

UMBRELLA LIABILITY INSURANCE

SPECIAL MEMORANDUM

1. ACQUISITIONS AND NEW BUSINESS

The Indemnity granted by this Policy of Insurance extends to any company formed and/or acquired by the Insured during the Period of Insurance for a period of 30 days of such information or acquisition

PROVIDED ALWAYS THAT:-

- 1.1 The retroactive date in respect of such new company shall be deemed to be the date of formation or when the newly acquired company first purchased Liability Insurance of the type insured hereby on a "Claims Made" basis subject to a declaration from the newly acquired company's previous management of no known or reported claims or circumstances likely to give rise to a claim at date of acquisition. In the event of no such declaration the retroactive date shall be the date of acquisition
- 1.2 The Insureds business activity remains unchanged to that declared
- 1.3 The annual turnover of all newly formed and/or acquired companies does not exceed 5% (five percent) of the estimated annual turnover of the Insured as advised to Underwriters at inception hereof
- 1.4 The Insured shall advise the Underwriters of such formations and/or acquisitions before the expiry of 30 days thereof and the Underwriters reserve the right to amend the terms of this insurance accordingly.

Subject otherwise to the terms, Exclusions, Conditions and limitations of the Policy.

UMBRELLA LIABILITY INSURANCE

1. INSURING CLAUSE

- 1.1 The Insured is indemnified up to the Indemnity Limit against the legally enforceable consequences of causing Injury, Damage or Malice or providing Negligent Advice (all as defined in Clause 2), or financial loss as provided for in terms of any Scheduled Underlying Insurance in the course of carrying out the Business, but only in respect of resultant claims made by others for compensation, damages, costs, fees and expenses.
- 1.2 All costs reasonably and necessarily incurred in defending or settling such claims will also be paid by Underwriters, as will costs of legal or similar representation at any inquest or other official enquiry into any incident which Underwriters agree might give rise to a valid claim under this Policy, subject to clause 4.7. ("Defence Costs").

2. DEFINITIONS

For the purpose of this Policy, wherever they appear, the words or terms below shall be interpreted as follows:-

- 2.1 "Injury" is death, injury, illness (mental or physical), disease, assault, false imprisonment or arrest of or to any person.
- 2.2 "Damage" is loss of or damage to tangible property, conversion, trespass, nuisance or wrongful interference with the enjoyment of rights over tangible property.
- 2.3 "Malice" is malicious legal proceedings, malicious falsehood, defamation, or infringement of copyright, title, slogan or idea.
- 2.4 "Negligent Advice" is incorrect or inadequate advice given in the promotion of the Insured's Products, but without expectation of any other reward.
- 2.5 The "Business" is defined in the Schedule, but also includes all organisations or functions operated for the benefit of the Insured's employees or visitors or for the protection or promotion of the Insured's activities.
- 2.6 "Product" is any article after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured.
- 2.7 "Occupational Illness" is illness or disease (including subsequent disablement or death) sustained by any employee of the Insured which arises out of such person's employment.
- 2.8 "Pollution" means the emission, discharge, dispersal, disposal, seepage, release or escape of any liquid, solid, gaseous or thermal irritant, contaminant or pollutant into or upon land, the atmosphere or any water-course or body of water or the generation of smells, noises, vibrations, light, electricity, radiation, changes in temperature or any other sensory phenomena, but not fire or explosion.
- 2.9 "North American Jurisdiction" is any judgement, award or settlement made within countries which operate under the laws of the United States of America or Canada, or any order made anywhere in the world to enforce such judgement, award or settlement, either in whole or in part.
- 2.10 "Claims Series Event" is any claim or series of claims arising from one common cause.

3. INDEMNITY LIMIT

- 3.1 Underwriters liability during the Period of this Policy to pay the sum of all:-
 - 3.1.1 compensation, damages, claimants' costs, fees and expenses

- 3.1.2 Defence Costs incurred in connection with claims under North American Jurisdiction (if insured)
- 3.1.3 Defence Costs which are subject to the provisions of Clause 4.7
- 3.1.4 Defence Costs which are incurred in connection with indemnity provided in terms of Clause 6. Additional Risks Protection

shall not exceed the Indemnity Limit shown in the Schedule.

3.2 The Indemnity Limit shall apply separately to:-

- 3.2.1 the total of all claims arising out of or in connection with Products
- 3.2.2 the total of all claims arising out of or in connection with Occupational Illness
- 3.2.3 the total of all claims which are subject to the provisions of clause 4.6
- 3.2.4 the total of all claims which are subject to the provisions of clause 4.9
- 3.2.5 each and every Claims Series Event not subject to the above provisions

4. EXCESS LAYER PROTECTION

In respect of any claim which (during the period of this Policy) is partially indemnified by any Scheduled Underlying Insurance, this Policy operates to the extent that the claim is not met by such Underlying Insurance because of the inadequacy of the underlying indemnity limit. Underwriters agree to follow the interpretation of the Underlying Insurer subject always to the Insuring Clause and the terms, conditions and exclusions of this Policy.

- 4.1 Any decision of the Underlying Insurer to accept a claim "ex gratia" or "without prejudice" shall not be binding on Underwriters.
- 4.2 No action or decision of the Underlying Insurer which prejudices Underwriters in the conduct or settlement of any claim under this Policy shall be binding on Underwriters.
- 4.3 Clause 4 provides indemnity:-
 - 4.3.1 in excess of the Indemnity Limit stated to apply to the Scheduled Underlying Insurance, except where reduced or exhausted by reason of payment, when the Indemnity Limit of this Policy will be in excess of the residual limit (if any).
 - 4.3.2 for Defence Costs where not recoverable from an Underlying Insurer. At the maximum these will be in direct proportion to Underwriters liability to pay compensation, damages, claimants' costs, fees and expenses.
- 4.4 Where the Indemnity Limit of the Scheduled Underlying Insurance is exhausted by reason of claims thereunder which are also indemnified by this Policy, Underwriters will continue to follow the interpretation of the Underlying Insurer, subject to clause 4.1 and 4.2.
- 4.5 Where the Indemnity Limit of the Scheduled Underlying Insurance is exhausted by claims thereunder, Underwriters will interpret this Policy as if the Underlying Insurance was still in force in respect of any claims which would otherwise have been indemnified by such insurance.
- 4.6 Where the Scheduled Underlying Insurance is subject to an aggregate Indemnity Limit, then similarly the Indemnity limit under this Policy shall be deemed to be in the aggregate.
- 4.7 Where the Scheduled Underlying Insurance Indemnity Limit is inclusive of Defence Costs, then similarly the Indemnity limit under this Policy shall be deemed to be inclusive of Defence Costs.

4.8 Where the Insured is indemnified by a policy not listed as a Scheduled Underlying Insurance, then the Underwriters may at their sole option deem such policy to be an Underlying Insurance, in which event the provisions of this clause 4 will apply.

4.9 Where the Insurers of a Scheduled Underlying Insurance refuse a claim because:-

4.9.1 the loss did not occur or

4.9.2 the event did not occur or

4.9.3 the claim was not made

during the policy period (as the case may be) but the claim is indemnified by a preceding policy, then such policy shall be treated as a Scheduled Underlying Insurance, subject to the indemnity limit of that policy being deemed not less than the Indemnity Limit of the relevant Scheduled Underlying Insurance, without allowance for any reduction or exhaustion of such Indemnity Limit. This Policy will only respond once to the provisions of this clause, that is only one policy may be deemed to be a Scheduled Underlying Insurance in respect of any Claims Series Event.

5. DIFFERENCE IN COVER PROTECTION

Where a claim is indemnifiable during the Period of this Policy by the Insuring Clause of a Scheduled Underlying Insurance, but is excluded by a policy term, condition or exclusion, this Policy will indemnify the Insured in accordance with this Policy's Insuring Clause, subject always to the terms, conditions and exclusions of this Policy.

This section will not provide an indemnity where a claim is not indemnifiable by the insuring clause of a Scheduled Underlying Insurance except where:-

5.1 the Injury or Damage was not accidental by nature, or did not arise out of an accident

5.2 the temporary loss of use of property or reduction in value of property did not constitute "damage" within the terms of the operative clause of the Scheduled Underlying Insurance

subject always to the provisions of exclusion 10.5.

Where such a claim arises out of the failure of a Product to perform as specified, warranted or guaranteed or to fulfil its intended purpose, then the provisions of clause 5.7 apply in so far as they can.

5.3 Where a claim is not excluded by the insuring clause of a Scheduled Underlying Insurance, but the indemnity limit of such Underlying Insurance has been exhausted by reason of other claims and where, in the opinion of the Underwriters such claim would have been excluded by a term, condition or exclusion of the Underlying Insurance, the provisions of clause 5 will apply.

5.4 To determine the basis of indemnity granted by this Policy, Underwriters will follow the insuring clause of the appropriate Scheduled Underlying Insurance (to the extent that such underlying insurance grants coverage against the consequences of Injury, Damage, Malice or Negligent Advice) being either:-

5.4.1 Injury, Damage or Malice occurring or Negligent Advice given during the period of insurance (losses occurring), or

5.4.2 Injury, Damage or Malice resulting from, or Negligent Advice resulting in an event occurring during the period of insurance (events occurring) or

5.4.3 claims made against the Insured during the period of insurance following Injury, Damage, Malice or Negligent Advice (claims made)

5.5 For the purposes of clause 5, the interpretation of the underlying insuring clause will be the decision of

Underwriters, not the underlying insurers.

5.6 If the underlying insuring clause states that claims resulting from continuous or continual ingestion, inhalation, absorption or application of any substance or condition are insured on a "losses occurring" basis, for determining whether indemnity is granted by this Policy, Underwriters will deal with such claims under clause 5 on the following basis:-

5.4.1 Injury shall be deemed to have occurred when the claimant first obtained medical advice or treatment for the Injury, whether or not the Injury was correctly diagnosed at the time

5.4.2 Damage shall be deemed to have occurred when the claimant first became aware of the existence of the Damage.

5.7 If the Underlying Insurer repudiates a claim on the basis of an exclusion relating to the failure of a Product to perform as specified, warranted or guaranteed, or to fulfil its intended purpose and such Underlying Insurance is on a "losses occurring" basis and the Insured and Underwriters cannot mutually agree when the loss occurred, then Underwriters will deal with the claim on the basis that the loss occurred when the claimant first notified the Insured of a circumstance or an event which subsequently gave rise to the claim.

6. ADDITIONAL RISKS PROTECTION

The Insured is indemnified by this clause in accordance with the Insuring Clause, other than for claims which are indemnifiable in whole or in part by clauses 4 or 5 of this Policy or by any other insurance, subject always to the terms, conditions and exclusions of this Policy.

6.1 The indemnity granted is limited to claims made against the Insured during the Policy Period, or any circumstance or event which Underwriters accept may give rise to a claim of which the Insured first became aware and notified to Underwriters during the Policy Period.

6.2 No indemnity is provided by this clause if the insurers of a Scheduled Underlying Insurance decline a claim on the grounds that the Injury, Damage, Malice, Negligent Advice or event did not occur or the claim was not made (as the case may be), during the policy Period.

6.3 No indemnity is granted by this clause against liability:

6.3.1 arising out of the ownership, possession or use by or on behalf of the Insured of any motor vehicle or trailer

6.3.2 for Injury to any person who is engaged under a contract of employment or apprenticeship.

7. PROTECTION OF OTHER PARTIES

The indemnity given to the Insured is also extended to:-

7.1 directors, partners or employees of the Insured in their business capacity arising out of the performance of the Business or in their private capacity arising out of any temporary engagement (undertaken with the Insured's consent) of the Insured's employees

7.2 any person or party to the extent that any contract entered into by the Insured requires that such indemnity is given

7.3 the personal representatives of any person or party indemnified

These persons or parties are subject to the terms, conditions and exclusions of this Policy in so far as they apply.

8. CROSS LIABILITIES

The Insured and persons or parties indemnified by clause 7 are separately indemnified in respect of claims

made by one against the other, subject to Underwriters liability not exceeding the Indemnity Limit.

9. SECTIONS 5 AND 6 EXCLUSIONS

No indemnity is granted by clauses 5 and 6 against liability arising out of:-

9.1 NORTH AMERICAN JURISDICTION

North American Jurisdiction as defined

9.2 AIRCRAFT OR WATERCRAFT

the ownership, hire purchase or leasing of any aircraft, watercraft or hovercraft by or on behalf of the Insured or the activities of the Insured or the Insured's employees as pilot or crew member other than for death or injury of or to employees of the Insured arising out of such employment subject always to exclusion 9.5

9.3 SHIP AND AVIATION REPAIRING AND MAINTENANCE

the repair, maintenance, refuelling or defuelling of any aircraft, watercraft or hovercraft undertaken by or on behalf of the Insured other than for death or injury of or to employees of the Insured arising out of such employment subject always to exclusion 9.5

9.4 DIRECTORS AND OFFICERS LIABILITY AND PROFESSIONAL INDEMNITY

acts, errors or omissions of the directors or officers of the Insured when acting in their capacity as such, or in the conduct by the Insured of professional activities, being those activities normally undertaken by persons qualified in law, medicine, accountancy, banking, financial management and services, engineering, architecture, surveying, construction and project management or supervision, shipping and forwarding, insurance, stockbroking, estate agency or property valuation.

This exclusion does not apply to:-

9.4.1 death, injury, illness or disease of or to any person or, physical damage to or destruction of property not in the Insured's care, custody or control, consequent upon such acts, error or omissions

9.4.2 Negligent Advice

9.5 OCCUPATIONAL ILLNESS

Occupational Illness as defined

9.6 PROPERTY

damage to property owned, leased, hired or loaned to the Insured or otherwise in the Insured's care, custody or control except for:-

9.6.1 premises and their contents temporarily occupied by or in the possession of the Insured for the purpose of work therein or thereon

9.6.2 premises tenanted by the Insured

9.7 EXCESS

the amount of the excess stated in the Schedule in respect of each and every Claim Series Event where no part of the loss is recoverable in terms of any Underlying Insurance.

10. POLICY EXCLUSIONS

No indemnity is granted by this Policy against liability:-

10.1 PUNITIVE AND EXEMPLARY DAMAGES

to pay awards or damages of a punitive or exemplary nature

10.2 POLLUTION

arising out of Pollution, except to the extent that it can be proved that the Pollution:-

10.2.1 was the direct result of a sudden specific and identifiable event and

10.2.2 was not the result of the Insured failing to take reasonable precautions to prevent such Pollution,

provided always that no indemnity is granted against liability arising out of Pollution which is the subject of North American Jurisdiction

10.3 RETROACTIVE DATE

for any Injury, Damage, Malice or for the provisions of Negligent Advice which occurs before the Retroactive Date which is applicable to the underlying insurances or as stated in the Schedule, whichever is the later. For the purpose of this clause, where any Injury or Damage resulting from continuous or continual inhalation, ingestion, absorption or application of any substance or condition and where the Insured and the Underwriters cannot mutually agree when the Injury or Damage occurred, then:-

10.3.1 Injury shall be deemed to have occurred when the claimant first obtained medical advice or treatment for the Injury, whether or not the Injury was correctly diagnosed at the time

10.3.2 Damage shall be deemed to have occurred when the claimant first became aware of the existence of the Damage

10.4 PRIOR CLAIMS

arising out of any Claims Series Event which has been notified to any preceding insurance policy

10.5 DELIBERATE ACTS

arising out of any deliberate or intentional failure of the Insured's technical or administrative management to take reasonable precautions to prevent Injury, Damage or Malice occurring or Negligent Advice being given

10.6 EMPLOYEE BENEFITS

for any benefits for which the Insured is liable under any:-

10.6.1 Workmen's Compensation Act or

10.6.2 Unemployment Compensation Scheme or

10.6.3 Disability Benefit Scheme

unless the Insured has assumed such liability (which would not otherwise have existed) by agreement with a third party

10.7 MOTOR

to the extent to which it is provided for in terms of statutory or similar legislation controlling the use of motor vehicles or trailers and in respect of which liability:-

10.7.1 the Insured is compelled to effect insurance or otherwise to furnish security or

10.7.2 the State or other governmental authority has accepted responsibility

10.8 PRODUCT REPLACEMENT

for the costs necessary to repair, replace, recondition or modify any Product or part thereof which is or is alleged to be defective

10.9 PRODUCT RECALL

arising out of the recall of any Product or part thereof

10.10 PERFORMANCE GUARANTEES

arising out of performance warranties or guarantees, or clauses stipulating liquidated damages or penalties, except to the extent that it is proved that such liability would have existed in the absence of any contractual provision

10.11 NUCLEAR

directly or indirectly caused by or contributed to by or arising from:-

10.11.1 ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel

10.11.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

In respect of claims for death, injury, illness or disease of any employee of the Insured arising out of such employment, this exclusion only applies to liability assumed by the Insured under contract which would not otherwise have existed and to any person or party indemnified by the Insured under a contract which requires such indemnity.

This exclusion will not apply to liability arising from the ownership, possession or use by or on behalf of the Insured, of radio-active isotopes

10.12 ASBESTOS

directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part by or arising from the existence of or exposure to asbestos and/or any asbestos containing materials. This exclusion also applies to any obligation to defend any claim or suit against the Insured alleging liability resulting from the existence of or exposure to asbestos and/or any asbestos containing materials and to Insurers' liabilities for any costs fees or expenses arising therefrom provided always that this entire exclusion shall not apply to liability which is specifically unrelated to the known or suspected harmful injurious or damaging effects of asbestos Products, fibres or dust

10.13. WAR AND TERRORISM EXCLUSION

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, for loss, damage, cost or expenses 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;

- (1) 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
- (2) any act of terrorism,
For the purpose of this endorsement an 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(s)), 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 insurance 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 (1) and/or (2) above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon-the-Insured. In the event of any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

10.14 SPECIFIC INSURANCES EXCLUSION

for claims arising out of dishonesty of the directors, principals or employees of the Insured or theft or fraud by any other person, nor does this Policy provide indemnity for any liability arising out of the activities of operations domiciled in the United States of America or Canada.

11. CONDITIONS

(Conditions 11.1 to 11.7 are precedent to Underwriters liability to provide indemnity under this Policy).

- 11.1 Written notice must be given to Underwriters as soon as possible of any event that may give rise to a claim under this Policy and such further information as Underwriters may reasonably require. Every claim, writ, summons or process and all related documents must be forwarded to Underwriters as soon as possible.

Inadvertent failure to comply with this condition because the Insured could not reasonably have anticipated that the event would give rise to a claim under this Policy will not be construed as a breach of this condition.

- 11.2 No admission, offer or payment which results in a claim under this Policy may be made or given by or on behalf of the Insured without the written consent of Underwriters. The Insured will take all reasonable steps to ensure that the Underlying Insurers will co-operate with Underwriters in the defence and settlement of any claim which is indemnifiable both by a Scheduled Underlying Insurance and this Policy, and in the exercise of any subrogation rights. The costs incurred in exercising such rights and any amounts recovered shall be apportioned to each party according to the sums paid or payable under the respective policies.
- 11.3 In respect of any claim not covered at least in part by the Scheduled Underlying Insurances, Underwriters may take over and conduct in the name of the Insured the defence or settlement of any claim or prosecute in the name of the Insured for their own benefit and will have full discretion in the conduct of any proceedings and in the settlement of any claim. The Insured will give all necessary information and assistance.
- 11.4 The Insured must throughout the whole Period of the Policy advise Underwriters as soon as possible of anything which they reasonably believe will materially change the information in the proposal form and any additional information that was originally presented to Underwriters, including (but not limited to) any alteration in the terms and conditions of the Scheduled Underlying insurance. Pending agreement by Underwriters hereon to any change in the Scheduled Underlying insurance, cover by

this Policy shall remain in force as if no such change had occurred.

- 11.5 Indemnity will not be provided under clause 4 until the relevant Underlying Insurers have agreed to pay the underlying indemnity limit as defined in 4.3.1.
- 11.6 The indemnity granted is conditional upon the Scheduled Underlying Insurances remaining in force throughout the Period of this Policy for the Indemnity Limits shown in the Schedule (other than where exhausted or reduced by claims).
- 11.7 Where the Indemnity Limit under this Policy is inclusive of Defence Costs, Underwriters may at any time pay the Indemnity Limit applying to any Claim Series Event (after deduction of sums already paid) or any lesser amount for which such claims can be settled and shall then be under no further liability in connection with such claims except for Underwriters' proportion of Defence Costs incurred prior to the date of payment, provided that the Insurers' liability inclusive of such Defence Costs shall not exceed the Indemnity Limit

Where the Indemnity Limit under this Policy involves Underwriters paying Defence Costs in addition to the Indemnity Limit, the Underwriters may at any time pay the Indemnity Limit applying to any Claims Series Event (after deduction of sums already paid) or any lesser amount for which such claims can be settled and shall then be under no further liability in connection with such claims except for Underwriters' proportion of Defence Costs incurred prior to the date of payment. If the amount required to dispose of such claim exceeds the Indemnity Limit and the excess amount is either wholly or partially insured, Underwriters will be liable for Defence Costs in the same proportion as the amount payable for the Claim Series Event bears to the applicable Indemnity Limit, including Insurers' proportion of subsequent Defence Costs incurred with their prior written consent after Underwriters have exercised their rights under this clause subject always to Clause 3

- 11.8 If any claim under this Policy is in any respect fraudulent all benefit in respect of such claim shall be forfeited..
- 11.9 Where the premium is provisionally based on estimates, the Insured shall keep accurate records and after expiry of this Policy declare as soon as possible such details as Underwriters require. The premium will then be adjusted and any difference paid by or allowed to the Insured, subject to any minimum premium that may apply.
- 11.10 The Policy and the schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear.
- 11.11 This Policy may be cancelled at any time by Underwriters giving sixty (60) days' notice in writing or by the Insured giving immediate notice to the registered office of the other party, in which event the premium will be adjusted in terms of the provisions of clause 11.9, except that:-
- 11.11.1 any minimum premium will only apply on a proportionate basis to the period Underwriters were actually on risk
- 11.11.2 if the premium is not subject to adjustment a return premium proportionate to the cancelled period will be due to the Insured.

12. SPECIAL PROVISIONS

- 12.1 Wherever this Policy provides that notice be given to the Underwriters, such notice shall be given to:

Camargue Underwriting Managers

Eton House
15 Eton Road
Parktown
2193
Registration No:

Postnet Suite 250
Private Bag X4
Bedfordview 2004
2000/028098/07

Telephone No: (011) 356 4845
Fax No: (011) 356 4847

12.2 This insurance is governed by the law of the Republic of South Africa whose courts shall have jurisdiction in any dispute arising hereunder

12.3 Any summons, notice or process to be served upon Underwriters at Lloyds for the purpose of instituting any legal proceedings against them in connection with this insurance shall be served upon Lloyd's South Africa (Pty) Ltd, 7th Floor, The Forum, 2 Maude Street, Sandton, South Africa.