

# Fidelity and Computer Crime Insurance Policy

Building  
Insurance  
Specialists



**CIA**

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# FIDELITY AND COMPUTER CRIME INSURANCE POLICY

## THE CONTRACT

This **policy** is a contract between **you** and **us**. The Insurer is referred to as **we, us** or **our**, and the Insured is referred to as **you, your** or **yours**.

Some words with special meanings are shown in **bold italic**. These words are defined. Words that are not specifically defined in this policy have the meaning ordinarily attributed to them.

Unless stated to the contrary the singular includes plural and vice versa.

Details of the Insurer, the Underwriting Manager and **your** broker are shown in the **schedule**.

This document contains the following important information:

- The definitions and meanings of certain important words.
- What **you** are covered for.
- What cover is limited.
- **What you are not covered for.**
- How **we** settle claims.

There are Specific **Exclusions**, General **Exclusions**, Conditions and Provisions, and Claims Procedures and Conditions that must be adhered to in order for **you** to enjoy cover.

The contract is based on the information provided by **you** when **you** applied for this insurance, and any information which **you** have supplied since then.

If **you** require any further information about this insurance or need anything explained in more detail, please contact **your** broker.

## OUR AGREEMENT WITH YOU

Subject to **you** having paid the premium and if **you** comply with all the terms and conditions of this **policy**, **we** will provide **you** with the cover as set out in this **policy** up to the **sums insured** or **limits of indemnity** specified in the **schedule**.

The cover will start and end on the dates as shown in the **schedule**.

## DEFINITIONS

### BODY CORPORATE

Means the body corporate as defined in the Sectional Titles Schemes Management Act (No. 8 of 2011) as amended or substituted from time to time and named in the **schedule**.

### COMPANY

Means the legal entity described in the **schedule** as the insured, registered in terms of; the Companies Act (No. 71 of 2008), or the Share Blocks Control Act (No. 59 of 1980), or the Housing Development Schemes for Retired Persons Act (No. 65 of 1988) all as amended or substituted from time to time, or any similar applicable legislation.

### COMPUTER NETWORK

Means interconnected electronic, wireless, web, or similar systems (including all hardware and software) used to process **data** or information in an analogue, digital, electronic or wireless format including, but not limited to, computer programs, electronic **data**, operating systems, servers, media libraries, associated input and output devices, mobile devices, networking equipment, websites, extranets, off line storage facilities (to the extent that they hold electronic **data**), and electronic backup equipment.

### COMPUTER CRIME

Means **loss** of **funds** resulting directly from fraudulent or dishonest misuse or manipulation, including a **computer virus** and **phishing**, by a third party of the **computer network**, programs or funds transfer systems owned or operated by an **insurable person**.

### COMPUTER VIRUS

Means a set of unauthorised instructions, programmatic or otherwise that propagate themselves including any Trojan horse, time or logic bomb, or worm, or any other destructive or disruptive code, media or program, or interference through the **insurable persons computer network** via the means inherent in the operation of such systems, which instructions are maliciously introduced by a person which cause the **insurable person** to transfer or pay or deliver any **funds** or property, establish any credit debit any account or give any value as a direct result of the destruction or attempt thereof of the **insurable persons** electronic **data** while such **data** is stored within the **insurable persons computer network** or a service provider's **computer network**;

### CRISIS MANAGEMENT COSTS

Means any fees reasonably and necessarily incurred by **you**, having first obtained **our** written consent, for the engagement of a public relations consultant, advertising expenses and legal expenses if **you** reasonably consider that such appointment is needed in order to avert or mitigate any material damage to any of **your** brands.

## CRIMINAL ACT

Means any act of **internal crime** or **external crime** which causes a **loss** to **you**.

**Internal crime** means any theft, fraudulent or dishonest single, continuous or repeated act(s) or a series of acts committed by an **insurable person** acting alone or in collusion with others, with the intent to cause **you** loss, or to obtain **improper financial gain**.

**External crime** means any fraudulent or dishonest single, continuous or repeated act(s) or a series of acts committed by a third party, acting alone or in collusion with others, of:

- a) theft of **funds**;
- b) **fraudulent alteration**;
- c) **fraudulent transfer instructions**; or
- d) **computer crime**;

**External crime** does not include:

- a) corporate transaction involving the purchase or sale of shares, equity, debt or assets of an entity;
- b) **voluntary exchange** or **purchase** unless covered under **fraudulent alteration, fraudulent transfer instructions** or **computer crime**; or
- c) investment activities, being the act or purported act of investing in securities, commodities, futures or foreign exchange.

## CUSTOMER NOTIFICATION EXPENSES

Means those reasonable and necessary expenses **you** incur following a **security breach, privacy breach**, or breach of **privacy regulations** on **your computer network** that results in the compromise of **your** personal information maintained on that **computer network**.

## CUSTOMER SUPPORT EXPENSES

Means those reasonable and necessary expenses **you** incur for the provision of credit file monitoring services and identity theft education and assistance.

## CYBER COSTS AND EXPENSES

Means costs, authorised by **us**, for **your** own reasonable and necessary costs and expenses of specialists, investigators, forensic auditors, or loss adjusters retained by **you** for the purpose of conducting a review or audit to substantiate that a **cyber event** is occurring or has occurred.

## CYBER EVENT

Means any **security breach, privacy breach**, breach of **privacy regulations** or an attack by **malicious code** which occurs on **your computer network**.

**DATA**

Means any machine-readable information, including ready for use programs or electronic **data**, irrespective of the way it is used and rendered including, but not limited to, text or digital media.

**DATA DAMAGE**

Means;

- a) the criminal and malicious alteration, deletion or corruption of **data** while such **data** is in **your** custody and control or in transit;
- b) **your data** being lost, damaged or destroyed as a direct result of robbery, theft or malicious act;
- c) the malicious alteration or destruction of electronic computer programs while lawfully stored within your **computer network**.

**DIRECTOR**

Means any past or present, elected, co-opted or alternate directors of the **company**.

**DISCOVERY**

Means when an **insurable person** first becomes aware of any actual or potential claim by a third party or of any **loss** for which indemnity is or may be provided under this **policy**, or of any fact or circumstance which would cause a reasonable person to assume that any **loss** has or may have occurred, regardless of:

- a) the time or place of any act, transaction or other event which has or may have caused or contributed to such claim or **loss**;
- b) whether the **insurable person's** knowledge for such claim or **loss** is such that at the time of first awareness, any **loss** could reasonably have been foreseen.

**EXECUTIVE OFFICER**

Means any person who is a **trustee, director**, or another person who exercises executive control over **your** financial affairs.

**FINANCIAL INSTRUMENT**

Means cheques, drafts or similar written promises, orders or directions to pay a certain sum of money that are made, drawn by or drawn upon **you** or by anyone acting or purporting to be acting as **your** agent.

**FRAUDULENT ALTERATION**

Means a material alteration to any authentic **financial instrument** for a fraudulent or dishonest purpose by any person. Any **financial instrument** which has been fictitiously or fraudulently created from the outset is not deemed to be a fraudulent alteration.

## FRAUDULENT TRANSFER INSTRUCTIONS

Means fraudulent:

- a) electronic, telegraphic, cable, teletype or telephone instructions to a financial institution to debit a transfer account and to transfer, pay or deliver funds from such account, which instructions purport to have been transmitted by an **insurable person** or by a person duly authorised **insurable person** to issue such instruction but which have been fraudulently transmitted by another; or
- b) written instructions to a financial institution to debit a transfer account and to transfer, pay or deliver funds from such account through an electronic funds transfer system at specified times or under specified conditions, which written instructions purport to have been duly issued by an **insurable person** but which have been fraudulently issued, forged or altered by another.

## FUNDS

Means money or securities owned by **you**, received by **you**, or collected on **your** behalf, which has been, or was to be used for the financial management of **your** affairs.

**Funds** do not include the personal money, securities or tangible property of an **insurable person**, tenants or unit owners.

## INSURABLE PERSON

Means any **executive officer**, employee or agent of **yours** who has control over **your funds** or **funds** for which **you** are responsible. **Your** appointed **managing agent** or contractor, employee or other person acting on behalf of or under the direction of **your managing agent**, who in the normal course of **your** affairs has access to or control over **your funds**.

## IMPROPER FINANCIAL GAIN

Means any person gaining any **funds** from **you** to which that person was not legally entitled.

**Improper financial gain** does not include salaries, bonuses, fees, commissions, promotion, reward or other remuneration.

## LEGAL LIABILITY

Means damages and the reasonable and necessary expenses, incurred with **our** written consent, in the investigation and defence of a claim against **you**. **Legal liability** does not include **your** internal costs such as salaries, overheads and other expenses that would have existed irrespective of the claim.

## LIMIT OF INDEMNITY

Means the most **you** can claim for any one incident, or in any one annual **period of insurance**, where so indicated. The amount is shown against the item in the **schedule** as the Limit of Indemnity. All claims or losses relating to the same act or series of acts committed by one person or in which one person is involved will be considered to be one **loss** for the purposes of the application of the **Limit of Indemnity**.



## LOSS

Means the direct financial loss of **funds** sustained by **you** as a direct result of a **criminal act** and will include investigation costs and **data** reconstruction costs.

## MALICIOUS CODE

Means software designed to infiltrate or damage a **computer network** without the owner's informed consent by a variety of forms including, but not limited to, Trojan horses, spyware, dishonest adware, and crime-ware.

## MANAGING AGENT

Means a person or company and its employees with delegated functions, appointed by the **body corporate** or the **company**, to control, manage and administer the business or affairs of the **body corporate** or the **company**. The appointment must be a written contract between the managing agent and the **body corporate** or the **company**.

## PERIOD OF INSURANCE

Means the period for which **you** have cover as stated in the **schedule** and any successive period for which **we** agree to accept a renewal premium.

## PHISHING

Means the dishonest, fraudulent, malicious or criminal attempt to obtain sensitive account access information using electronic means by deceiving an **insurable person** as to the origin of a communication.

## POLICY

Means this document and the most current **schedule** which may be in electronic or printed format.

## PRIVACY BREACH

Means a breach of confidentiality, infringement, or violation of any right to privacy including, the wrongful disclosure of confidential or private information.

## PRIVACY REGULATIONS

Means the following Acts, as well as similar applicable statutes and regulations, as they currently exist, and associated with the confidentiality, access, control, and use of personally identifiable, non-public information including, but not limited to:

- a) the Constitution of the Republic of South Africa Act 108 of 1996;
- b) the Electronic Communications and Transactions Act, 25 of 2002;
- c) the Promotion of Access to Information Act 2 of 2000;
- d) the Consumer Protection Act 68 of 2008 and regulations regarding the privacy of consumer information;
- e) the Regulation of Interception of Communications and Provision of Communications-Related Information Act 20 of 2002;
- f) Protection of Personal Information Act of 2013; and
- g) the common law in relation to the right to privacy; all as amended or substituted from time to time.

## SCHEDULE

Means the current attachment to this **policy** which shows the benefits, **sums insured**, **limits of indemnity** applicable and the premium payable. **You** will be provided with a schedule when **you** first take out **your** insurance and again whenever this **policy** is changed or renewed.

## SECURITY BREACH

Means the actual or alleged breach of duty by an **insurable person** in preventing the intentional misuse of a **computer network** to: modify, delete, corrupt, destroy or wrongfully disclose **data** or participate in a denial of service.

## SUM INSURED

Means the maximum amount **you** can claim for any one incident. The amount is shown against the item in the **schedule** as the Sum Insured. All claims or losses relating to the same act or series of acts committed by one person or in which one person is involved will be considered to be one **loss** for the purposes of the application of the **Sum Insured**.

## TRUSTEE

Means any past or present elected, co-opted or alternate trustee of the **body corporate**.

## TWO-STEP VERIFICATION PROCESS

Means a verification process that comprises two or more independent procedures being carried out to verify and confirm the legitimacy of any instruction to change banking details, add or amend beneficiaries, or attend to the withdrawal or transfer of funds. As a minimum the two step verification process should include both a written or electronic confirmation as well as a separate and independent telephonic verification.

## WE, US, OUR

Means the Insurer named in the **schedule**.

## VOLUNTARY EXCHANGE OR PURCHASE

Means the voluntary giving or surrendering (whether or not such giving or surrendering is induced by deception) of **funds** in any exchange or purchase.

## YOU, YOUR AND YOURS

Means the person, company or legal entity shown in the **schedule** as the Insured.

## WHAT YOU ARE COVERED FOR

**We** will provide **you** with the cover as set out below.

The most **we** will pay is the **sum insured** or the **limit of indemnity** shown in the **schedule** for any one event and in any one annual **period of insurance**.

### THEFT, FRAUD, DISHONESTY AND COMPUTER CRIME

**We** will pay for **loss of funds**, sustained as a direct result of any **criminal act**, all of which occurs during the **period of insurance** or after the **retroactive date** and which is discovered during the **period of insurance** or within 12 months of the termination of this **policy**.

### DATA DAMAGE EXPENSES

**We** will pay for the necessary and reasonable costs **you** incur, with **our** prior written consent, to rectify **data damage**. **Data damage does not include expenses to replace hardware, improve or optimise software, or arising from the incorrect use or obsolescence of hardware or software.**

### DATA PROTECTION

**We** will indemnify **you** for all claims first made during the **period of insurance**, occurring on or after the **retroactive date**, for:

- a) **your legal liability** arising out of a **cyber event**;
- b) **your legal liability** arising from a civil regulatory action, a civil penalty, or fines to the extent insurable by law, imposed by a governmental regulatory body against **you** arising from a **cyber event**;
- c) **crisis management costs, customer notification expenses** and **customer support expenses** when such costs and expenses are incurred, following a **cyber event**;
- d) **cyber costs and expenses**.

## EXTRA COVER

The following Extra Cover is included, in addition to the **sum insured**. Where the Extra Cover refers to an amount that **we** will pay, this will be shown in the **schedule**.

### ACCOUNTANTS

Any particulars or details contained in **your** books of account or other business books, documents or systems which may be required by **us** under this **policy** for the purpose of investigating or verifying any claim hereunder may be produced and certified by **your** auditors or professional accountants and their certificate will be prima facie evidence of the particulars and details to which it relates.

### CONTRACTUAL PENALTIES

**We** will pay for any **contractual penalties** you incur as a result of an insured **loss**.

**Contractual penalties** means any penalty legally enforced against **you** under a written contract resulting directly from a **loss** following a **criminal act**, provided that any amount paid by **us** in respect of such penalties shall be considered as part of the **loss** and shall not exceed 10% (ten per cent) of the **limit of indemnity** stated in the **schedule**.

### COST OF RECOVERY

If **you** sustain any **loss** as a result of theft, fraud, dishonesty or **computer crime**, which exceeds **our limit of indemnity**, **we** will pay **your** reasonable costs and expenses necessarily incurred with **our** written consent (which consent will not unreasonably be withheld) for the recovery or attempted recovery from the **insurable person** or any other party in regard to whom the claim is made, of that part of the **loss** which exceeds **our limit of indemnity**.

The most **we** will pay is the amount as shown in the **schedule**.

### EXTENDED COVER FOR FORMER INSURABLE PERSONS

Any person, who ceases to be an **insurable person** will, for the purpose of this **policy**, be considered as being an **insurable person** for a period of 30 days after ceasing to be an **insurable person**.

### EXTORTION

**We** will pay for **loss of funds** by intentionally and unlawfully subjecting any **insurable person** or a relative of any such person, to any threat of physical harm which induces such person to submit to the taking, provided that the person threatened has made every reasonable attempt to report the threat to an associate and to the law enforcement authorities at the earliest reasonable opportunity.

## KNOWLEDGE OF THEFT, FRAUD OR DISHONESTY BY THE PROPOSER

Non-disclosure of any act of theft, fraud, dishonesty or **computer crime** which may have been committed by the person signing the proposal form or giving inception or renewal instructions will not be relied on by **us** to deny liability, provided that no other **executive officer** had knowledge or can reasonably be expected to have or have had knowledge of the act at any time prior to inception or renewal.

## REINSTATING OFFICE RECORDS

**We** will pay the costs, charges and expenses incurred by **you** in replacing and restoring any computer files and **data** media documents, manuscripts, business books, plans, design specifications or programmes destroyed, damaged or lost as a result of a **loss** insured by this **policy**.

The most **we** will pay is the amount as shown in the **schedule**.

## UNIDENTIFIABLE PERSONS

If a **loss** is alleged to have been caused by the theft, fraud or dishonesty of any of the **insurable person's** and **you** are unable to designate the specific person causing the **loss**, **your** claim in respect of such **loss** will not be invalidated by **your** inability to do so, provided that **you** are able to furnish evidence to prove to **our** reasonable satisfaction that the **loss** was in fact due to the theft, fraud or dishonesty of an **insurable person** acting alone or in collusion with others.

## SPECIFIC EXCLUSIONS - WHAT YOU ARE NOT COVERED FOR

We will not pay for any:

- a) act committed by the same person after **you** have become aware of their first dishonest act;
- b) act committed prior to the retroactive date or inception of this **policy** or which was notified to any other insurer prior to the inception of this **policy** or any circumstance which was known to or ought reasonably to have been known to by you prior to the inception of the **policy**;
- c) **loss** that is recoverable under any other insurance that provides indemnity for such a **loss**, except for those amounts not indemnified by any such other policy whether by reason of the **loss** falling within the policy's excess, or due to the total **loss** exceeding the **limit of indemnity** or limit of indemnity provided by that policy;
- d) **loss** discovered more than twelve (12) months after the expiry of this **policy** or termination of the employment of the **insurable person** who caused the **loss**, whichever occurs first;
- e) **loss** that cannot be proven by **your** accounting records;
- f) **loss** in respect of seepage, pollution or contamination of any kind;
- g) third party claim arising from or contributed to by depreciation (or failure to appreciate) in value of any investment, including loans, securities, commodities, currencies, options and futures transactions, or as result of any actual or alleged representation, guarantee or warranty provided by or on **your** behalf as to the performance of any such investments where such matters are outside the influence or control of the **insurable person**;
- h) fines, penalties or damages for which **you** are legally liable, except for compensatory damages arising from a **loss** covered by this **policy**;
- i) unintentional acts, errors or omissions;
- j) act where legal action or litigation is brought in a court of law within the United States of America or Canada or their respective territories or possessions or where legal action or litigation is brought in a court outside those territories to enforce a judgement in those territories whether by way of reciprocal agreement or otherwise.
- k) **loss** directly or indirectly caused or facilitated by any form of payment, transfer of funds or change of banking details or beneficiary, unless such payment, transfer or change was authorised by two bank signatories who are not related by birth or marriage and do not live in the same household.
- l) **loss** directly or indirectly caused or facilitated by any instruction to change banking details, add or amend beneficiaries, withdraw or transfer funds unless a **two-step verification process** was carried out before such instruction was processed.

Also refer to the **General Exclusions**, General Conditions and Provisions, and Claims Procedure and Conditions relating to this **policy** on pages 15, 17 and 21.

## GENERAL EXCLUSIONS – WHAT YOU ARE NOT COVERED FOR

Specific Exclusions shall override General Exclusions.

### 1. ASBESTOS (Applicable to Data Protection only)

Notwithstanding any provision of this **policy** including any exclusion or extension or other provision which would otherwise override a general exclusion, this **policy** does not cover any legal liability, loss, damage, cost or expense whatsoever or any consequential loss that is directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to an extent contributed to by, the hazardous nature of asbestos in whatever form or quantity.

### 2. CONSEQUENTIAL LOSS

This **policy** does not cover any consequential loss or damage of any kind whatsoever, except where **we** specifically state that damage or loss of this nature will be covered.

### 3. CONTRACTUAL LIABILITY

This **policy** does not cover any contractual liability, except where we specifically state that liability of this nature will be covered.

### 4. INTENTIONAL DAMAGE

This **policy** does not cover any deliberate or intentional loss, damage or liability or omission caused or incurred by **you** or by any person acting with **your** express or implied consent.

### 5. NATIONALISATION

This **policy** does not cover any legal liability, loss, damage, cost or expense whatsoever or any consequential loss that is directly or indirectly caused by or contributed to or arising from nationalisation, confiscation, commandeering, requisition, wilful destruction, forfeiture, attachment, impounding, seizure or preservation or any similar actions or processes by any court order, customs officials, police, crime prevention units, or lawfully constituted authority or officials.

### 6. NUCLEAR SUBSTANCES

This **policy** does not cover loss, damage, cost or expense whatsoever or any consequential loss that is directly or indirectly caused by, or contributed to by, or arising from:

- a) ionising, radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion or use of nuclear fuel;
- b) nuclear material, nuclear fission or fusion, nuclear radiation;
- c) nuclear explosives or any nuclear weapon;
- d) nuclear waste in whatever form;

regardless of any other cause or event contributing concurrently or in any other sequence to the loss. For the purposes of this exclusion only, combustion shall include any self-sustaining process of nuclear fission.

## **7. RIOTS, WARS, POLITICAL ACTS, PUBLIC DISORDER, TERRORISM, OR ANY ATTEMPTED ACTS OF THIS KIND**

This **policy** does not cover loss of or damage to property related to or caused by:

- a) civil commotion, labour disturbances, riot, strike, lock-out or public disorder or any act or activity which is calculated or directed to bring about any of the above;
- b) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), or civil war;
- c) mutiny, military rising or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege, insurrection, rebellion or revolution;
- d) any act (whether on behalf of an organisation, body, person or group of persons) calculated or directed to overthrow or influence any state or government or any provincial, local or tribal authority with force or by means of fear, terrorism or violence;
- e) any act calculated or directed to bring about loss or damage to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against any state or government, or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public, or any section thereof;
- f) any attempt to perform any act referred to in exclusions d) and e) above;
- g) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any event referred to in any of exclusions a) to f) above;
- h) any act of terrorism. An act of terrorism means the use or threat of violence for political, religious, personal or ideological reasons. This may or may not include an act that is harmful to human life. It could be committed by any person or group of persons, acting alone, on behalf of or with any organisation or government. It includes any act committed with the intention to influence any government or inspire fear in the public;
- i) any event for which a fund has been established under the War Damage Insurance and Compensation Act (No. 85 of 1976) of the Republic of South Africa or any similar act operative in any of the territories to which this **policy** applies.

If **we** allege that a claim is not covered because of **General Exclusion 7** above, then **you** must prove the contrary.



## GENERAL CONDITIONS AND PROVISIONS

Specific Conditions and Provisions shall override General Conditions and Provisions.

### 1. ACTS AND REGULATIONS

**You** must comply with all statutory obligations, laws and regulations of the Community Schemes Ombud Service Act, 2011 (Act 9 of 2011) and the Sectional Titles Schemes Management Act, 2011 (Act 8 of 2011) as well as the Regulations proclaimed on 07 October 2016.

### 2. ALTERATION OF RISK

**You** must immediately advise **us** of any change in risk which may materially alter any of the facts or circumstances that existed at the commencement of this **policy** and its subsequent renewal. In particular this applies to any changes that increase the risk of **loss** or the likelihood of liability losses. **You** must also notify **us** of any change in **your** circumstances.

If **you** do not do so **we** shall not be liable for any loss or liability caused or contributed to by any such change or alteration.

**We** reserve the right to amend the rate, terms and conditions of the **policy** with immediate effect if **our** exposure is increased by the change in risk.

### 3. APPOINTMENT OF MANAGING AGENT

There must be a written contract or a written service level agreement between **you** and **your managing agent**.

### 4. CANCELLATION

**You** have a cooling off period of 14 days from the inception date of this **policy**. If **you** decide for any reason that this **policy** does not meet **your** requirements **you** must advise **us** in writing within 14 days and **we** will cancel this **policy** and refund any premiums paid by **you** in full. **You** will however not receive a full refund if **you** have made a claim during this period.

If **you** wish to cancel this **policy** after the 14-day cooling off period, **you** must advise **us** in writing and **you** will only be entitled to a pro-rata refund of premium.

**We** may cancel this **policy** by giving **you** 30 days' notice (or such other period as may be mutually agreed) in writing by post, e-mail or fax.

If this **policy** is cancelled, but not if **you** have exercised **your** cooling-off rights before the end of the **period of insurance**, **we** will:

- a) keep the premium for the period **you** were covered;
- b) refund the premium **you** have paid from the date of cancellation to the end of the **period of insurance**.

## 5. HOLDING COVERED

If **we** are holding cover on a risk, **we** will not reject a claim on the basis that the premium has not been agreed.

## 6. INCREASE IN LIMIT OF INDEMNITY

Should the **limit of indemnity** be altered during the **period of insurance** the **limit of indemnity** shall only apply to claims made or deemed to have been made after the date of such increase unless otherwise agreed in writing.

The renewal of the **policy** from year to year will not have the effect of increasing the **limit of indemnity**.

## 7. JOINT INSUREDS

When there is more than one party named in the **schedule** as an insured, **we** will treat each as a separate and distinct party.

The words **you, your** and **yours** will apply to each party in the same manner as if a separate **policy** had been issued to each party. However, **our** liability for any **sum insured** or other **policy** limit for any one event or occurrence is not increased.

Any act, breach or non-compliance with the terms and conditions of this **policy** committed by any one such party will not be prejudicial to the rights and entitlements of the other insured party.

Provided that as soon as the other insured party becomes aware of any act, breach or non-compliance which increases the risk of loss, damage or liability, they must give **us** written notice.

## 8. MEANING OF WORDS

The **schedule** and any endorsements to the **schedule** and this **policy** wording must be read together and any word or expression, to which a specific meaning has been given, will bear the same meaning wherever it appears.

## 9. MISREPRESENTATION, MISDESCRIPTION AND NON-DISCLOSURE

An item, section or sub-section of this **policy** or the entire **policy**, will be deemed voidable in the event of any misrepresentation, misdescription or non-disclosure of any material fact which could have influenced **our** decision to insure **you** or the terms to apply when **we** agreed to insure **you**.

## 10. PAYMENTS ON ACCOUNT

If any amounts recoverable from **us** are delayed pending finalisation of any valid claim, **we** may choose to make payments on account to **you** if necessary.

## 11. PREMIUM PAYMENT

### Premiums paid annually

Premiums are payable on or before inception or renewal dates. **We will not be obliged to accept premiums paid after the inception or renewal dates** but may do so on terms that **we** may determine at **our** sole discretion.

The acceptance of a premium will not be regarded as waiver of any of **our** rights (including but not limited to the rights of repudiation and avoidance) and will not be regarded as **us** having agreed that the policy has inception or renewed.

### **Premium paid by debit order**

Premiums are due in advance and, if not paid by the inception or due date **we** will re-debit the following month and should the premium not be paid when re-debited, this **policy** will be regarded as cancelled at midnight on the last day of the preceding **period of insurance**. This will not apply if **you** can show that failure to make payment was due to an error on the part of **your** bank or other paying agent.

Due date will be the first day of every calendar month if the premium is payable monthly, after inception; or the first day of each:

- a) third calendar month after inception, where the premium is payable quarterly;  
or
- b) sixth calendar month after inception, where the premium is payable half-yearly;  
or
- c) twelfth calendar month following inception, where the premium is payable annually.

## **12. POLICY CHANGES**

**You** may make changes to this **policy** at any time. No changes to this **policy** will be valid unless agreed to by us. A change to the **policy** will only be valid if we have issued a **schedule** noting the change in cover. **We** may change **your policy** by giving you 31 days' notice.

## **13. REASONABLE PRECAUTIONS**

**You** as well as **your** employees, representatives and agents, must do all that **you** reasonably can do to prevent **legal liability**, or **loss**.

## **14. RETROACTIVE DATE**

An event giving rise to a claim must occur on or after the retroactive date stated in the **schedule**. This **policy** provides no cover for events which occurred before the retroactive date. **You** are however still obliged to reveal to **us** all details of claims made or outstanding or any event that is likely to give rise to a claim or where **you** suspect there would be a claim.

## **15. SANCTION LIMITATION AND EXCLUSION CLAUSE**

**We** will not be deemed to provide cover or be liable to pay any claim or provide any benefit hereunder to the extent that that the provision of such cover, payment of such claim or provision of such benefit would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## 16. SCHEDULE SUM INSURED BLANK

If, in the **schedule** of this **policy**, the **sums insured** or **limits of indemnity** are left blank, reflected as nil, not applicable, or not covered, then this means that the section, item or Extra Cover is not covered.

## 17. SHARING OF INFORMATION

While **we** respect the confidentiality of the information **you** have provided, in order to combat insurance fraud and evaluate and properly underwrite risks, the South African Insurance Association (SAIA) has created a shared database for storing insurance information. Information sharing contributes significantly to limiting insurance fraud and assessing risks fairly. In terms of South African law, **we** may reveal or receive information if **we** intend using it to prevent fraud and to underwrite risks fairly. This clause allows **us** to store **your** information in the shared database and to verify any underwriting information against legally recognised sources of databases.

On **your** behalf, and on behalf of any person **you** represent in this **policy**, **you** hereby waive any right to privacy with regard to the sharing of any underwriting and claims information (including credit information) that **you** provide or that another person provides on **your** behalf in respect of any insurance policy or claim **you** make or lodge.

In addition to preventing fraud and underwriting risks, **your** information may also be used for any decision relating to the continuance of this **policy** or the meeting of any claim **you** may submit. **You** consent to such information being disclosed to any other insurance company or its agents.

**You** must send **us** written notification of cancellation of authority if **you** no longer wish **us** to use the information in the manner stated above.

## 18. SOUTH AFRICAN JURISDICTION

This **policy** will be governed by the laws of the Republic of South Africa whose courts will have jurisdiction in any dispute arising hereunder.

## 19. VALUE ADDED TAX – VAT

All amounts in the **schedule** (**sums insured**, **limits of indemnity** and premiums) include VAT. All amounts are in South African Rand, including premiums and the amounts **we pay** to **you**.

In the event of a change in the rate of VAT during the **period of insurance**, the **sums insured**, and if appropriate, premiums, will be adjusted accordingly.

## CLAIMS PROCEDURE AND CONDITIONS

**Our** liability to pay a claim under this **policy** is subject to compliance with the following procedures and conditions, failing which we will not be liable to make any payment:

### 1. YOUR DUTY

On the happening of an event or occurrence which may result in a claim, **you** must, at **your** own expense:

- a) take all reasonable steps to minimise and to prevent any further loss, damage or liability from occurring;
- b) as soon as reasonably practicable but upon **discovery**, give **us** written notice of every occurrence or **loss**, or claim made or threatened against **you**, which gives or may give rise to a claim by **you** under this **policy**. Such notice must include full particulars thereof and every letter, demand, writ, summons, or other notice or process received by **you**;
- c) complete any forms as requested by **us** and provide full and accurate details of how the event occurred;
- d) advise **us** immediately of receipt of any indication or demand by a third party to make a claim against **you**;
- e) advise **us** immediately in writing when **you** become aware of any incident or occurrence which may result in a claim being made against **you**;
- f) immediately send any writ or summons relating to the incident to **us**;
- g) allow **us** or **our** duly authorised representative to have reasonable access to **your** records and books after receiving notice of a **loss** and may call for sworn declarations by **you** or any **insurable person** or their representative, in support of any claim submitted.

**You** must also:

- a) if **you** or any **insurable person** who are entrusted with the duty of overseeing or auditing, suspect or become aware of any claim or circumstance which may give rise to a claim, they must report such claim or circumstance to **us** as soon as possible.
- b) at **your** own expense, provide **us** with all records, invoices, and other documents, information, explanations and other evidence, together with statutory declarations, as **we** may require, for the purpose of investigating or verifying a claim under this **policy**.

**You** must not:

- a) without **our** written consent, voluntarily incur any liability (including litigation expenses) or voluntarily give any undertaking to make any payment, or settlement of or admission of liability for any event for which **we** would be liable under this **policy**.

## 2. ASSETS HELD BY YOU

Any **funds**, estate or effects which will come into **your** possession or power for or on account of any person whose act or acts give rise to a claim under What You Are Covered For will, insofar as it is able for **you** to do so, be realised by **you** to the best advantage and the proceeds will be accounted for by **you** to **us** and treated as a deduction from the **loss**.

## 3. CLAIMS PREPARATION COSTS AND FEES

**We** will pay the reasonable costs **you** incur in certifying or verifying any particulars or details **we** require in terms of General Claims Procedure 1 to substantiate the amount of any valid claim under this **policy**. **We** will only pay these costs if **you** have first obtained **our** written consent.

The most **we** will pay is the amount as shown in the **schedule**.

## 4. DELAYS / COOPERATION

**You** must extend to **us** all reasonable cooperation to enable **us** to assess, investigate, and exercise all **our** rights under this **policy**. If **you** do not render such cooperation or if **you** cause any unreasonable delays that prevent **us** from assessing, investigating, or exercising any of our rights, **we** at **our** discretion, may elect not to indemnify **you**. Alternatively, **we** may elect not to pay for any extra costs that result from such delay or lack of cooperation.

## 5. FRAUDULENT OR WILFUL ACTS

If the **you** make any claim knowing the same to be false or fraudulent as regards amount or otherwise, this **policy** will be void and all claims hereunder will be forfeited.

## 6. INTEREST

No payment due by **us** for any claim will be subject to interest under the Common Law or under the prescribed rate of the Prescribed Rate of Interest Act (No. 55 of 1975) as amended or substituted from time to time.

## 7. NO CLAIM WILL BE PAYABLE

No claim will be payable:

- a) after the expiry of 24 months, or such further time as **we** may allow in writing, from when the event happened, unless the claim is the subject of pending legal action or is in respect of **your** legal liability to a third party;
- b) unless **you** claim payment by serving legal process in writing on **us** within six months of the rejection of a claim and **you** pursue such proceedings to finality.

## 8. OFFER TO SETTLE / REFUSAL OF RECOMMENDATIONS

**You** must advise **us** of any offer to settle a proceeding. **We** may stop paying **your** legal costs and expenses if **you** do not agree to a reasonable settlement. If **our** legal advisor recommends settlement and **you** wish to continue with the proceeding, **we** will only pay the legal costs and expenses incurred up to that date and the settlement amount.

If **you** choose to continue with any legal proceedings that pertain to a claim made against **you**, against **our** recommendations, **we will not pay more than the amount that the claim and the legal costs could have been settled for up to that date.**

## 9. OUR RIGHTS AFTER A CLAIM

- a) **We** reserve the right to take over and conduct in **your** name the settlement of any claim, legal proceeding or appeal.
- b) **We** will take full control of the administration, conduct or settlement of the claim, including any recovery or defence that **we** may consider necessary.
- c) In respect of any cover that is provided for **legal liability** to third parties, **we** may pay the **limit of indemnity** as shown in the **schedule**, less any sums already paid or incurred, or any lesser amount for which any claims arising from the event can be settled. **We** will then relinquish control of such claims and be under no further liability, except for costs and expenses for which **we** may be responsible before the date of such payment.
- d) **You** shall, at **our** expense, do, and permit to be done, everything that may be necessary or that **we** reasonably require in order to enforce any rights to which **we** will be, or would become, subrogated upon **your** indemnification, whether **we** require such things before or after such indemnification.

## 10. RECOVERIES

Any amounts recovered following a payment or payments under this **policy**, less the actual cost of making the recovery, will be distributed as follows:

- a) to **you** for any amount of the **loss** which exceeded the **limit of indemnity**; and
- b) to **us** for any settlement made.

## 11. SUBROGATION

**We** may at any time at our expense take such steps as **we** may deem necessary to obtain reimbursement from any **insurable person** or their estate, committing a **criminal act** against **you** resulting in a **loss** which **we** have paid or will become liable to pay under this **policy** and for this purpose use **your** name. **You** will as and when required give all necessary information and assistance to **us**.

## COMPLAINTS PROCEDURE

**We** realise that things can go wrong and that there may be occasions when **you** feel that **we** have not provided the service **you** expected. When this occurs, **we** want to hear about it so that **we** can investigate the complaint and where possible, put things right.

### TALK TO THE UNDERWRITING MANAGER

If **you** have a complaint, the first thing **you** or **your** broker should do is to speak to one of the Underwriting Manager's staff members.

If **your** complaint relates specifically to a claim, speak to the claims consultant managing **your** claim. If they are unable to resolve the matter it will be referred to management and ultimately to the Managing Director.

### IF YOU ARE STILL NOT SATISFIED

If **you** are still unhappy and wish to escalate the matter, then please contact **us**. The matter will be referred to the relevant dispute handling department who will conduct a full review and endeavour to provide **you** with a response within 14 days.

### **If you are still not satisfied with our response to your dispute you can seek an external review**

The Ombudsman for Short Term Insurance (OSTI) is empowered to review and rule on disputes between **you** and **us**. Their contact details appear in the **schedule** and **you** are entitled to contact their offices if ever **you** are dissatisfied with an outcome or decision **we** have made.

**You** will however not be able to have **your** dispute resolved by the OSTI if **you** are not eligible under the OSTI Terms of Reference.

Please contact **us** for further information about **our** complaints and disputes resolution procedures.



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<b>Cape Town</b>	<b>0861 242 111</b>	<b><a href="mailto:ct@cia.co.za">ct@cia.co.za</a></b>
<b>Bloemfontein</b>	<b>0861 242 222</b>	<b><a href="mailto:bfm@cia.co.za">bfm@cia.co.za</a></b>
<b>Port Elizabeth</b>	<b>0861 242 333</b>	<b><a href="mailto:pe@cia.co.za">pe@cia.co.za</a></b>
<b>Pretoria</b>	<b>0861 242 999</b>	<b><a href="mailto:pta@cia.co.za">pta@cia.co.za</a></b>

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