under this policy is insured under any other valid and collectable policy(ies), prior or current, then this policy shall cover such loss, subject to its terms, conditions and exceptions only to the extent that the amount of such loss is in excess of the amount of such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the limit of indemnity provided by this policy.

8. Acquisition or Creation of Another Organisation

If during the period of insurance the Insured

- (a) acquires securities in another organisation or creates another organisation, which as a result of such acquisition or creation becomes a subsidiary, or

(b) acquires any organisation by merger into or consolidation with the Insured,

such organisation and its Insured Persons shall be covered under this policy as follows:

- (i)** If the fair value of all cash, securities, assumed indebtedness and other consideration paid by the Insured for any such acquisition or creation is less than 20% of the total assets of all of the companies as reflected in the Insured's most recent financial statements as at the inception of the period of insurance, such organisation and its Insured Persons shall automatically be covered under this policy, but only with respect to wrongful acts taking place after such acquisition or creation, unless the Insurers agree after presentation of the complete application and all appropriate information to provide cover by endorsement for wrongful acts taking place prior to such acquisition or creation.
- (ii)** In respect of all other acquisitions or creations described in (a) or (b) above, such organisation and its Insured Persons shall automatically be covered under this policy but only for ninety (90) days or the remainder of the period of insurance, whichever is less, following the effective date of such acquisition or creation ("automatic cover period") and only in respect of wrongful acts taking place after such acquisition or creation. The parent company, as a condition precedent to further cover in respect of such organisation and its Insured Persons after such automatic cover period, shall give written notice of such acquisition or creation to the Insurers as soon as reasonably possible but in no event later than thirty (30) days following the effective date of such acquisition or creation, and shall thereafter promptly provide to the Insurers such information as the Insurers may request.

Upon receipt of such notice and other information, the Insurers shall promptly provide to the parent company a quotation for cover under this policy for such organisation and its Insured Persons for the remainder of the period of insurance. If the parent company fails to comply with such condition precedent, or if within thirty (30) days following receipt of such quotation the parent company fails to pay any additional premium or fails to agree to any additional cover terms and conditions as set forth in such quotation, cover otherwise afforded by this clause for such organisation and its Insured Persons shall terminate upon expiration of such automatic cover period.

9. Acquisition of Parent Company

If during the period of insurance

- (a)** the parent company merges into or consolidates with another organisation, or
- (b)** another organisation, or person or group of organisations and/or persons acting in concert, acquires securities or voting rights which result in ownership or voting control by the other organisation(s) or person(s) of more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors of the parent company,

cover under this policy shall continue until termination of this policy but only in respect of claims for wrongful acts taking place prior to such merger, consolidation or acquisition. As of the effective date of such merger, consolidation or acquisition, all premiums paid or due at any time under this policy shall be deemed fully earned and non-refundable.

The parent company shall give written notice of such merger, consolidation or acquisition to the Insurers as soon as reasonably possible together with such information as the Insurers may request. Upon receipt of such notice and information and at the request of the parent company, the Insurers shall promptly provide to the parent company a quotation for an extension of cover in respect of claims for wrongful acts taking place prior to such merger, consolidation or acquisition. Any cover extension pursuant to such quotation shall be conditional upon the Insured, within sixty (60) days after receipt of such quotation:

- (i)** giving to the Insurers written notice of their desire to elect such extended cover;
- (ii)** paying any additional premium required by the Insurers, which shall be deemed fully earned upon inception of such cover extension, and
- (iii)** accepting any additional terms and conditions required by the Insurers.

Such cover extension shall not increase or reinstate the maximum limit of indemnity set forth in the schedule and the limit of indemnity for such cover extension shall be part of and not in addition to the limit of indemnity for the period of insurance.

The Insured shall not be entitled to elect an extension of cover under this clause if a discovery period is elected pursuant to Extension 3 Discovery Period.

10. Cessation of Subsidiaries

If before or during the period of insurance an organisation ceases to be a subsidiary, cover in respect of such subsidiary and its Insured Persons shall continue until termination of this policy but only in respect of claims for wrongful acts taking place prior to the date such organisation ceased to be a subsidiary.

11. Severability of Exceptions

No fact pertaining to or knowledge possessed by any Insured Person shall be imputed to any other Insured Person for purposes of applying the exceptions set forth in this policy. Only facts pertaining to or knowledge possessed by an executive officer shall be imputed to the Insured for purposes of applying the exceptions set forth in this policy.

12. Representations and Severability

In granting cover under this policy, the Insurers have relied upon the statements and representations in the proposal form. The Insured represents that all such statements and representations are true and shall be deemed material to the acceptance of the risk or the hazard assumed by the Insurers under this policy which is issued in reliance upon the truth thereof.

The Insured agrees that in the event that any such statements and representations are untrue, this policy shall not afford any cover in respect of any of the following Insured Persons:

- (a) any Insured Person who knew the facts that were not truthfully disclosed in the proposal form;
- (b) the Insured, under Insuring Agreement B, to the extent it indemnifies any Insured Person referred to in (a) above.

13. Territory

This policy covers wrongful acts occurring and claims made in the Republic of South Africa.

14. Termination of Policy

This policy shall terminate at the earliest of the following times:

- (a) the effective date of termination specified in a prior written notice by the parent company to the Insurers, provided this policy may not be terminated by the parent company after the effective date of the parent company merger, consolidation or acquisition as described in Condition 9 Acquisition of Parent Company; or
- (b) upon expiration of the period of insurance as stated in the schedule; or
- (c) ten (10) days after receipt by the parent company of a written notice of termination from the Insurers for failure to pay a premium when due, unless the premium is paid within such ten (10) day period; or
- (d) at such other time as may be agreed upon by the Insurer and the parent company.

The Insurers may not terminate this policy prior to expiration of the period of insurance, except as provided above for non-payment of a premium. The Insurers shall refund the unearned premium computed at customary short period rates if this policy is terminated by the parent company.

Under any other circumstances the refund shall be computed pro rata. Payment or tender of any unearned premium by the Insurers shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as reasonably possible.

15. Subrogation

The Insured and Insured Person(s) shall, at the expense of the Insurers, do and permit to be done all such things as may be necessary or reasonably required by the Insurers for the purpose of enforcing any rights to which the Insurers shall be or would become subrogated upon indemnification of the Insured whether such things shall be required before or after such indemnification.

16. Action Against the Insurers

- (a) No action shall lie against the Insurers unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy.
- (b) No person or organisation shall have any right under this policy to join the Insurers as a party to any action against Insured Persons nor shall the Insurers be impleaded by the Insured, the Insured Persons or their legal representatives.
- (c) Liquidation or insolvency of an Insured or of the estate of any Insured Person shall not relieve the Insurers of their obligations nor deprive the Insurers of their rights or defences under this policy.

17. Authorisation Clause

By acceptance of this policy, the parent company agrees to act on behalf of the Insured and Insured Persons in respect of the giving and receiving of notice of claim or termination, the payment of premiums and the receiving of any return premiums that may become due under this policy, the agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this policy (except as regards the Insured Person(s) ability to apply for the discovery period), and the Insured and Insured Persons agree that the parent company may so act on their behalf.

18. Alteration and Assignment

No change in, modification of, or assignment of interest under this policy shall be effective except when made by a written endorsement to this policy which is signed by an authorised representative of the Insurers.

19. Jurisdiction

This policy shall be governed by the law of the Republic of South Africa and shall be subject to the exclusive jurisdiction of the competent courts thereof.

EXTENSIONS

1. Estates and Legal Representatives

This policy shall cover claims for wrongful acts made against the estates, heirs, legal representatives or assigns of Insured Persons who are deceased or against the legal representatives or assigns of Insured Person(s) who are incompetent, insolvent or liquidated to the extent that in the absence of such death, incompetence, insolvency or liquidation, such claims would have been covered under this policy.

2. Spousal Liability

If a claim against an Insured Person includes a claim against the Insured Person's lawful spouse solely by reason of

- (a) such spouse's legal status as a spouse of the Insured Person, or
- (b) such spouse's ownership interest in property which the claimant seeks as recovery for alleged wrongful acts of the Insured Person,

all loss which such spouse becomes legally obligated to pay by reason of such claim shall be treated for purposes of this policy as loss which the Insured Person becomes legally obligated to pay on account of the claim made against the Insured Person. All terms and conditions of this policy, including without limitation the first amount payable, applicable to loss incurred by such Insured Person in the claim shall also apply to such spousal loss.

The cover provided by this extension does not apply to the extent that the claim alleges any wrongful act by the Insured Person's spouse.

3. Discovery Period

If the Insurers or the Insured do not renew this policy or if the parent company terminates this policy, the Insured and Insured Persons shall have the right, upon payment of an additional premium equal to 100% of the annual premium for this policy, to an extension of the cover for a period of 12 (twelve) months (the discovery period) following the effective date of such non-renewal or termination, but only in respect of a wrongful act otherwise covered under this policy taking place prior to the effective date of such non-renewal or termination.

This right of extension shall lapse unless written notice of such election, together with payment of the additional premium due, is given by the Insured to the Insurers within thirty (30) days following the effective date of termination or of non-renewal. Any claim made during the discovery period shall be deemed to have been made during the period of insurance.

The premium due for the discovery period shall be deemed fully earned and non-refundable upon payment.

The Insured shall not be entitled to elect the discovery period under this extension if an extension of cover is granted pursuant to Condition 9 Acquisition of Parent Company.

4. Corporate Manslaughter

Notwithstanding anything to the contrary in Exception 6, the Insurers will indemnify the Insured Persons in respect of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the Insured) necessarily incurred in connection with a formal hearing into the affairs of the Insured arising out of any action brought against the Insured alleging corporate manslaughter even though the Insured Persons have not been named in the investigation provided that the Insurers liability in respect of this extension shall not exceed the limit of indemnity stated in the schedule.

5. Extradition Costs

(a) Costs of defending extradition proceedings

The Insurers will pay the reasonable fees, costs and expenses of each Insured Person (other than remuneration of the Insured Person, cost of their time or costs or overheads of any company) incurred with the Insurers prior written consent, by or on behalf of such Insured Person acting in their capacity as such, in connection with challenging, resisting and/or defending extradition proceedings brought against such Insured Person, following:

- (i) receipt by such Insured Person of an official notice in writing from the responsible governmental authority advising of a request for extradition being made against them; or
- (ii) the execution of a warrant for the arrest of such Insured Person,

whichever is the earlier.

Extradition proceedings includes any appeal relating thereto as well as judicial review applications challenging the designation of any territory for the purposes of the Extradition Act 1962 and the Amendment Amendment Act, No 79 of 1996 of the Republic of South Africa (or the equivalent legislation in any other territory), (including for the avoidance of doubt, the selection of the USA as a designated category 2 territory), any extradition decision by the Secretary of State or applications to the European Court of Human Rights or similar court with respect to extradition proceedings.

The Insurers liability in respect of this extension shall not exceed 20% of the limit of indemnity stated in the schedule.

(b) Extradition crisis costs and extradition media expenses

The Insurers will pay, as part of the limit of indemnity, at the election of the Insured Person:

- (i) up to 10% of the sub-limit for extradition costs for media expenses; and
- (ii) up to 10% of the sub-limit for extradition costs for extradition crisis costs

For the purposes of this extension

- (i) extradition crisis costs mean the reasonable fees, costs and expenses of any accredited counsellor and/or tax adviser retained by the Insured Person, with the Insurers prior written consent, directly in connection with extradition proceedings brought against such Insured Person;
- (ii) extradition media expenses mean the reasonable fees, costs and expenses of public relations consultants retained by the Insured Person, with the Insurers prior written consent, directly in connection with extradition proceedings brought against such Insured Person.

6. General Counsel Liability

The provision of professional advice or services of any internal general counsel in the full time employment of the Insured given exclusively to the Insured with regard to the direction or management of the Insured shall not be regarded as falling within the scope of professional services as envisaged by Exception 11.

7. Emergency Costs

If the Insurers written consent cannot be obtained before defence costs are incurred with respect to loss indemnifiable in terms of this policy, the Insurers will give retrospective approval for such defence costs provided that the Insurers liability shall not exceed 10% of the limit of indemnity and provided further that such approval is sought as soon as reasonably practicable.

8. Deprivation of Assets Extension

This policy is extended to include Deprivation of Assets Expenses arising from a claim or investigation first made during the policy period . Insurers will pay directly to service providers expenses incurred by an Insured Person relating to schooling, housing, utilities and personal insurances for a period not exceeding 12 months commencing 30 days after the execution of an interim or interlocutory order confiscating, controlling, suspending or freezing rights of ownership of, or creating a charge over, real or personal assets of such Insured Person,

provided that:

- (a) a personal allowance has been directed by a court to meet such payments; and
- (b) such personal allowance has been exhausted; and
- (c) the liability of the Insurers in terms of this extension shall be sub-limited to 1% of the limit of indemnity for each Insured Person and the sub-limited in the annual aggregate to 10% of the limit of indemnity which limit shall be in excess of the general limit of indemnity.

9. Public Relations Expenses

Subject to their prior written agreement, Insurers will pay fees, costs and expenses of public relations consultants crisis management firm or law firm retained by an Insured Person reasonably incurred by such Insured Person in order to prevent or limit adverse effects or negative publicity which it is anticipated may arise from a claim or investigation directly in connection with a wrongful act for which a claim has been admitted in terms of this policy provided that the liability of the Insurers in terms hereof shall be sub-limited to 5% of the limit of indemnity stated in the schedule.

10. Reputation Protection Expenses

Subject to their prior written agreement, Insurers will pay the reasonable fees and related expenses of a public relations firm or consultant retained by an Insured Person in order to disseminate the findings of a final adjudication in favour of Insured Person arising out of a claim that has been admitted in terms of this policy provided that the liability of the Insurers shall not exceed the limit of indemnity stated in the schedule.

11. Pollution Defence Costs

Notwithstanding anything stated in Exception 7 cover is granted in respect of defence costs up to R250,000 incurred in connection with the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of pollutants.

12. Reinstatement of Limit of Indemnity

In the event of the reduction of the Limit of Indemnity specified in the Schedule, in whole or in part, by reason of payment of any Loss including Costs and Expenses then such Limit of Indemnity shall be automatically reinstated to the extent of such reduction provided that:

- 1. such reinstated Limit of Indemnity shall only apply in respect of those Claims that are not causally or logically connected by reason of inter alia any common facts, circumstances, situations, transactions, events or decisions or related series thereof, as the Claim(s) which triggered this provision, and;
- 2. the total liability of Underwriters under this Policy shall not exceed a total aggregate amount of twice that sum stated in the Schedule.

In the event of the existence of excess insurance which provides a limit of indemnity specifically to apply excess over the Limit of Indemnity of this Policy, this provision is amended so as to apply only in the event of the exhaustion of the Limit of Indemnity of this Policy and the limit(s) of indemnity provided under any applicable excess insurance policies.

13. VAT Exclusive

The limit of indemnity is expressed on a VAT-exclusive basis. The Insurers agree to indemnify the Insured and/or Insured Persons, over and above the limit of indemnity, for any VAT obligation they may incur arising out of any claims settlement made hereunder.

14. Retired Directors' or Officers' Cover

In the event that this policy is not renewed and not replaced with another policy affording Directors' and Officers' Liability cover and a discovery period is not invoked, the cover provided by this policy shall, subject to the limit of indemnity, extend to indemnify any retired director or officer in respect of claims brought against such person during the period of 6 years immediately following the date of such non-renewal. For the purposes of this extension a retired director or officer shall mean one who has ceased to hold office prior to the expiry of the period of insurance for any reason other than disqualification from holding office as a company director.

15. Non-Executive Directors' Protection

In the event of the Insurers avoiding this policy from inception or from the time of any variation in cover due to fraudulent conduct, non-disclosure, misrepresentation or intent to deceive by the Insured or one or more of the Insured Persons, the Insurers shall maintain cover for each non-executive director who is insured under this policy until the expiry date of the policy unless the Insurers are able to establish that such non-executive director was involved in or aware of any such fraudulent conduct, non-disclosure, misrepresentation or intent to deceive.

16. Special Excess Protection for Directors

The Insurers will pay the non-indemnifiable loss of each and every director and non-executive director, up to the directors and non-executive directors special excess limit, due to any wrongful act when:

- (i) the limit of indemnity; and
- (ii) all other applicable management liability insurance whether specifically written as excess over the limit of indemnity of this policy or otherwise
- (iii) all other indemnification for loss available to any director and non-executive director

have all been exhausted

For the purposes of this extension non-indemnifiable loss means that loss in respect of defence costs only of an Insured Person for which the Insured is unable to indemnify such Insured Person due to legislative prohibition or due to its insolvency.

The Insurers liability in respect hereof shall not exceed the sub-limit of 1% of the limit of indemnity for each director and non-executive director and sub-limited to an annual aggregate amount of 10% of the limit of indemnity in all.

17. Tax, COID and UIF Extension

This policy is extended to include the loss of any Insured Person arising from their personal liability for unpaid taxes, Compensation for Occupational Injuries & Disease and Unemployment Insurance Fund contributions where the Insured has become insolvent except to the extent that such liability arises out of wilful intent on the part of the Insured Persons to breach any statutory duty governing the payment of such taxes and contributions, provided that:

- (a) the Insurers liability in terms hereof shall be sub-limited to 10% of the limit of indemnity; and
- (b) the Insurers have not invoked the Insolvency Exclusion.

18. Injury and Damage Defence Costs

Notwithstanding anything to the contrary in Exception 6, the Insurers will pay the non-indemnifiable loss related to defence costs only of an Insured Person in any instance where the general liability insurance effected by the Insured fails to respond.

For the purposes of this extension non-indemnifiable loss means that loss of an Insured Person for which the Insured is unable to indemnify due to legislative prohibition or due to its insolvency.

The Insurers liability in respect hereof shall be sub-limited to 20% of the limit of indemnity.

19. Fines and Penalties Extension

Notwithstanding anything contained in the policy to the contrary, the Insurers will pay on behalf of the Insured Persons any civil fines and penalties imposed on such Insured Persons by law following an official investigation, examination, inquiry or like proceeding ordered or commissioned by any official or regulatory authority that is granted a recognition order by the Financial Services Board or equivalent official or regulatory authority in any other jurisdiction to which this insurance applies to investigate the affairs of the Insured, other than the following:

- (a)** fines or penalties imposed in connection with intentional or fraudulent acts;
- (b)** any form of criminal fines or penalties;
- (c)** fines or penalties considered uninsurable under the law applicable to the policy or by any other applicable law;
- (d)** fines or penalties imposed in connection with any breach of any form of tax regulation or tax infringement;

The Insurers liability in terms of this extension is sub-limited to 2.5% of the limit of indemnity stated in the schedule.