



# **FIRST PROPERTY ACCEPTANCES HOMEOWNERS ASSOCIATION “ALL RISKS” POLICY**

## **HOMEOWNERS ASSOCIATION INSURANCE POLICY**

In consideration of the Insured named in the Schedule hereto (hereinafter referred to as You / Your) having paid or agreed to pay to the Centriq Insurance Ltd (hereinafter called The Company or Centriq or we / Our as appropriate) the Premium mentioned in the said Schedule. Premium is payable to the Company on or before the inception date or renewal date, as the case may be. The company shall not be obliged to accept Premium tendered to it after inception date or renewal date as the case may be, but may do so upon such terms as it at its sole discretion may determine.

The Company agrees to provide you with the insurance cover set out in the Sections selected by You, by payment or, at the Company's option, by repair or reinstatement, should any of the events as detailed in the Policy Sections occur during the Policy Period subject always to the terms, Exceptions, Conditions, Deductibles and Limits of Liability.

## CONTENTS

Schedule

Summary of The Benefits and Risks Covers

Our Agreement

Definitions and Interpretations Applicable to All Sections

General Exclusions Applicable to All Sections

General Conditions Applicable to All Sections

Claim Conditions Applicable to All Sections

### **Section 1 - Common Property**

Cover

Basis of Settlement

Additional Benefits

Specific Exclusions

Specific Condition

### **Section 2 – Geyser Replacement**

Cover

Limits of Liability

Specific exclusions

### **Section 3 – Money**

Cover

Limits of Liability and Excess

Additional Benefit

### **Section 4 – Legal Liability**

COVER – SECTION A – GENERAL LIABILITY

Specific Definitions

Limit of Liability and Excess

Specific Exclusions

Specific Condition

COVER - SECTION B – EMPLOYERS LIABILITY

Specific Definitions

Specific Exclusions

Additional Benefit

**Section 5 - Fidelity Guarantee**

Cover

Specific Definitions

Limit of Liability and Excess

Specific Exclusions

Specific Conditions

**Section 6 – Personal Accident (Voluntary Workers and Body Corporate Employees)**

Cover

Specific Definitions

Basis of Settlement

Additional Benefits

Specific Exclusions

Specific Conditions

**Section 7 – Directors & Officers Liability**

Insuring Agreements

Definitions

Insured Person & Company Legal Liability

**Section 8 – Machinery Breakdown**

Cover

Specific Definitions

Basis of Settlement

Limit of Liability and Excess

Specific Exclusions

Specific Condition

## **SUMMARY OF THE BENEFITS AND RISKS**

### **BENEFITS**

Subject to the payment of Your Premium, The Company will provide the cover You have selected subject to the exclusions, conditions and limitations stated in the Policy. The following is a summary only of the types of cover available and does not form part of the terms of Your insurance. The Company gives examples of some of the significant benefits and risks but You need to read the Policy wording part of this document which sets out the terms and conditions of this insurance, to make sure it matches Your expectations.

#### **Types of Cover Available Cover Summary**

See relevant Section for applicable specific limits, definitions, exclusions and conditions. See also general definitions, exclusions and conditions applying to all Sections of the Policy.

#### **Section 1: Common Property**

Cover against Loss or Damage to Common Property occurring during the Policy Period up to the Limit of Liability and Sub Limits of Liability applicable to Section 1. This Section also provides a number of additional benefits.

#### **Section 2: Geyser Replacement**

Cover against Replacement and Repair of your Geyser.

#### **Section 3: Money**

Covers You up to the Limits of Liability applicable to Section 3 for loss of Money and injury following assault of an employee.

#### **Section 4: Legal Liability**

A - General Liability

B - Employers Liability

A) General Liability:

Covers You up to the Limit of Liability applicable to Section 4A for claims for Compensation or expenses that You become legally liable to pay in respect of:

Death or Personal Injury, or  
Property Damage

occurring during the Policy Period as a result of an Occurrence arising in connection with the ownership of Insured Property.

B) Employers Liability:

Covers You up to the Limit of Liability applicable to Section 4B for claims for compensation or expenses that You become legally liable to pay in respect of: Death of or Personal Injury to or illness of any person employed under a contract of service or apprenticeship with You.

#### **Section 5: Fidelity Guarantee**

Cover for the Homeowners Association against loss of property or Funds set aside for the management of Insured Property up to the Limit of Liability applicable to Section 5 as a result of fraudulent misappropriation that occurs during the policy period.

**Section 6:  
Personal Accident (Voluntary Workers and Home Owners Association Employees)**

Cover for a Voluntary Worker or Homeowners Association employee for Lump Sum or Weekly Payments for an accident during the Policy Period causing Bodily Injury within 1 year of the accident. The Section also provides additional benefits for travel expenses, domestic assistance, medical expenses not covered by medical aid and funeral expenses.

**Section 7:  
Directors and Officers Liability**

Cover for Your Directors, Officers and the Company against Loss up to the Limit of Liability applicable to Section 7 arising from Claims arising out of a Wrongful Act, in their capacity as Directors and Officers of the Homeowners Association.

**Section 8:  
Machinery Breakdown**

Cover against physical loss or damage from Breakdown of your Machinery up to the Limit of Liability applicable to Section 8.

**EXCLUDED RISKS**

There are certain events for which this insurance may not provide cover. Some of the exclusions applying to all Sections of the Policy where The Company will not pay include, but are not limited to:

1. Acts of War and Terrorism
2. asbestos;
3. Computer Equipment failing to perform or function in the manner for which it was designed;
4. dishonest or intentional conduct;
5. loss of Electronic Data;
6. known faults and defects;
7. lawful seizure;
8. anything occurring outside the Policy Territory;
9. pollution;
10. radioactivity;
11. Unoccupied Insured Property.

Refer to pages 9 - 11 for full details of the exclusions applying to all Sections of the Policy. There are also specific exclusions or conditions that apply under each Section of the Policy. Refer to the 'Specific Exclusions' and 'Specific Conditions' parts in each Section of the Policy for further details. An excess may also apply for a valid claim that You are required to contribute towards each and every event that causes loss or damage insured by the Policy. Refer to the Policy wording and Schedule for details of any excess that may apply.

**ADEQUATE SUM INSURED**

In the event of a major loss, the Limits of Liability applying to each Section of the Policy should be sufficient to cover such loss. You should ensure that the Limits of Liability cover such a loss.

**DUTY OF DISCLOSURE**

Before You enter into a contract of insurance with The Company you have a duty to disclose to The Company anything that You could reasonably be expected to know is relevant to The Company's decision whether to accept the risk of insurance and if so, on what terms. You have the same duty to disclose those matters to The Company before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of a matter:

1. that diminishes the risk to be undertaken by The Company
2. that is of common knowledge

3. that We know or, in the ordinary course of business, ought to know
4. as to which compliance with your duty is waived by The Company

The duty of disclosure applies to You and everyone insured under the contract of insurance. If You, or they, fail to comply with the duty of disclosure, the Company may reduce its' liability under the contract in respect of a claim or may cancel the Policy.

If the non-disclosure is fraudulent, the Company may treat the Policy as if it never existed and pay nothing. It is important that all information provided in support of your application for insurance is understood by you and is correct, as you will be bound by Your answers and by the information provided by You. If You do not understand any part of this notice, You should obtain independent advice. Your duty of disclosure continues after Your application for insurance has been completed up until the contract of insurance is entered into.

### **CHANGE OF RISK OR CIRCUMSTANCES**

You should advise The Company immediately of any changes in the details as disclosed to The Company prior to entering into the contract of insurance, such as changes in nature of occupation or other changes that may increase the likelihood of loss or damage or of liability losses. This includes every change materially affecting the facts or circumstances existing at the commencement of this insurance, or at any subsequent renewal date.

### **PRESERVATION OF SUBROGATION RIGHTS**

Where You have agreed with another person or company, who would otherwise be liable to compensate you for any loss, damage, injury or expense which is covered by the Policy that you will not seek to recover such loss, damage or expense or contribution from that person or company the Company will not cover you, to the extent permitted by law, for such loss, damage, injury, expense or contribution.

### **CLAIMS MADE INSURANCE**

The cover provided by the Policy under Section 6 – Directors Liability is provided on a claims made basis. This means that it only covers claims made against you and notified in writing to the company during the policy period. Should You advise the Company of an incidence during the Policy period of an event that might give rise to a claim against you the Company will not be relieved of liability under the policy in respect of the claim, when made, solely by reason of the fact that the claim is made after expiry of the policy.

### **PREMIUM**

The Company takes a number of factors into account when calculating Your premium. Your risk profile, including the level of cover chosen and any previous insurance history may have a significant impact on your premium.

### **CANCELLATION OF YOUR POLICY**

**You** may cancel this Policy by giving notice in writing to the Company. If such notice is given, the cancellation will take effect on the day the notice is received by the Company.

**The Company** may cancel this Policy by giving thirty (30) days' notice to You at your last known address. For full details on how this Policy may be cancelled, refer to page 11.

### **HOW TO MAKE A CLAIM**

On the happening of any event which may result in a claim under this policy the Insured shall at the Insured's expense:

a) give notice in writing to the Company, as soon as reasonably possible (but in any event within or not more than 30 (thirty) days of any event which might result in a claim coming to the notice of the insured) and provide particulars of any other insurance covering such event as is hereby Insured;

b) within 24 (twenty-four) hours inform the police of any loss or damage by fire theft or malicious damage that may result in a claim and take all practicable steps to recover any stolen property;

c) as soon as practicable after the event submit to the Company full details in writing of any claim in such form as stipulated by the Company;

d) give the Company such proof, information, and sworn declaration as the Company may require and forward to the Company immediately any notice of claim or any communication, writ, summons or other legal process issued or commenced against the Insured in connection with the event giving rise to the claim.

e) No claim shall be payable after the expiry of 24 months or such further time as the Company may allow from the happening of the defined event unless the claim is the subject of pending legal action.

f) In the event of a claim being rejected the Insured has 90 (ninety days) from the date of the Insurers rejection letter to make representation to the Company in respect of this decision. If the dispute has not been resolved and the Insured has not commenced legal action within six months after this period, all benefit afforded under this policy in respect of any such claim shall be forfeited.

### **SPECIAL EXTENSION IN RESPECT OF SASRIA / NASRIA**

Notwithstanding the provisions of GENERAL EXCLUSION 1 The Company operates an insurance scheme sanctioned by SASRIA whereby all policies shall automatically be extended to cover war, riot and terrorism. The Company issues an insurance certificate in compliance with the scheme as sanctioned by SASRIA and the appropriate premium is remitted to SASRIA accordingly.

### **HOMEOWNERS ASSOCIATION INSURANCE POLICY**

#### **OUR AGREEMENT**

The Company agrees to provide you with the insurance cover set out in the Sections of the Policy which are listed as insured in the Schedule

1. based on the information provided in the Proposal and subject to the payment of the Premium by the required date;
2. in accordance with the terms, conditions, exclusions, definitions and limitations of the Policy. The insurance cover provided by the Policy is in force for the Policy Period. The Company will not pay any more than the applicable Limit of Liability or Sub Limit of Liability relating to each Section of the Policy that is taken out by you and will not pay the Excesses applicable to each Section shown in the Schedule or in this Policy Wording.

#### **INTERPRETATION**

In this Policy, unless the context otherwise requires:

1. the singular includes the plural and the plural includes the singular;
2. if a word or expression is given a definite meaning, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
3. references to an amount of money are references to that amount in South African Rands; and
4. headings are included for reference purposes only and do not form part of the Policy for interpretation.

#### **DEFINITIONS APPLICABLE TO ALL SECTIONS (EXCLUDING SECTION 7)**

In this Policy there are words that have a special meaning. These words begin with a capital letter. Some Sections include specific definitions so these general definitions should be read in conjunction with such specific definitions. Those words that have a special meaning that apply to all Sections of the Policy are set out and defined below:

## **Word or Term Meaning**

### **Aircraft**

Any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.

### **Director**

Director or Officer of the Homeowners Association, including the equivalent position in any other jurisdiction

### **Common Property Contents**

The domestic appliances, equipment, carpet, floating floors, furnishings and furniture in any common area of the Situation surrounded by walls, gates or fences that are owned by You or for which You are legally responsible.

Common Property Contents does not include:

- a) Vehicles, caravans, trailers, Watercraft, Aircraft, or any accessories in or on any of them
- b) Any appliance, equipment, furnishings, or furniture which is in open air and is designed to be neither used nor kept in open air;
- c) Livestock
- d) The personal or business property of any Unit Owners.
- e) Where this definition of Common Property Contents is contrary to any Act or Regulation governing Homeowners Association or company title property or similar scheme pertaining to the Situation, then the requirements of that Act or Regulation will apply.
- f) Computer Equipment computer hardware, operating system, computer network and other equipment containing or comprising any computer technology not belonging to the Homeowners Association..

### **Common Property**

Common Property (excluding residential units) including walls (except dam walls) gates posts fences tarred or paved roads driveways paths or parking areas owned by you or for which you are responsible.

### **Damage or Damaged**

Any accidental physical loss destruction or Damage to the Insured Property that has the result of lessening its' value

### **Electronic Data**

Facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for such equipment.

### **Excess**

the amount that You are required to contribute towards each and every event that causes loss, damage, cost or expense insured by this Policy. The Excesses that are applicable to each Section of the Policy are specified in the Schedule or in the Policy wording.

### **Geyser**

The geyser unit itself, including the thermostat, vacuum breaker(s), element, safety valve, sacrificial anode, pressure control valve, drain cock, expansion relief valve, drip trays and pans, wiring from the element to the isolator switch including the isolator switch and attached pipes and fittings within 1 meter of the geyser unit

### **Homeowners Association**

is a property owners' association which represents a body of multiple owners in full title or freehold housing schemes.

### **Homeowners Association Employee**

any person over the age of 16 (Sixteen) and under the age of 75 (Seventy-five) undertaking work at the Situation under Your direct control for remuneration, fee or reward.

Homeowners Association Employee does not include

- a) a Director; or
- b) a Homeowners Association Manager or a director or representative of such a manager.

**Homeowners Association Manager**

Anyone whom the Homeowners Association has engaged to provide sectional title management services in relation to the Common Property and other improvements at the Situation.

**Insured Property**

The Common Property at the Situation insured under Section 1.

**Landscaping**

Trees, shrubs, plants, lawns or rockwork

**Law**

In this policy there are words that have a special meaning. These words begin with a capital letter. Some Sections include specific definitions so these general definitions should be read in conjunction with such specific definitions. Those words that have special meaning that apply to all Sections of the Policy are set out and defined below.

**Legislation**

The Companies Act no 71 of 2008, alternatively in terms of a Municipal Ordinance, section 29 of the Land Use Planning Ordinance 15 of 1985 that would specifically apply only to the Western Cape.

**Limit of Liability**

The limit of the Company's total liability for any one loss or series of losses arising out of one event that is applicable to a Section of the Policy as specified in the Schedule.

**Money**

Current and valid coins, bank notes, cheques, crossed cheques, other negotiable instruments, currency notes, postal orders, money orders and unused postage and revenue stamps.

**Policy**

the contract of insurance between You and the Company which comprises this Policy, the Proposal, this wording, the Schedule and any document issued by the Company varying the Policy coverage.

**Policy Period**

The period stated in the Schedule during which the insurance cover provided by this Policy is in place.

**Policy Territory**

The territorial limits as stated in the Schedule.

**Pollutants**

Any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

**Premium**

The premium specified in the Schedule or in any endorsement to the Policy.

**Proposal**

The written application completed by You or on Your behalf (together with all accompanying or supplementary information) relied upon by The Company to enter into this Policy.

**Schedule**

The Schedule issued with this Policy wording and includes a Schedule issued to accompany any endorsement to the Policy.

**Sea**

Any ocean, sea, harbour or tidal water

**Situation**

The location stated in the Schedule where the Insured Property is situated.

**Sub Limit of Liability**

the limit of the Company's total liability applicable to a particular benefit, item, loss or claim within a Section of the Policy, as specified in that Section of the Policy or in the Schedule.

**The Company**

ACE Insurance Ltd.

**Tsunami**

A high sea wave caused by an earthquake, earth tremor or other seismological disturbance under the Sea

**Vehicle**

Any type of machine on wheels or on caterpillar tracks made or intended to be self-propelled by mechanical power.

**Voluntary Worker**

any person over the age of 16 (sixteen) and under the age of seventy five (75) undertaking work at the Situation under Your direct control, without fee or reward or any expectation of fee or reward Voluntary Worker does not include:

- a) a Director; or
- b) a Homeowners Association Manager or a director or representative of such a manager.

**Watercraft**

any vessel, craft or thing made or intended to float on or in or travel on, through or under water

**You, Your and Yours**

The Homeowners Association

**GENERAL EXCLUSIONS APPLICABLE TO ALL SECTIONS (EXCLUDING SECTION 7)**

The Policy does not cover any, claim, loss, Damage, destruction, compensation, liability, cost or expense of any nature arising out of or in any way connected with the following, regardless of whether there is any other contributing cause or event:

**1. War and Terrorism (SAIA) Exclusion**

1.1 civil commotion, labour disturbances, riot, strike, lockout or public disorder or any act or activity which is calculated or directed to bring about any of the a foregoing

1.2 war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war

1.3 (a) mutiny, military rising, military 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 (b) Insurrection, rebellion or revolution

1.4 any act (whether on behalf of any organization, body or 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

1.5 any act which is calculated or directed to bring about loss or damage in order 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

1.6 any attempt to perform any act referred to in Exclusion 1.4 or 1.5 above

1.7 the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in Exclusion 1.1, 1.2, 1.3, 1.4, 1.5 or 1.6 above. If we allege that, by reason of clauses 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.7 of this exclusion, loss or damage is not covered by this policy, you must prove the contrary.

1.8 caused directly or indirectly by or through or in consequence of any occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act, 1976 (Act no. 85 of 1976), or any similar Act operative in any of the territories to which this policy applies.

1.9 notwithstanding any provision of this policy including any exclusion, exception or extension or other provision not included herein which would otherwise override a general Exclusion, loss of or damage to property or bodily injury or expense of whatsoever nature directly or indirectly caused by, arising out of or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any sequence to the loss, damage, bodily injury or expense. For the purpose of this Exclusion 1.9, an act of terrorism includes, without limitation, the use of violence or force or the threat thereof whether as an

act harmful to human life or not, by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government or any other person or body of persons, committed for political, religious, personal or ideological reasons or purposes including any act committed with the intention to influence any government or for the purpose of inspiring fear in the public or any section thereof. If we allege that, by reason of clause 1.9 of this exclusion, loss or damage is not covered by this policy, you must prove the contrary.

## **2. Asbestos**

Asbestos or asbestos products or any materials containing asbestos in whatever form or quantity

## **3. Computer Equipment**

Failure of any Computer Equipment to perform or function in the manner for which it was designed including failure caused by computer viruses and or hackers

## **4. Dishonest or Intentional Conduct**

Any actual or alleged

- a. dishonest, fraudulent, criminal, deliberate or malicious act;
- b. willful or reckless breach of any statute, contract or duty;
- c. conduct intended to cause loss, damage, destruction, liability, cost or expense or such conduct engaged in with reckless disregard for the consequences committed by You or any person acting with Your knowledge, consent or participation or any person entitled to any benefit under the Policy, or in which You knowingly acquiesced.

## **5. Electronic Data**

unplanned loss or alteration of Electronic Data

## **6. Known Faults and Defects**

faults and defects in Insured Property which are known to You, or which ought reasonably to have been known to You, and not disclosed to the Company at the time this Policy was entered to.

## **7. Lawful Seizure**

lawful seizure, detention, confiscation, nationalization or requisition of any Insured Property

## **8. Outside Territory**

Outside the Policy Territory

## **9. Pollution**

The discharge, disposal, release, seepage, migration or escape of Pollutants or the cost of preventing the escape of Pollutants. This general exclusion 9 will not apply under Section 3 – Legal Liability to the extent that the liability arises from a sudden, identifiable, unintended and unexpected event from Your standpoint which takes place in its entirety at a specific place and time during the Policy Period.

## **10. Radioactivity**

Ionising radiation or contamination by radioactivity from any nuclear fuel, weapon, waste or other material whether occurring naturally or otherwise; the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or the storage, transport, assembly, disassembly, maintenance or operation of any nuclear weapon or nuclear component thereof or any other nuclear material.

## **GENERAL CONDITIONS APPLICABLE TO ALL SECTIONS (EXCLUDING SECTION 7)**

### **1. Alteration to Risk**

Any material alteration to the risk after commencement of the Policy must be notified by You to The Company in writing immediately after such change in risk comes to the notice of You or Your Director responsible for insurance. Alterations of which You must notify the Company include

- a. removal of or alteration of any Common Property;
- b. Your interest in any Insured Property ceasing;

- c. any instance where the nature of the occupation of or other circumstances affecting the Insured Property are changed in such a way to increase any risk insured under this Policy; or
- d. Your being placed into bankruptcy, receivership, administration or liquidation. If The Company accepts the altered risk, You must pay The Company any additional premium it requires. If not, The Company may cancel this Policy or exclude the additional risk benefits.

## 2. Applicable Law

Should any dispute arise concerning this Policy, the dispute will be determined in accordance with the law of the Republic of South Africa.

## 3. Assignment

You must not assign this Policy or any of Your rights under this Policy, without the prior written consent of the Company.

## 4. Cancellation

- a. **You** may cancel this Policy by giving notice in writing to the Company. If such notice is given, the cancellation will take effect on the day the notice is received by the Company.
- b. **The Company** may cancel this Policy by giving thirty (30) days' notice to You at Your last known address.
- c. After cancellation by You a refund of Premium will be returned to You provided no claim has been made during the Policy Period.
- d. After cancellation by The Company a refund of Premium will be returned to You pro rata for the unexpired Policy Period.

## 5. Changes in Policy

No changes in this Policy will be valid unless agreed to in writing by the Company. The requirements of any Section of the Policy will not be deemed to be waived unless the Company agrees in writing to waive them.

## 6. Excess

You must pay the amount of any applicable Excess shown in the Schedule or in this wording in respect of each claim You make under the Policy. The Excess is payable by You at such time required by the Company. If any event leads to a claim under more than one Section of the Policy, You must pay the highest applicable Excess.

## 7. Inspection and Audit

The Company may inspect any Insured Property with reasonable notice. Neither The Company's right to make inspections nor the making of any inspection nor any report thereon will constitute an undertaking by The Company on behalf of or for Your benefit or warranty that such Insured Property or operations are safe or healthful, or are in compliance with any applicable law, rule or regulation. The Company may examine and audit Your books and records at any time during the Policy Period and extensions thereof and within three (3) years after the final termination of this Policy, as far as they relate to the subject matter of this Policy. Such examination and audit will not relieve You of any duty of disclosure or any other duty under this Policy.

## 8. Interests of Other Parties

### Mortgagee

This insurance, as to the interest of the mortgagee(s) in the buildings, improvements, landlord's fixtures and rent insured only shall not be invalidated by,

- a) any act or neglect of the Homeowners Association as defined in section 21 of the Companies Act no 61 of 1973 as amended or replaced from time to time, or
- b) by any misrepresentation or non-disclosure by the Homeowners Association at the time when the insurance is effected or renewed during the currency thereof, or
- c) by the alienation of the property, or
- d) by the occupation thereof for purposes more hazardous than are permitted by the policy, provided that,
  - i. such act, neglect, misrepresentation, non-disclosure, alienation or occupation shall have been effected without the knowledge or privity of the mortgagee(s) and

- ii. the mortgagee(s) shall notify The Company of the happening or existence of such act, neglect, misrepresentation, nondisclosure, alienation or occupation as soon as same shall come to his or her knowledge,
- iii. the mortgagee(s) shall, on reasonable demand, pay the additional charge for any increase of hazard thereby created according to the established scale of rates, for the time such increased hazard may be, or shall have been, assumed by the company during the continuance of the insurance and
- iv. any compensation payable in terms of this section shall be payable direct to the mortgagee(s) of the particular unit in the order of preference of their bonds up to the value allocated to the particular unit in this policy or the aggregate of the amounts due by the unit owner to the mortgagees under their mortgage bonds, whichever is the lesser.

All and any amounts becoming payable by The Company under this insurance policy as a result of damage to or destruction of the buildings, improvements or landlords' fixtures shall, unless otherwise resolved or ordered in terms of Section 21 of the Companies Act 61 of 1973 to be wholly applied to the reinstatement of such damage. If it is resolved or ordered in terms of Section 21 of the Companies Act no 61 of 1973 that such damage should not be reinstated, the proceeds of any claim applicable to the unit shall be made in the first place to the mortgagee(s) of the particular unit in the policy or the aggregate of the amounts due by the Homeowners Association to the mortgagee(s) under their mortgage bonds, whichever is the lesser. The Condition of Average Clause incorporated within the policy applies to the individual units (excluding the owner's interest in the land) and not to the Scheme as a whole.

#### **9. Other Insurances**

You shall give written notice as soon as possible to The Company of any other insurance or insurances effected covering any of the risks that are the subject of this Policy.

#### **10. Possession of Damaged Property**

On the happening of any loss, destruction or damage in respect of which a claim is or may be made under this Policy, The Company and every person authorized by The Company may, without incurring any liability, and without diminishing the right of The Company to rely upon any terms or conditions of the Policy, enter, take or keep possession of any Insured Property or premises where the loss, damage or destruction has happened and may take possession of or require to be delivered to The Company any of the Insured Property and may keep possession of and deal with such Insured Property for all reasonable purposes and in any reasonable manner. This condition shall be evidence of Your permission and license to do any of the above mentioned acts. If You or any one acting on Your behalf does not comply with the requirements of The Company or hinders or obstructs The Company in doing any of the abovementioned acts, then all benefits under The Policy shall be forfeited. You shall not in any case be entitled to abandon any Insured Property to The Company whether taken possession of by the Company or not.

#### **11. Reasonable Care**

You must:

- a) take all reasonable measures to maintain all Insured Property in sound condition;
- b) take all reasonable precautions to prevent or minimize loss, damage, destruction, liability, compensation, cost or expense covered by this Policy;
- c) ensure that all fire-fighting equipment and fire protection at the premises is installed, maintained and serviced in accordance with the National Building regulations or any other regulations as may be contained in the respective Emergency Services bye-laws.
- d) comply with all obligations and regulations imposed by any authority including National Building regulations and
- e) take all reasonable measures to ensure that only competent employees and contractors are employed to undertake work on Your behalf.

#### **12. Storage of Hazardous Materials**

Hazardous goods or materials stored at the Situation must be stored in the quantities and manner required by any relevant law or standard.

#### **13. Subrogation**

If The Company makes a payment under this Policy, The Company is subrogated to all Your rights of contribution, indemnity or recovery. You must not surrender any right to or settle any claim for contribution, indemnity or recovery without the Company's

prior written consent. You must do all things and execute all documents to enable the Company to sue in Your name for such contribution, indemnity or recovery.

#### **14. Your Authorized Representative**

You agree that the person representing You when completing the Proposal is authorized to give and receive information on Your behalf.

#### **CLAIMS CONDITIONS APPLICABLE TO ALL SECTIONS (EXCLUDING SECTION 7)**

On the happening of any Damage or event likely to give rise to a claim under any Section of this Policy, You must, at Your own expense

- a) as soon as reasonably possible inform The Company, by telephone or in writing, of any Damage, death, injury or receipt of notice of any claim and/or of the institution of any proceedings against You;
- b) as soon as reasonably possible inform the police of any malicious Damage, burglary, housebreaking, fraudulent misappropriation, theft or any attempted theft of Insured Property or other suspected criminal conduct;
- c) take all reasonable precautions to recover lost or stolen Insured Property and minimize the claim;
- d) take all reasonable precautions to prevent further Damage;
- e) not dispose of any Damaged Insured Property without the Company's written consent;
- f) not arrange for the repair or replacement of any Insured Property in connection with any claim without the Company's written consent;
- g) when requested by the Company to do so, complete and lodge a claim form within twenty one (21) days with all necessary supporting documentation that the Company may reasonably require for the investigation and verification of the claim;
- h) not admit liability for, settle or offer to agree to settle, any claim brought against You or assume any obligation without the Company's prior written consent; and
- i) assist the Company in the defense of any claim brought against You. The Company has the right to negotiate, defend or settle in Your name and on Your behalf any claim brought against You and will have full discretion in the conduct of any proceedings or in the settlement of any claim.
- j) No claim shall be payable after the expiry of 24 months or such further time as the company may allow from the happening of any event unless the claim is the subject of pending legal action or is a claim in respect of the insured's legal liability to a third party.
- k) No claim shall be payable, unless the insured claims payment by serving legal proceedings on the company within 90 days of the rejection of the claim in writing and pursues such proceedings to finality within a further 180 days.
- l) If, after the payment of a claim in terms of this policy in respect of lost or stolen property, the property (the subject matter of the claim) or any part thereof is located, the insured shall render all assistance in the identification and physical recovery of such property if called on to do so by the company, provided that the insured's reasonable expenses in rendering such assistance shall be reimbursed by the company. Should the insured fail to render assistance in terms of this condition when called upon to do so, the insured shall immediately become liable to repay to the company all amounts paid in respect of the claim.

#### **SECTION 1 – COMMON PROPERTY**

##### **COVER**

Subject to the terms, conditions, exclusions and limitations applying to Section 1 (as well as those applying to all Sections of the Policy), The Company agrees to indemnify You in accordance with the Basis of Settlement applicable to Section 1, up to the Limit of Liability applicable to Section 1, against Damage due to any cause not excluded to

- a) Common Property whilst they are at the Situation or whilst temporarily removed and In Transit in the Policy Territory, occurring during the Policy Period.

## **BASIS OF SETTLEMENT SPECIFIC CONDITION**

### **AVERAGE**

If the property insured is, at the commencement of any damage to such property by any peril insured against, collectively of greater value than the sum insured thereon, then the insured shall be considered as being their own insurer for the difference and shall bear a ratable share of the loss accordingly. Every item, if more than one, shall be separately subject to this condition.

### **Claims for Damage to Common Property**

In respect of a claim for Damage to Common property, The Company will at its option:

- a) pay the reasonable cost of repairing, replacing, or rebuilding the Damaged portion of the Common Property to a condition which is substantially the same as when new but not better or more extensive than when new; or
- b) pay up to the Limit of Liability applicable to Section 1.

### **Claims for Damaged Common Property Contents**

In respect of a claim for Damaged Common Property Contents, The Company will at its option pay the reasonable cost of repairing or replacing the item of Common Property Contents to a condition, which is substantially the same as when new, but not better or more extensive than when new.

The maximum that The Company will pay in respect of any one loss or series of losses arising out of one event relating to

- a) Common Property Contents that are not in open air is the Limit of Liability specified in the Schedule against Common Property Contents;
- b) Common Property Contents that are in open air or In Transit is R7, 500.

When Damage occurs to an item of Common Property Contents which

- a) is part of a set, The Company will only pay for the reasonable cost of repairing or replacing the item itself as a proportion of the reasonable cost of repairing or replacing the whole set, notwithstanding that the set is less valuable by reason of it being incomplete;
- b) is a wall, floor or ceiling covering (including carpets, blinds and curtains), The Company will only pay for the cost of repairing or replacing such item in the room, hall or passage in which the Damage occurred.

### **Extra Cost of Reinstatement of Buildings**

Where Common Property is destroyed or Damaged, Section 1 extends to cover the additional costs necessarily and reasonably incurred by You in complying with the requirements of any lawful authority that are imposed after the Damage (including demolition or dismantling) subject to the terms, conditions and Limit of Liability applicable to Section 1 and provided that:

- a) the work of reinstatement must be commenced and completed within a reasonable period, failing which the Company will not be liable to make any payment in respect of the extra cost of reinstatement;
- b) the work of reinstatement may be carried out wholly or partially at another site, if the requirements of any lawful authority makes that necessary, subject to the Company's liability not being increased;
- c) the Company will not pay for any extra costs of reinstatement that would have been incurred when complying with any Act, Regulation, By-Law or Statutory Requirement that applied to the Building prior to the Damage;
- d) where the Building is not destroyed, the Company will only pay for the extra costs incurred in reinstating the Damaged portion of the Common Property;
- e) The Company will not pay for the cost of reinstating illegal installations; and
- f) The Company will only pay for any extra costs of reinstatement when the Limit of Liability applicable to Section 1 is not otherwise exhausted.

### **Excess**

The amount that the Company pays in relation to Your claim will be reduced by the amount of any applicable Excess.

You must pay the amount stated in the Schedule as the Excess payable in respect of Common Property Cover for each loss or series of losses arising from one event when a claim is accepted by the Company under Section 1, provided that where the Damage is caused by water or liquid (including costs in locating the source of that Damage caused by bursting, leaking or

discharging or overflowing of tanks, apparatus or pipes) an excess of R1500 will apply to each loss or series of losses arising from one event.

#### **ADDITIONAL BENEFITS WITHIN LIMIT OF LIABILITY**

The following costs or losses will be paid when they result from Damage to Insured Property. The Company will pay the additional benefits 1 to 9 when the Limit of Liability applicable to Section 1 is not otherwise exhausted.

The costs or losses covered by additional benefits 1 – 9 will be paid when they result from Damage to Insured Property occurring during the Policy Period caused by an event not excluded under Section 1. Additional Benefit 5 will be paid to Homeowners Association, subject to all of the conditions, exclusions and limitations applying to Section 1 (including those applying to all Sections of the Policy).

#### **Additional Benefit 1 - Authority Fees**

Fees, contributions or imposts payable by You to any government or local authority to obtain a building or construction consent to repair, replace or rebuild any Damaged Insured Common Property, provided that the Company will not be liable for any fines or penalties imposed by any such authority.

#### **Additional Benefit 2 – Claim Preparation Costs**

Costs necessarily and reasonably incurred by You, with The Company's written prior consent, in preparation of a claim under Section 1 of this Policy. The maximum that The Company will pay in respect of this Additional Benefit 2 during any one Policy Period is R50,000.

#### **Additional Benefit 3 - Fire Extinguishment**

Costs necessarily and reasonably incurred by You in order to extinguish any fire that threatens Insured Common Property at the Situation, including the cost of replenishing firefighting equipment and charges for shutting off the supply of water or any other substance following accidental discharge or escape of such substances from firefighting equipment.

#### **Additional Benefit 4 - Minimization of Imminent Damage**

Emergency costs necessarily and reasonably incurred by You in order to prevent or minimize imminent Damage to Insured Property occurring during the Policy Period, provided that the Company shall have no liability in relation to this additional benefit exceeding R5,000.

#### **Additional Benefit 5 – Mortgage Discharge Fees**

Legal fees necessarily and reasonably incurred by Unit Owners to discharge their mortgage in the event that the Homeowners Association is totally destroyed, or in such a condition to make it uneconomic to repair, replace or rebuild.

#### **Additional Benefit 6 - Professional Fees**

Fees of architects, surveyors, consulting engineers, lawyers and other professionals, including all incidental costs and fees for:

- a) estimates,
- b) plans and specifications,
- c) applications for building or construction consents,
- d) quantities,
- e) tenders, and
- f) supervision necessarily and reasonably incurred by You, with the Company's prior written consent, in repairing, replacing or rebuilding any Damaged Insured Common Property provided that the Company will not be liable for the costs of preparing any claim under this Policy or any other policy. The maximum that the Company will pay in respect of this Additional Benefit 6 during any one Policy Period is 15% of the sum insured or R1,000,000, whichever is less.

#### **Additional Benefit 7 - Removal of Debris**

Costs necessarily and reasonably incurred by You of

- a) removal, storage and disposal of debris, being the remains of any Damaged Insured Common Property;
- b) demolition, dismantling, shoring up, propping, underpinning or other temporary repairs to any Damaged Insured Common Property

- c) demolition and removal of any Insured Common Property that can no longer be used for its intended purpose, as long as such demolition and removal is necessary to repair, replace or rebuild any Damaged Insured Common Property, provided that Your liability to pay such costs does not arise directly or indirectly as a consequence of
  - i. the discharge, dispersal, release or escape of Pollutants or
  - ii. any contract, except where the liability would have existed in the absence of such contract.

**Additional Benefit 8 - Temporary Protection**

Costs necessarily and reasonably incurred by You in order to provide temporary protection, safety of Insured Common Property pending the repair, replacement or rebuilding of Damaged Insured Common Property. The maximum that the Company will pay in respect of additional benefit 8 is R10,000 in respect of any one loss or series of losses arising out of one event.

**Additional Benefit 9 – Tsunami**

Damage to Insured Common Property caused by a Tsunami subject to the operation of all the terms, conditions, exclusions and limitations applying to Section 1 (including those applying to all Sections of the Policy).

**FURTHER ADDITIONAL BENEFITS OVER LIMIT OF LIABILITY**

The Company will pay the additional benefits 10 to 20 over and above the Limit of Liability applicable to Section 1.

**Additional Benefit 10 – Reward for Information**

A reward for information that leads to a conviction for arson, malicious damage, theft of property in connection with Damage covered under Section 1. The maximum that the Company will pay in respect of this additional benefit 10 is R1,000 for any one event irrespective of the number of informants or persons convicted.

**Additional Benefit 11 – Inflation Adjustment**

If You suffer damage to Insured Common Property that is covered under Section 1, the Limit of Liability applicable to Section 1 shall be increased to account for Inflation by no more than 20% from commencement of the Policy Period.

**Additional Benefit 12 - Damage to Domestic Electric Motors**

Costs necessarily and reasonably incurred by You in repairing or replacing an electric motor within an electrical machine used for domestic purposes comprising part of Insured Common Property which has burnt out during the Policy Period by electric current. The Company will not pay for:

- a) motors covered by any form of warranty;
- b) motors with an output greater than five (5) kilowatts (5kW);
- c) motors more than ten (10) years old;
- d) other parts of any electrical machine;
- e) non-electrical components such as bearings, seals and solenoids;
- f) lighting filaments or heating elements;
- g) fuses or protective devices;
- h) electrical contacts or switches at which sparking or arcing occurs during ordinary operation;
- i) costs of flushing or recharging with refrigerant; or
- j) any additional costs arising from loss of use of the machine.

The Company will not pay any benefit under this Additional Benefit 12 if You have selected Section 8 (Machinery Breakdown) of this Policy.

**Additional Benefit 13 – Landscaping**

Costs necessarily and reasonably incurred by You in replacing Damaged Landscaping occurring during the Policy Period caused by an event not excluded under Section 1. The maximum amount that the Company will pay for Additional Benefit 13 is R10,000 for each loss or series of losses arising from one event.

**Additional Benefit 14 - Locating Source of Leak**

Costs necessarily and reasonably incurred by You in

- a) locating the source of leaking, bursting, discharging, or overflowing of tanks, apparatus or pipes used to carry water or oil (including damage to other property necessary to effect the repair or replacement); and
- b) repairing or replacing the defective part or parts of such tanks, apparatus or pipes up to a limit of R5,000 per event;
- c) cleaning up any pollution damage to land at the Situation, as a direct result of leakage described under this additional Benefit, up to a limit of R1,000, provided that the leaking, bursting, discharging or overflow occurs during the Policy Period and is caused by an event not excluded by the Policy.

**Additional Benefit 15 - Removal of Fallen Trees**

Costs necessarily and reasonably incurred by You in removing and disposing of fallen trees and branches (excluding stumps and roots) that have caused Damage to Insured Common Property during the Policy Period. The maximum amount That the Company will pay for Additional Benefit 15 is R5,000 for any one loss or series of losses arising out of one event.

**Additional Benefit 16 - Rewriting of Records**

Costs necessarily and reasonably incurred by You in preparing and/or rewriting the records of the Homeowners Association which have been damaged during the Policy Period from an event not excluded under Section 1:

- a) at the Situation;
- b) while in the safe keeping of a duly appointed Homeowners Association Manager; or
- c) at a bank for safekeeping.

The maximum that The Company will pay for Additional Benefit 16 is R5,000 in any one Policy Period.

**Additional Benefit 17 – Reinstatement of Cover**

Following payment of a claim by The Company under Section 1 and provided that all the Common Property is not totally destroyed, the Limits and Sub Limits of Liability applicable to Section 1 will automatically reinstate until expiration of the Policy Period subject to Your payment of an additional premium, if called upon to do so, calculated pro rata to the amount of the claim settlement and the period to expiry of the Policy Period.

**Additional Benefit 18 – Glass and or Sanitary Ware if stated on the schedule**

Accidental damage to or breakage of glass or sanitary ware such as fixed glass in windows, doors, fanlights, skylights, Green houses, conservatories and verandas, stoves, mirror glass, fixed wash-basins, pedestals, sinks, lavatory pans, splash-backs and cisterns (excluding denting, chipping, scratching, cracking or other disfiguration not affecting the operation of the item).

**Additional Benefit 19 – Theft of exterior fixtures and fitting forming part of any building**

Theft (or any attempt thereat) of exterior fixtures and fittings by forcible and violent means limited to R20,000 or such other amount as stated in the policy schedule.

**Additional benefit 20 – Water Loss**

The cost of water lost through leakage from pipes in any unit or on the Common Property, where the insured is responsible to pay the charge for such lost water subject to

- a) Only in the event of the quarterly reading of water consumption exceeding the average of the previous four quarterly readings by 50% or more, then the Company will pay the insured for the cost of such additional water consumed up to a limit of R5,000.
- b) No more than R5,000 shall be payable and the Company will not pay for more than two losses in any 12 month period of insurance.
- c) It is a condition precedent to liability under this extension that the insured shall, upon discovery of a leak, (by physical evidence of a leakage or on receipt of an abnormally high water account) take immediate action to repair the pipe(s) affected.
- d) This extension does not cover the cost of remedial action including repairs to the pipe(s) affected.
- e) The Company will not be liable for claims:

- i. As a result of leaking taps geysers toilet systems swimming pools and storage tanks.
- ii. As a result of a leaking inlet or outlet pipe of a swimming pool.
- iii. As a result of the deliberate acts of the insured, any tenant of the Insured Property or any person acting on their behalf.
- iv. Whilst a unit is unoccupied for more than thirty (30) consecutive days
- v. For the cost of re-filling swimming pools or other pools or ponds or water tanks whether following a leakage or otherwise.

#### **SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 1**

In addition to the general exclusions applying to all Sections of the Policy, the Company will not pay for:

- A. Consequential loss of any kind other than as specifically covered in Section 1;
- B. Any legal liability of any kind except Your legal liability described in additional benefit 7 (Removal of Debris) and additional benefit 24 (Personal Property Under Control of Homeowners Association);
  - 1. Damage to any:
    - i. animals;
    - ii. awnings and blinds made of textile or fabric more than ten (10) years old caused by wind, rainwater or hail;
    - iii. Insured Common Property which is vacated and undergoing demolition;
    - iv. Common Property which is in the course of construction, erection, alteration or addition where the total contract value of such work exceeds R250,000;
    - v. docks, wharves and piers not forming part of any Common Property;
    - vi. Money;
    - vii. pathways, driveways and tennis court surfaces caused by wind, rainwater or hail;
    - viii. personal property in open air unless it is part of the Common Property designed to function without the protection of walls or a roof;
    - ix. pool and spa covers caused by wind, rainwater or hail;
    - x. retaining walls caused by wind, rainwater or hail;
    - xi. swimming pools, spas or surrounds caused by movement of their foundations or structure
  - 2. Damage arising directly or indirectly out of or in any way connected with:
    - i. change in texture or finish;
    - ii. creeping, heaving or vibration;
    - iii. demolition ordered by any lawful authority due to You or Your agents' failure to obtain necessary building, construction or development consents or permits;
    - iv. erosion, subsidence, landslide, mudslide, or any other earth movement or collapse unless the Damage arises out of an earthquake or seismological disturbance, explosion or physical impact by Aircraft;
    - v. error or omission in design, plan or specification or failure of design;
    - vi. faulty materials or faulty workmanship;
    - vii. hydrostatic pressure, changes in the water table, accidental breakage, chipping or lifting of swimming pools, spas and their surrounds including tiles and pavers;
    - viii. incorrect siting of any Common Property;
    - ix. inherent vice or latent defect;
    - x. kidnapping, bomb threat, threat of contamination, hoax, extortion or any attempt thereat;
    - xi. theft unless accompanied by violent and forcible entry into or exit from such building or portion thereof. Each and every unit shall be subject to this exclusion.
    - xii. lack of maintenance or any other failure to keep any Insured Common Property in good repair;
    - xiii. mechanical, hydraulic, electrical or electronic breakdown except to the extent covered by additional benefit 12 (Damage to Domestic Electric Motors);
    - xiv. mildew, mould, contamination, disease, wet or dry rot, change of colour, oxidation, evaporation, dampness of atmosphere or variations in temperature;

- xv. normal settling, seepage, shrinkage or expansion in Common Property or foundations, walls, pavements, roads and other structural improvements;
- xvi. removal or weakening of supports or foundations for the purpose of alterations, additions, renovations or repair;
- xvii. roots of trees or other plants;
- xviii. spontaneous combustion, fermentation or heating or any process involving the direct application of heat except that this exclusion will be limited to the item or items immediately affected and will not extend to other Damaged Insured Common Property as a result of such combustion, fermentation or heating process;
- xix. Sea, except to the extent covered by additional benefit 9 (Tsunami);
- xx. smoke or smut from industrial operations;
- xxi. the actions of birds, vermin, moths, termites or other pests; or
- xxii. wear and tear, corrosion, rust or oxidation, fading, chipping, scratching or marring, gradual deterioration or developing flaws, concrete or brick 'cancer', normal upkeep or making good actual physical loss of, or damage to Insured Property by a cause provided for in terms of this Policy on the basis that the Insured Property has been deemed to be destroyed in terms of Section 21 of the Companies Act no 61 of 1973 and the provisions of that Section shall not apply regarding application and / or interpretation of this Policy.

#### **SPECIFIC CONDITION APPLICABLE TO SECTION 1**

In addition to the general conditions applying to all Sections of the Policy, the following condition applies to Section 1:

##### **Replacement by Similar Styles and Materials**

Where Common Property has architectural features and structural materials of a particular ornamental, antique or historical character, or the materials are not readily available, The Company shall be permitted to calculate the cost of repairing, replacing or rebuilding the Common Property by reference to cost of repairing, replacing or rebuilding a similar type of building of current design and materials and of a reasonably equivalent utility and capacity.

#### **SECTION 2 – GEYSER REPLACEMENT - if stated on the schedule to be included**

##### **COVER**

Loss or damage to the geyser and attachments as defined, directly or indirectly caused by or attributed to or arising from rust, decay, gradual deterioration, wear and tear, cracking, splitting, inherent vice or latent defects.

##### **DEFINITION OF A GEYSER**

The geyser unit itself, including the thermostat, vacuum breaker(s), element, safety valve, sacrificial anode, pressure control valve, drain cock, expansion relief valve, drip trays and pans, wiring from the element to the isolator switch including the isolator switch and attached pipes and fittings within 1 meter of the geyser unit

##### **LIABILITY**

The liability of The Company under this section shall not exceed the amounts as stated in the Policy Schedule and the insured shall bear the first portion of each and every claim as stated under excess in the Policy Schedule.

#### **SPECIFIC EXCEPTIONS APPLICABLE TO SECTION 2**

The Company shall not be liable for,

- a) loss or damage directly or indirectly caused by or contributed to or arising from faulty or defective design,
- b) consequential loss of any kind whatsoever,
- c) loss or damage directly or indirectly caused by or contributed to or arising from the failure of and/or the deliberate withholding and/or lack of supplies of water, gas, electricity or fuel,
- d) any item forming part of the geyser and attachments covered by any guarantee.
- e) the call out cost to attend to
  - i. ripple relays
  - ii. faulty circuit breakers
  - iii. tripped isolator switch
  - iv. tripped earth leakage
  - v. tripped geyser mains
  - vi. leaking pipes more than 1 meter from the geyser

## **SECTION 3 – MONEY**

### **COVER**

Subject to the terms, conditions, exclusions and limitations applying to Section 3 (as well as those applying to all Sections of the Policy), The Company agrees to indemnify You for loss of Your Money up to the Limits of Liability stated in the Schedule while in the personal custody of

- a) a Director; or
- b) the duly appointed Homeowners Association Manager; or
- c) an authorised employee of the Homeowners Association

collectively termed the Authorised Persons, acting on Your behalf.

### **SPECIFIC DEFINITIONS APPLICABLE TO SECTION 3**

#### **Receptacle**

means any safe, strong room, strongbox, till, cash register, cash box or other receptacle for Money or any franking machine.

#### **Clothing**

means clothing and personal effects not otherwise insured belonging to the Authorised Persons.

#### **Event**

means any loss or series of losses arising from or attributable to one original cause.

### **LIMIT OF LIABILITY AND EXCESS**

#### **Limit of Liability**

The Company's liability to indemnify You under Section 3 will not exceed the applicable Section 3 Limit of Liability for each Event.

#### **Excess**

You must pay the amount stated in the Schedule as the Excess payable in respect of Money Cover or as amended herein. The Excess applies to each Event and the Company's liability to indemnify You under Section 3 is over and above the Excess.

### **SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 3**

The Company shall not be liable for loss of or damage to Money

- a) arising from dishonesty of any Authorised Person not discovered within fourteen (14) working days of the occurrence thereof;
- b) arising from shortage due to error or omission or a general shortage of funds not attributable to a particular loss or losses;
- c) arising from the use of keys to any safe or strong room unless the keys
  - i. are obtained by violence or threat of violence to any person
  - ii. are used by the keyholder or some other person with the collusion of the keyholder and You can prove to the satisfaction of The Company that the keyholder or such other person had used the keys to open the safe or strong room;
- d) in an unlocked safe or strong room whilst the portion of the premises containing such safe or strong room is unattended but this exception will not apply if it can be shown to the satisfaction of The Company that the key holder to the safe or strong room deliberately left it unlocked with the intention of allowing the money to be stolen;
- e) not contained in a locked safe or strong room whilst the portion of the premises containing such money is unattended but this exception will not apply if it can be shown to the satisfaction of The Company that the person(s) responsible for the Money deliberately left it outside the safe or strong room with the intention of allowing it to be stolen;

- f) in any vehicle being used by You unless an Authorised Person is actually in such vehicle or, if not in such vehicle, is within five (5) meters of it in a position from which the vehicle is clearly visible. This exclusion shall not apply following an accident involving such vehicle rendering the said person incapacitated. The maximum that The Company will pay in respect of Specific exclusions (iii), (iv), (v) and (vi) is R 5,000 and such losses shall not be reduced by any Excess.

#### **Memoranda**

Loss of Money arising from dishonesty of any Authorised Person shall be reduced by the amount of the Excess applicable to the Fidelity Section, or, if such Section is not insured by an amount equal to:

- (a) 2% of the Limit of Liability applicable to this Section; plus
- (b) a further amount of 10% of the net amount payable after deduction of the amount specified in (a) above.

Both amounts shall be borne in full by the Homeowners Association

#### **ADDITIONAL BENEFITS TO SECTION 3 OVER LIMIT OF LIABILITY**

##### **Additional benefit 1 - Receptacles and clothing**

In addition to any payment in respect of the loss of Money, The Company will indemnify You in respect of receptacles and clothing (as defined) lost or damaged as a result of theft of money or any attempted theft of money, provided that The Company shall not be liable under this extension for more than R5,000 in respect of clothing and R10 000 in respect of receptacles.

##### **Additional benefit 2 - Locks and keys**

In addition to any payment in respect of loss of Money, The Company will indemnify the You in respect of the cost of replacing locks and keys to any receptacle at the Situation following upon the disappearance of any key to such receptacle or following upon Your having reason to believe that an un-authorized person may be in possession of a duplicate of such key provided that The Company shall not be liable under this extension for more than R5,000 in respect of any one event.

##### **Additional benefit 3 - Riot and strike extension**

Subject otherwise to the terms, conditions, exclusions, exceptions and warranties contained herein, this Section is extended to cover loss or damage directly occasioned by or through or in consequence of

- a) civil commotion, labour disturbances, riot, strike or lockout;
- b) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with, any occurrence referred to in (i) above; provided that this extension does not cover
  - i. loss or damage occurring in the Republic of South Africa and Namibia;
  - ii. consequential or indirect loss or damage of any kind or description whatsoever;
  - iii. loss or damage resulting from total or partial cessation of work or the retarding or interruption or cessation of any process or operation;
  - iv. loss or damage occasioned by permanent or temporary dispossession resulting from confiscation, commandeering or requisition by any lawfully constituted authority;
  - v. loss or damage related to or caused by any occurrence referred to in General Exclusion 1.2, 1.3, 1.4, 1.5 or 1.6 of this Policy or the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with such occurrence. If the Company alleges that, by reason of provisos (a), (b), (c), (d) or (e), loss or damage is not covered by this Section, the burden of proving the contrary shall rest on You.

##### **Additional benefit 4 - Skeleton keys**

The insurance under this section extends to cover loss of money by means of entry to receptacles by use of a skeleton key or other similar device (excluding a duplicate key) provided that the Insured shall establish to the satisfaction of The Company that a skeleton key or device was used.

##### **Additional benefit 5 - Personal Accident (Assault) Extension**

The Company will also pay to You on behalf of the affected persons or his estate the benefits stated hereunder in the event of bodily injury caused by accidental, violent, external and visible means, associated with the theft of Your Money, to any Authorized Person (hereinafter in this extension referred to as such person) while such person is acting in the course of his duties as such which within 12 (twelve) calendar months' results in:

1. Death R 10,000

2. Permanent disability being

(a) Loss by physical separation at or above the wrist or ankle of one or more limbs R10 000

(b) Permanent and total loss of sight of one or both eyes R10 000 provided that the extension shall not apply to any such person under 15 or over 70 years of age;

After suffering bodily injury for which benefit may be payable under this extension, such person shall submit to medical examination and undergo any treatment specified. The Company shall not be liable to make any payment unless this proviso is complied with to its satisfaction.

General Condition 9 does not apply to this extension.

In respect of this extension only, General Exclusion 1 is deleted and replaced by the following:

- a) This extension does not cover death or bodily injury directly or indirectly caused by or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, mutiny, insurrection, rebellion, revolution, military or usurped power.

## **SECTION 4 – LEGAL LIABILITY**

### **COVER – SECTION 4A - GENERAL LIABILITY**

Subject to the terms, conditions, exclusions and limitations applying to Section 4A (as well as those applying to all Sections of the Policy), The Company agrees to indemnify You, up to the Limit of Liability applicable to Section 4A, against all sums, which You become legally liable to pay as Compensation in respect of:

1. Death or Personal Injury; or
2. Property Damage

occurring within the Policy Territory for claims first made against You during the period of insurance but not prior to the retroactive date as specified in the schedule, as a result of an Occurrence happening in connection with ownership of Insured Property. Solely for the purposes of this Section 4A of the Policy the definition of 'You, Your and Yours' shall extend to include any Director.

### **SPECIFIC DEFINITIONS APPLICABLE TO SECTION 4A**

Compensation means any amount paid or payable by You for Personal Injury or Property Damage pursuant to any

- a) court judgment; or
- b) settlement with the consent of The Company together with any Defence Costs.

Compensation does not include

- a) aggravated, punitive or exemplary damages;
- b) fines or penalties imposed by law (including civil penalties); or
- c) any matters which are deemed uninsurable under the law.

Defence Costs mean legal costs and disbursements and related expenses incurred by:

- a) You with the written consent of The Company; or
- b) The Company after it has assumed conduct of any proceedings in:
  - i. defending any proceedings;
  - ii. conducting any claim for contribution or recovery; or
  - iii. investigating, avoiding or reducing or settling any claim for Compensation.

Defence Costs does not include any of Your internal or overhead expenses or the cost of Your time.

**Employment Practices**

means any wrongful or unfair dismissal, denial of natural justice, defamation, unfair discipline or evaluation of employment performance, breach of employment contract, misleading representation or advertising, sexual harassment or discrimination in respect of employment or prospective employment by You.

**Occurrence means**

an event including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage, neither expected nor intended from Your standpoint. All events of a series consequent on or attributable to one source or original cause are deemed one Occurrence.

**Personal Injury means**

- a) bodily injury, death or, illness;
- b) wrongful entry or wrongful eviction or other invasion of the right to private occupancy

**Property Damage means**

- a) physical damage to, destruction of or loss of tangible property including the loss of use thereof at any time resulting therefrom; or

**LIMIT OF LIABILITY AND EXCESS APPLICABLE TO SECTION 4A****Limit of Liability**

The Company's liability to You in respect of Compensation, including Defense Costs, arising from any one Occurrence shall not exceed the Limit of Liability applicable to Section 4A.

**Excess**

You must pay the amount stated in the Schedule as the Excess payable in respect of Legal Liability Cover.

The Excess applies to each Occurrence and The Company's liability to indemnify You under Section 4A is inclusive of the above Excess.

**Defense Costs**

Defense costs and expenses are payable subject to the following:

- a) The Company is not obliged to pay any Defense Costs or to defend any suit after The Company's liability under Section 4A to indemnify You has been exhausted.
- b) If a payment exceeding The Company's liability under Section 4A to indemnify You has to be made to dispose of a claim, the liability of The Company for Defense Costs is limited to the proportion that The Company's liability to indemnify You under this Policy bears to that payment.

**SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 4A**

In addition to the Exclusions applying to all Sections of the Policy, The Company will not cover any legal liability directly or indirectly arising out of or in any way connected with the following:

**1. Assault or Wrongful Arrest**

Assault and/or battery (including sexual assault) or wrongful arrest and/or detention unless committed for the purpose of preventing or eliminating danger to persons or property.

**2. Building Alterations**

The construction, erection, alteration, addition, renovation or demolition of any Building by You or on Your behalf where the contract value of the work exceeds R500,000.

**3. Business or Profession**

The conduct of any business or profession or the provision of any services by You other than as owner of Insured Property.

**4. Claims outside the Republic of South Africa**

Any actions or claims brought in a court or tribunal outside the Territorial Limits stated in the Schedule.

## **5. Contractual Liability**

Assumed under a contract except where that liability would otherwise exist at law in the absence of the contract.

## **6. Employers Liability**

any liability:

- a) in respect of which You are or would be entitled to indemnity under any fund, scheme, policy of insurance or self-insurance pursuant to or required by any legislation relating to workers' compensation whether or not such insurance has been effected;
- b) imposed by the provisions of any industrial award or agreement or determination where such liability would not have been imposed in the absence of such industrial award or agreement or determination
- c) relating to Employment Practices.

## **7. Facilities**

Ownership, possession, maintenance, repair, operation or use by You or on Your behalf of any facilities at the Situation that are used for commercial purposes, including

- a) child care;
- b) conference or meeting rooms;
- c) golf or putting course;
- d) gymnasium or other exercise facility;
- e) laundry or dry cleaner;
- f) man-made lake or natural water course;
- g) medical or chemist;
- h) marina;
- i) playground;
- j) shops;
- k) swimming or other aquatic complex;
- l) tennis or squash court

unless such facility is specifically noted on the Schedule as not subject to this exclusion 7 (Facilities).

## **8. Fines and Penalties**

Fines, penalties, punitive, exemplary, liquidated or aggravated damages

## **9. Goods**

Any good designed, manufactured, installed, treated, assembled, altered, processed, sold or supplied by You or by anyone on Your behalf whether for reward or not.

## **11. Participation in Organised Activities**

Participation in any sport, exercise or other activity, which You organise, supervise or otherwise control.

## **12. Professional Liability**

The rendering of or failure to render professional advice or service by You or by anyone on Your behalf.

This exclusion twelve (12) does not apply to first aid services rendered by You or by Your employee.

## **13. Property Owned by You or Under Your Control**

Property Damage to property owned, leased, hired by, under hire purchase, on loan or rented to You or otherwise in Your care custody or control other than visitors' clothing and personal effects.

## **14. Removal of Support and Vibration**

vibration, removal or the weakening or interference with support to land, Buildings or other property.

## **15. Tobacco and Smoke**

tobacco, smoke, or any ingredient or additive present in or used with tobacco.

## **16. Vehicles**

The use of a Vehicle owned by You, or in Your physical or legal control

- a) which is required by law to be registered; or
- b) in respect of which insurance is required by virtue of any legislation but this exclusion 16 (Vehicles) does not apply to:
  - i. Damage to a Vehicle (other than a Vehicle owned or used by You or on Your behalf) whilst in a car park owned or operated by You other than for income or reward as a car park operator; or
  - ii. Personal Injury or Property Damage occurring during the loading or unloading of a Vehicle caused by or arising from the collection or delivery of any goods from or to the Vehicle where such Personal Injury or Property Damage occurs beyond the limits of any carriageway or thoroughfare, and where applicable legislation does not require insurance against such liability.

#### **17. Watercraft and Aircraft**

any:

- a) Aircraft or hovercraft;
- b) airstrip or helipad; or
- c) Watercraft

and all operations necessary and incidental to such craft.

#### **SPECIFIC CONDITION APPLICABLE TO SECTION 4A**

In addition to the general conditions applying to all Sections of the Policy, the following condition applies to Section 4A:

#### **Cross Liability**

Under Section 4A, where You are comprised of more than one entity, the term "You" will be considered a separate legal entity and applies to each party as if a separate policy had been issued to each of the said parties but nothing contained in this clause will operate to increase the Company's liability under Section 4A

#### **COVER – SECTION 4B – EMPLOYERS LIABILITY**

Subject to the terms, conditions, exclusions and limitations applying to Section 4B (as well as those applying to all Sections of the Policy), The Company agrees to indemnify You, up to the Limit of Liability applicable to Section 4B, against all sums, which You become legally liable to pay as Compensation in respect of Personal Injury occurring within the Policy Territory for claims first made against You during the Policy Period but not prior to the retroactive date as specified in the schedule as a result of an Occurrence happening in connection with any person employed under a contract of service or apprenticeship with You, which in the course of and in connection with such person's employment by You.

#### **SPECIFIC DEFINITIONS APPLICABLE TO SECTION 4B**

#### **Compensation means**

any amount paid or payable by You for Personal Injury pursuant to any:

- a) court judgment; or
- b) settlement with the consent of the Company

together with any Defense Costs.

Compensation does not include:

- a) aggravated, punitive or exemplary damages;
- b) fines or penalties imposed by law (including civil penalties); or
- c) any matters which are deemed uninsurable under the law.

#### **Defense Costs means**

legal costs and disbursements and related expenses incurred by:

- a) You with the written consent of The Company
- b) The Company after it has assumed conduct of any proceedings in:
  - i. defending any proceedings;
  - ii. conducting any claim for contribution or recovery; or
  - iii. investigating, avoiding or reducing or settling any claim for Compensation.

Defense Costs does not include any of Your internal or overhead expenses or the cost of Your time.

**Employment Practices means**

Any wrongful or unfair dismissal, denial of natural justice, defamation, unfair discipline or evaluation of employment performance, breach of employment contract, misleading representation or advertising, sexual harassment or discrimination in respect of employment or prospective employment by You.

**Occurrence means**

An event, which results in Personal Injury, neither expected nor intended from Your standpoint. All events of a series consequent on or attributable to one source or original cause are deemed one Occurrence.

**Personal Injury means**

Bodily injury, death or illness;

**SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 4B**

In addition to the Exclusions applying to all Sections of the Policy, The Company will not cover any legal liability directly or indirectly arising out of or in any way connected with the following:

- a) liability arising out of Personal Injury caused or contributed to by prolonged exposure to substances, factors or circumstances peculiar to any particular employment or occupation.
- b) for any obligation for which You and any company as its insurer may be held liable under any workmen's compensation enactment/compensation of occupational injuries and diseases, unemployment compensation or disability benefits law;
- c) arising out of any circumstances compulsorily insurable by legislation notwithstanding that no insurance in terms of such legislation is in force or has been effected;
- d) to any employee arising while offshore.

**ADDITIONAL BENEFIT TO SECTION 4B INCLUDED IN THE LIMIT OF LIABILITY**

**Additional Benefit 1 - Legal Expenses Cover for Breach of Statute or Employment Practices**

Subject to the exclusions and conditions below, The Company will pay legal costs and disbursements for which any Director or employee of the Homeowners Association may become liable to pay or incurs in defense or appeal in connection with proceedings that are first commenced against such person during the Policy Period and reported to The Company during the Policy Period

- a) related to any alleged breach of any occupational health and safety legislation; or
- b) arising out of a dispute with an employee, former employee or prospective employee of the Homeowners Association concerning Employment Practices. The maximum that the Company will pay for this additional benefit to Section 4B is R100, 000 in any one Policy Period. For each and every claim made under this additional benefit to Section 4B, the Homeowners Association must pay an Excess of R2,500.

**Specific Conditions Applicable to Additional Benefit 1 to Section 4B**

No legal costs and disbursements that may be covered by this additional benefit to Section 4B must be incurred without first obtaining The Company's prior written consent. If The Company's prior written consent is not obtained, the Homeowners Associations' entitlement to cover under this additional benefit to Section 4 may be affected. The Company shall not be obliged to pay any legal costs and disbursements under this additional benefit to Section 4B unless it is satisfied that the Director or employee has good prospects of successfully defending or appealing the proceedings and that the legal costs and disbursements are both reasonable and necessary. The company has the sole right to choose the legal representative to act on behalf of the Director or employee in the proceedings.

**Specific Exclusions Applicable to Additional Benefit to Section 4B**

In addition to the general exclusions applying to all Sections of the Policy and the specific exclusions applying to Section 4B, The Company will not pay any legal costs and disbursements incurred or payable in connection with any proceeding:

- a) where the Homeowners Association has not sought and obtained The Company's prior written consent to the incurring of those legal costs and disbursements;

- b) where the Homeowners Association was aware or ought reasonably to have been aware of facts, matters or circumstances potentially giving rise to that proceeding prior to the Policy Period;
- c) in which relief is sought by way of penalty, fine or aggravated, exemplary or punitive damages;
- d) in which defamation, libel or slander is alleged (other than in relation to Employment Practices);
- e) in which fraud or dishonesty is alleged;
- f) in which a conflict of interest is alleged;
- g) in which a failure to obtain insurance or appropriate insurance is alleged;
- h) claiming compensation or an award of damages;
- i) relating to any matter where insurance cover is available under another Section of this Policy, notwithstanding that such cover was not taken out.

## **SECTION 5 – FIDELITY GUARANTEE**

### **COVER**

Subject to the terms, conditions, exclusions and limitations applying to Section 5 (as well as those applying to all Sections of the Policy), The Company agrees to indemnify You, up to the Limit of Liability applicable to Section 5, against financial loss as a result of an Event, provided that:

- a. such loss occurs during the Policy Period; and
- b. the loss is discovered not later than six (6) months after the expiry of the Policy Period.

### **SPECIFIC DEFINITIONS APPLICABLE TO SECTION 5**

#### **Event means**

Fraudulent misappropriation of property or Funds, owned by or allocated to or set aside for the management of Insured Property, by any trustee (excluding any outsourced/external managing agent appointed by You) who is acting without any participation or knowledge on Your part.

#### **Funds means**

Money, securities, negotiable instruments or other tangible property received by You to be allocated to or set aside for the management of Insured Property. Funds do not include personal Money, securities, negotiable instruments or other tangible property of the Homeowners Association.

### **LIMIT OF LIABILITY AND EXCESS**

#### **Limit of Liability**

The Company's liability to indemnify You under Section 5 will not exceed the Limit of Liability applicable to Section 5 for each Event and in the aggregate for all Events occurring in the Policy Period.

#### **Excess**

You must pay the amount stated in the Schedule as the Excess payable in respect of Fidelity Guarantee Cover. The Excess applies to each Event and The Company's liability to indemnify You under Section 5 is inclusive of the above Excess.

### **SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 5**

In addition to the general exclusions applying to all Sections of the Policy, The Company will not be liable for any loss:

- a) unless You have previously exhausted Your rights and entitlements under any other fidelity bond or fund, whether of a statutory nature or not;
- b) connected with any further Event committed by the same person or persons after the initial discovery of loss;
- c) any losses arising out of an Event committed prior to the Policy Period; or
- d) any consequential loss of any kind or nature.
- e) The Company will not be liable for any loss arising directly or indirectly from or having any connection with:
  - i. the conduct of any person if You have any prior knowledge of any prior act of fraud or dishonesty by that person;

- ii. loss or part of a loss where proof of its existence or amount depends on any comparison of inventory records with a physical count or a profit and loss computation, except that this exclusion will not apply to the extent that You are able to prove the amount of the loss through other evidence unrelated to comparison or computation; or
- iii. loss arising from a failure to make payment or of default under a loan or other credit transaction.

#### **SPECIFIC CONDITIONS APPLICABLE TO SECTION 5**

In addition to the general conditions applying to all Sections of the Policy, the following conditions apply to Section 5

1. You must perform all checks and take all precautions described by You in the Proposal.
2. You must as soon as reasonably possible give The Company written notice of the discovery of any conduct that is fraudulent or dishonest by any person with access to or control of Your Funds or property or any lack of integrity by such person whether giving rise to a claim or not.
3. On discovering a loss or circumstances likely to give rise to a loss covered by Section 5, You must, at Your own expense:
  - i. as soon as reasonably possible give written notice to the Company of such loss;
  - ii. as soon as reasonably possible give written notice to the police of the loss or suspected loss;
  - iii. within twenty eight (28) days, provide to the Company a written statement containing details of the cause, description and amount of the loss and any other information that the Company may reasonably require;
  - iv. complete any claim form or sworn proof of loss that the Company may require;
  - v. provide full assistance and cooperation to the Company in investigating the loss; and
  - vi. take all reasonable steps to obtain recovery of the loss and prevent any further loss.
4. If the sum insured shall be increased at any time, such increased amount shall apply only to defined events committed after the date of such increase.

#### **MEMORANDUM**

Non-disclosure of his own fraud or dishonesty or that of others with whom he is in collusion by the person signing any proposal form or giving renewal or other instructions shall not prejudice any claim under this Section.

#### **SECTION 6 – PERSONAL ACCIDENT (VOLUNTARY WORKERS & HOMEOWNERS ASSOCIATION EMPLOYEES)**

##### **COVER**

Subject to the terms, conditions, exclusions and limitations applying to Section 6 (as well as those applying to all Sections of the Policy), The Company agrees to pay Compensation to a Voluntary Worker, Homeowners Association Employee or that person's deceased estate, as detailed in Table A (Lump Sum Payments) below and in accordance with the Basis of Settlement applicable to Section 6, where such Voluntary Worker or employee suffers Bodily Injury as a consequence of an accident occurring at the Situation whilst engaged in work during the Policy Period which results in an Event within 1 calendar year of the accident. Up to A maximum of R10 000

#### **SPECIFIC DEFINITIONS APPLICABLE TO SECTION 6**

##### **Bodily Injury means**

An injury to a person resulting solely and directly from an accident and which:

- a) is caused by violent, external and visible means; and
- b) is independent of any other cause or causes, including pre-existing physical or congenital conditions; and
- c) is not an illness.

##### **Compensation means**

the payment shown against the Event in Table A below.

##### **Doctor means**

a legally registered medical practitioner who is not an insured person under this Policy or their relative.

**Event**

means an Event causing Bodily Injury listed in either of Tables A below.

**Foot**

means the entire foot below the ankle.

**Hand**

means the entire hand below the wrist.

**Loss means in connection with:**

- i. a Hand, Permanent physical severance or Permanent total loss of use of the Hand;
- ii. a Foot, Permanent physical severance or Permanent total loss of use of the Foot;
- iii. an eye, total and Permanent loss of all sight in an eye;
- iv. which in each case is caused by Bodily Injury.

**Permanent means**

having lasted twelve (12) consecutive months and at the expiry of that period, beyond hope of improvement.

**Permanent Partial Disablement means**

the inability of a Voluntary Worker or Body Corporate Employee to engage in a substantial part of their usual occupation or business duties, while they are under the regular care of and acting in accordance with the instructions or advice of a Doctor.

**Permanent Total Disablement means**

the inability of a Voluntary Worker or Body corporate Employee to engage in all of their usual occupation or business duties, while they are under the regular care of and acting in accordance with the instructions or advice of a Doctor.

**TABLE A – LUMP SUM PAYMENTS****Event Compensation**

Being a percentage of the amount shown in the Schedule against lump Sum Payments for Voluntary Workers under Section 6

1. Death 100%
2. Permanent Total Disablement 100%
3. Permanent Partial Disablement 50%
4. Loss of Sight in both eyes 100%
5. Loss of Sight in one eye 50%
6. Loss of two Hands 100%
7. Loss of one Hand 50%
8. Loss of two Feet 100%
9. Loss of one Foot 50%

**BASIS OF SETTLEMENT APPLICABLE TO SECTION 6**

The Company will pay Compensation to a Voluntary Worker for an Event subject to the following

- a) The Company will only pay the Voluntary Worker or Homeowners Association Employee such Compensation if that Voluntary Worker Body Homeowners Association Employee is not entitled to compensation under any workers' compensation insurance, motor accident scheme or other statutory scheme or fund;
- b) If the Voluntary Worker dies as a result of a disability, The Company will reduce the amount it pays for Event 1 (Death) by the amount of any Compensation it has paid for the disability;
- c) If a Voluntary Worker becomes entitled to Compensation under more than one of the Events 1 to 9, the Compensation paid will be cumulative up to 100% of the Compensation payable for Event 1 (Death);
- d) After the payment of Compensation for any one of Events 2 to 9, The Company shall have no further liability to that Voluntary Worker or Homeowners Association Employee for any of those Events;

**ADDITIONAL BENEFITS APPLICABLE TO SECTION 6**

If The Company accepts a claim for Compensation under Section 6, The Company will also pay the Voluntary Worker or Homeowners Association Employee the following expenses:

### **1. Travel Expenses**

travel expenses necessarily and reasonably incurred in obtaining medical treatment in relation to the subject disability up to a maximum of R1,000 during the Policy Period for any one person.

### **2. Domestic Assistance**

domestic assistance expenses necessarily and reasonably incurred in obtaining domestic help up to a maximum of R3,500 during the Policy Period for any one person, provided that this additional benefit 2 (Domestic Assistance) will be reduced by any amounts payable under Events 8 or 9 for domestic assistance.

### **3. Medical Expenses**

expenses incurred within twelve (12) months of sustaining Bodily Injury and paid by the Voluntary Worker or Homeowners Association Employee to a private hospital, ambulance service, dentist, massage service after referral by a registered Medical

#### **Practitioner.**

The Company will not pay under this Additional Benefit

- a) more than R500 during the Policy Period for any one person
- b) expenses for which a Medical aid benefit is payable

### **SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 6**

In addition to the general exclusions applying to all Sections of the Policy, the Company shall not be liable for any claim arising directly or indirectly from or having any connection with:

- a) intentional self-injury, or suicide, including injuries suffered as a result of attempted suicide;
- b) the Voluntary Worker or Homeowners Association Employee being rendered less capable of taking care of himself or herself as a consequence of mental illness, including any psychological, psychiatric or stress disorder;
- c) the Voluntary Worker or Homeowners Association employee being rendered less capable of taking care of himself or herself as a consequence of being under the influence of alcohol or any drug, other than a drug prescribed by a Doctor;
- d) childbirth or pregnancy;
- e) any pre-existing medical condition; or
- f) Human Immunodeficiency Virus (HIV) or any variance including Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Complex (ARC).

### **SPECIFIC CONDITIONS APPLICABLE TO SECTION 6**

In addition to the general conditions applying to all Sections of the Policy:

- a) You must advise The Company in writing as soon as reasonably possible after the occurrence of Bodily Injury covered by this Section 6.
- b) You must pay the cost, if any, of any medical certificates, reports or other evidence that The Company may require to assess a claim under this Section.
- c) The Company may request the Voluntary Worker or Homeowners Association Employee to have a medical examination by a Doctor nominated by it and The Company will be responsible for the payment of such examination.

## **SECTION 7 – DIRECTORS AND OFFICERS LIABILITY**

### **CLAIMS MADE POLICY**

In consideration of the payment of the premium shown at Item 8 of the Schedule and in reliance upon the Proposal and subject to all terms, conditions and limitations of this Policy the Insurer agrees with the Insured(s) as follows:

#### **Section 1: Insuring Agreements**

##### **Insuring Agreement Applicable to Section 3 Insured Person & Company Liability Coverage**

- A. The Insurer will pay on behalf of the Insured Person all Loss resulting from a Claim first made during the Policy Period against an Insured Person
- B. The Insurer will pay on behalf of the Company all Loss resulting from a Claim first made during the Policy Period against an Insured Person where the Company has paid such Loss.
- C. The Insurer will pay all Legal Representation Expenses in respect of an Investigation on behalf of the Insured Person and all Legal Representation Expenses paid by the Company on behalf of the Insured Person.
- D. The Insurer will pay on behalf of the Company all Loss resulting from a Claim first made during the Policy Period against the Company.
- E. The Insurer will pay on behalf of the Company all Legal Representation Expenses incurred solely in respect of an Investigation under the Health and Safety Act No. 85 of 1993.

## **Section 2: Terms Applicable to All Sections**

### **2.1 General**

The provisions of this Section apply to all Sections of this Policy.

Words and expressions defined for the purposes of the Policy are given initial capital letters. Use of the singular includes the plural according to the context.

### **2.2 Definitions**

- 2.2.1 Director or Officer means a director or officer of the Company, including the equivalent position in any other jurisdiction.
- 2.2.2 Discovery Period means the periods in Item 9 of the Schedule from the date on which the Policy Period expires.
- 2.2.3 Company means the company shown in Item 1 of the Schedule and any Subsidiary.
- 2.2.4 Insured means the Company and/or an Insured person. It shall not include any external auditor.
- 2.2.5 Insurer means ACE Insurance Limited.
- 2.2.6 Limit of Liability means the amount stated in Item 3 of the Schedule.
- 2.2.7 Policy means this policy and any endorsement thereto.
- 2.2.8 Policy Period means the period of time shown in Item 2 of the Schedule of this Policy.
- 2.2.9 Proposal means the proposal form submitted by the Insured or Company in applying for this Policy and all information and documentation accompanying it.
- 2.2.10 Securities means any equity or debt instrument issued by a Company or other entity
- 2.2.11 Subsidiary means any entity that the Company shown in Item 1 of the Schedule directly or indirectly:
  - 2.2.11.1 controls a majority of the voting rights; or
  - 2.2.11.2 controls the right to appoint or remove a majority of its board of Directors; or
  - 2.2.11.3 holds more than half of the issued share capital; or
  - 2.2.11.4 any joint venture or entity over which the Company in Item 1 of the Schedule directly or indirectly exercises effective management control.

### **2.3 Conditions**

#### **2.3.1 Limit of Liability**

Limit of Liability means the amount stated in Item 3 of the Schedule.

#### **2.3.2 Retention**

- 2.3.2.1 The retention shown in Item 4 of the Schedule shall not apply to a Non-Indemnifiable Loss. The retention shall be paid by the Company and the Insurer shall have no obligation to pay any amount within such retention.
- 2.3.2.2 If the company fails to indemnify an Insured other than for Non-indemnifiable Loss then subject to all other terms and conditions of this Policy the Insurer shall pay the retention and the Company shall pay the amount of the retention to the Insurer.

2.3.2.3 The application of the retention under one Section of this policy shall not reduce the retention under any other Section.

**2.3.2 Other Insurance**

If an Insured is or would (but for the existence of this Policy) be entitled to cover under any other policy (save for insurance specifically arranged to apply in excess of this Policy) in respect of any Claim or Investigation, the Insurer shall not be liable for loss under this Policy other than in excess of any amount that is or would (but for the existence of this Policy) have been payable under any other such policy.

**2.3.4 Subrogation**

In the event the Insurer makes any payment under this Policy, the Insurer shall be subrogated to all of the Insured's rights of recovery, and the Insured shall co-operate with the Insurer in securing such rights. The Insured shall not do anything to prejudice the Insurer's ability to assert such rights. The Insurer shall not exercise any rights of subrogation against an Insured unless it is established that such Insured has committed a deliberate criminal act or obtained any profit or advantage to which such Insured was not legally entitled.

**2.3.5 Authorisation**

The Company shown in Item 1 of the Schedule hereby agrees to act on behalf of all Insured's with respect to this Policy.

**2.3.6 Non-assignment**

No change in, modification of, or assignment of interest under this Policy shall be effective *unless agreed in writing by the Insurer.*

**2.3.7 Policy Interpretation**

This Policy shall be governed by South African law, and any dispute regarding the interpretation of this Policy, except as provided under clauses 5.5 shall be subject to the exclusive jurisdiction of the courts of the Republic of South Africa.

**2.3.8 Rights to other persons**

Unless otherwise provided, nothing in the Policy shall give any rights to any person other than the insured.

**2.3.9 Severability**

The Proposal shall be construed as a separate proposal by each Insured Person and with respect to statements and particulars in the Proposal no statements made or information possessed by any Insured Person shall be imputed to any other Insured Person to determine whether cover is available for that other Insured Person.

The Insurer irrevocably waives any right it may have to rescind or avoid this Policy, or any severable part of it, on the grounds of innocent or negligent non-disclosure or innocent or negligent misrepresentation.

Only statements made in the Proposal and knowledge possessed by an Insured Person who is the subject of a claim under this Policy shall be imputed to the Company for the sole purposes of determining if cover is available under Insuring Agreement B with respect to such Insured Person.

Only statements made and information possessed by any Finance Director, Chief Executive, Managing Director or Chairman of the Company shown in Item 1 of the Schedule shall be imputed to a Company for the purposes of determining cover under this Policy.

### **Section 3 – Insured Person & Company Legal Liability**

The terms and conditions of this Section apply only to this Section and shall not be construed to apply to any other Section.

#### **3.1 Extensions Applicable to Section 3**

##### **3.1.1 Subsidiaries**

- 3.1.1.1 If during the Policy Period the Company acquires an entity so that it becomes a Subsidiary that:
- a. has total assets less than the Acquisition Limit referred to in Item 7 of the Schedule  
and
  - b. is domiciled outside of the United States of America or Canada ;  
and
  - c. has no listing of its Securities in the United States of America or Canada;

then this Policy shall automatically extend to include such Subsidiary without notice to the Insurer or additional premium being payable, but only in respect of Wrongful Acts or conduct after such entity becomes a Subsidiary.

- 3.1.1.2 Any Subsidiary acquired during the Policy Period and not covered in item (i) above shall automatically be covered under this Policy for a period of 45 days from the date of acquisition. With the written agreement of the Insurer and subject to any additional premium, amended terms and conditions, this Policy may be extended to include such Subsidiary beyond 45 days, but only in respect of Wrongful Acts or conduct after such entity becomes a Subsidiary.

- 3.1.1.3 If the Company affects a sale or dissolution of a Subsidiary, this Policy shall continue to include such Subsidiary but only for Wrongful Acts or conduct prior to the effective date of sale or dissolution.

- 3.1.1.4 The Insurer shall only be liable for Loss in respect of Wrongful Acts or conduct whilst an entity is a Subsidiary.

##### **3.1.2 Emergency Defense Costs, Legal Representation Expenses, Bail Bond Costs and Public Relations Expenses**

If it is not possible for the Insured to obtain the Insurer's consent prior to the incurring of Defense Costs, Legal Representations Expenses, Bail Bond Costs or Public Relations Expenses the Insurer will give retrospective consent as long as the Insurer's consent is sought within fourteen days of the first of such Defense Costs, Legal Representation Expenses, Bail Bond Costs or Public Relations Expenses being incurred. The sub-limit of liability for all payments under this Extension is 10% of the Limit of Liability for this section or sub-limit of liability for this section as applicable.

##### **3.1.3 Retired Insured Person Cover**

In the event that this Policy is not renewed or replaced with any other policy affording directors and officers liability cover and a Discovery Period is not invoked, this Policy shall extend to include as an Insured Person any Retired Insured Person in respect of Claims made or Investigations

commenced against such persons during the period of 10 years immediately following the date of such non-renewal.

**3.1.4 Takeovers and Mergers Run-off**

In the event of a Transaction taking place, the Insurer may extend this Policy to include Claims first made or Investigations first commenced against an Insured within a period of 72 months from the expiry date of the Policy Period. Such extension is subject to additional terms, conditions, and premium as the Insurer may require.

**3.1.5 Outside Directorship Extension**

3.1.5.1 This Policy shall extend to include an Insured Person who at the specific request of the Company is a director, officer, trustee, governor or equivalent of any Outside Entity in their capacity as such.

3.1.5.2 Cover under this Extension shall be excess of any indemnification provided by the Outside Entity and any valid and collectible directors and officers liability insurance in respect of the Outside Entity.

3.1.5.3 If the Outside Entity's directors and officers liability Insurance is provided by the Insurer or any member of the ACE group of companies, then the total aggregate Limit of Liability for all Loss covered by virtue of this extension shall be reduced by the amount paid to any Insured Person under such policy.

**3.1.6 Public Relations Expenses**

This Policy is extended to include Public Relations Expenses.

**3.1.7 Occupational Health and Safety Extension**

Notwithstanding Exclusion 3.4.7 this Policy extends to include:

3.1.7.1 This policy extends to include all Defense Costs and Legal Representation Expenses arising from any Claim or Investigation alleging the negligent death of an employee whilst on duty, a breach of the Occupational Health and Safety Act No. 85 of 1993, or any similar legislation in any other jurisdiction.

**3.1.8 Bail Bond Costs, Crisis Costs, Public Relations Expenses & Reputation Protection Expenses**

This Policy is extended to include

3.1.8.1 Bail Bond Costs;

3.1.8.2 Crisis Costs;

3.1.8.3 Public Relations Expenses;

3.1.8.4 Reputation Protection Expenses

**3.1.9 Extradition Proceedings**

This Policy is extended to include

3.1.9.1 Defense Costs;

3.1.9.2 Bail Bond Costs;

3.1.9.2 Crisis Costs;

3.1.9.2 Public Relations Expenses;

3.1.9.3 Reputation Protection Expenses

in relation to Extradition Proceedings.

**3.1.10 Tax Extension**

This Policy shall extend to include an Insured Person's Loss arising from their personal liability for unpaid taxes where the Company has become insolvent except to the extent that such liability arises from the willful intent of the Insured Person to breach any statutory duty governing the payment of taxes. Such cover shall apply up to the sub-limit shown in Item 12 of the Schedule.

### 3.2 Definitions Applicable to Section 3

- 3.2.1 Bail Bond Costs means the reasonable premium (not including any collateral) for a bond or other financial instrument to guarantee an Insured Person's contingent obligation for bail or equivalent in any jurisdiction required by a court in respect of any Claim. The sub-limit of liability for Bail Bond Costs is 10% of the Limit of Liability.
- 3.2.2 Benefits means perquisites, fringe benefits, health benefits, permanent health insurance benefits, amounts due or payments made in connection with an employee benefit plan or pension scheme, share or stock options or any other right to purchase, acquire or sell shares or stock, incentives or deferred compensation and any other obligation or payment other than basic remuneration made to or for the benefit of an Employee or a Director or Officer
- 3.2.3 Benefits means perquisites, fringe benefits, health benefits, permanent health insurance benefits, amounts due or payments made in connection with an employee benefit plan or pension scheme, share or stock options or any other right to purchase, acquire or sell shares or stock, incentives or deferred compensation and any other obligation or payment other than basic remuneration made to or for the benefit of an Employee or a Director or Officer.
  - 3.2.3.1 Claim means
  - 3.2.3.2 any written demand; or
  - 3.2.3.3 (i) any civil or arbitral proceeding; or  
(ii) any criminal prosecution; or  
(iii) any formal administrative or regulatory proceeding, made against an Insured, alleging a Wrongful Act.
- 3.2.4 Crisis Costs means any reasonable professional fees, costs or expenses of any accredited
  - 3.2.4.1 counselor; or
  - 3.2.4.2 tax advisor  
retained by an Insured with the Insurer's prior written consent (which shall not be unreasonably withheld or delayed), in respect of any Claim. The sub-limit of liability for Crisis Costs is the sub-limit specified in Item 13 of the Schedule.
- 3.2.5 Defense Costs means reasonable legal and other professional fees, costs and expenses incurred by an Insured (including the cost of an appeal bond but without the obligation to apply for and furnish any such bond) with the prior written consent of the Insurer, not to be unreasonably withheld or delayed, that are necessary to defend or appeal a Claim.
- 3.2.6 Document means any document in either physical or electronic format which belongs to the Company or for which the Company is legally responsible, other than currency, Securities or any form of negotiable instrument
- 3.2.7 Employee means an employee or volunteer of the Company
- 3.2.8 Employment Related Wrongful Act means any actual or alleged violation of employment laws or any other legal provisions relating to any individual's actual or prospective employment relationship with the Company.
- 3.2.9 Extradition Proceeding means:
  - 3.2.9.1 a request for extradition of an Insured Person;
  - 3.2.9.2 any associated appeals, and the pursuit of judicial review proceedings against the decision to extradite.A Wrongful Act is not required for cover for an Extradition Proceeding.
- 3.2.10 Insured Person means a natural person who was, now is or becomes during the Policy Period:

- 3.2.10.1 a Director or Officer, trustee, member of the governing body or committee, council member, or governor of the Company;
- 3.2.10.2 an Employee;
- 3.2.10.3 any lawful spouse of a Director or Officer, trustee, member of the governing body or committee, council member, governor of the Company or Employee, but only where the Claim results from the Wrongful Act of such Director or Officer or Employee;
- 3.2.10.4 the estate, heir or legal representative of a deceased Director or Officer, trustee, member of the governing body or committee, council member, governor of the Company or Employee;
- 3.2.10.5 the legal representative of a Director or Officer, trustee, member of the governing body or committee, council member, governor of the Company or Employee in the event of the incapacity, insolvency or bankruptcy of such Director or Officer or Employee.
- 3.2.11 Investigation means a formal or official investigation, examination or inquiry into the Insured in their capacity as such at which the attendance of the Insured Person is first required or requested in writing during the Policy Period or Discovery Period.
- 3.2.12 Legal Representation Expenses means the reasonable legal costs or related professional fees incurred by or on behalf of an Insured (but not including any remuneration of any Director or Officer or Employee) with the prior written consent of the Insurer, not to be unreasonably withheld or delayed, directly in connection with an Insured co-operating with an Investigation.
- 3.2.13 Loss means all amounts which an Insured is legally and personally obligated to pay including but not limited to:
  - 3.2.13.1 any damages awarded, judgments entered, settlements reached including plaintiff's legal costs;
  - 3.2.13.2 Bail Bond Costs;
  - 3.2.13.3 Crisis Costs;
  - 3.2.13.4 Defense Costs;
  - 3.2.13.5 Legal Representation Expenses;
  - 3.2.13.6 Public Relations Expenses;
  - 3.2.13.7 Reputation Protection Expenses;
  - 3.2.13.8 aggravated, punitive and exemplary damages where insurable by law. The enforceability of which is governed by the applicable law which most favours cover for punitive and exemplary damages.

Loss does not include:

  - 3.2.13.9 fines or penalties imposed by law, or, except as provided in (viii) above, any matter deemed uninsurable under the law applicable to this Policy;
  - 3.2.13.10 taxes or sums payable in relation to taxes except as provided under Extension 3.2.10.
  - 3.2.13.11 Benefits or any form of non-monetary or injunctive relief arising out of an Employment Related Wrongful Act;
  - 3.2.13.12 any amount claimed by an employee of the Company arising out of an Employment Related Wrongful Act, which the Company would have been liable for in the absence of such Employment Related Wrongful Act.
- 3.2.14 Non-Indemnifiable Loss means Loss of an Insured Person that an Company is unable to indemnify due to:
  - 3.2.14.1 legal prohibition; or
  - 3.2.14.2 a prohibition in the Memorandum of Incorporation, Rules or similar documents of such Company; or
  - 3.2.14.3 insolvency under section 124 of the Insolvency Act 1936 or the equivalent law in any other jurisdiction

- 3.2.15 Not-for-profit Entity means non-profit company incorporated in South Africa in terms of the Companies Act, 2008 or the equivalent in any other jurisdiction.
- 3.2.16 Outside Entity means:
  - 3.2.16.1 any entity which is not a Subsidiary and has no Securities traded on any exchange in the United States of America unless such entity is listed by endorsement to this Policy; or
  - 3.2.16.2 any Non-profit company;
- 3.2.17 Pollutant means any contaminant, irritant or other matter or substance including but not limited to oil, smoke, vapour, soot, asbestos, asbestos-containing materials, fumes, acids, alkalis, nuclear or radioactive material, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 3.2.18 Pollution means the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any Pollutant whether in a solid, liquid, gas, odour, noise, vibration, electromagnetic radiation, ionising radiation, thermal or other form at any time.
- 3.2.19 Public Relations Expenses means the reasonable fees and related expenses of a public relations firm or consultant, crisis management firm or law firm, which an Insured may, in the reasonable exercise of its discretion, engage with the prior written consent of the Insurer, not to be unreasonably withheld or delayed, in order to prevent or limit adverse effects or negative publicity which it is anticipated may arise from any Claim or Investigation covered under this Policy. The sub-limit of liability for all Public Relations Expenses is the sub-limit specified in Item 14 of the Schedule.
- 3.2.20 Reputation Protection Expenses means the reasonable fees and related expenses of a public relations firm or consultant which an Insured may engage in order to disseminate the findings of a final adjudication in favour of the Insured, arising from a Claim. Such fees and expenses shall only be incurred with the written consent of the Insurer, not to be unreasonably withheld or delayed. The sub-limit of liability for all Reputation Protection Expenses is the sub-limit specified in Item 15 of the Schedule.
- 3.2.21 Alternate Director means a director as defined in the Companies Act No. 71 of 2008 or equivalent legislation in any other jurisdiction, of any entity other than the Company.
- 3.2.22 Transaction means any one of the following events:
  - 3.2.22.1 the Company shown in Item 1 of the Schedule merges with or consolidates into any other entity; or
  - 3.2.22.2 the Company shown in Item 1 of the Schedule sells all or more than 90% of its assets to any person or entity or persons or entities acting in concert; or
  - 3.2.22.3 any person or entity or persons or entities acting in concert acquire more than 50% of the issued share capital of the Company shown in Item 1 of the Schedule; or
  - 3.2.22.4 any person or entity or persons or entities acting in concert acquire control of the appointment of the majority of directors of the Company shown in Item 1 of the Schedule.
- 3.2.23 Wrongful Act means any actual or alleged, breach of trust, error, omission, misstatement, misleading statement, neglect or breach of duty, an Employment Related Wrongful Act by an Insured or any other matter claimed against an Insured Person whilst acting in the capacity of an Insured Person, including any violation of the Companies Act No. 71 of 2008, or any equivalent law, rule or regulation in any other jurisdiction.

### 3.3 Exclusions Applicable to all Insuring Agreements

The Insurer shall not be liable to make any payment:

- 3.3.1 based on, arising from or attributable to:
  - 3.3.1.1 any dishonest or fraudulent act or omission of the Insured or an intentional breach of the law by the Insured; or

- 3.3.1.2 any personal profit or advantage gained by the Insured to which such Insured was not legally entitled;
- 3.3.2 based on, arising from or attributable to any pending or prior litigation or other proceedings (including but not limited to civil, criminal, regulatory and administrative proceedings or investigations) involving the Insured or an Outside Entity and issued or otherwise begun before the date shown at Item 6 of the Schedule or alleging or derived from the same or substantially the same facts or circumstances alleged in the pending or prior litigation or proceedings;
- 3.3.3 based on, arising from or attributable to any Wrongful Act or a series of related Wrongful Acts alleged in any Claim, circumstance or any Investigation of which notice has been given under any policy existing or expired before or on the inception date of this Policy;
- 3.3.4 based on, arising from or attributable to any Claim brought or maintained by or on behalf of the Company or Outside Entity in the United States of America or its territories, except:
  - 3.3.4.1 any Claim against any Insured Person:
    - (i) for contribution or indemnity if such Claim directly results from another Claim that would otherwise be covered under this Policy; or
    - (ii) any shareholder derivative action brought or maintained on behalf of the Company or Outside Entity without the solicitation or participation of an Insured Person, Company or Outside Entity unless legally compelled to do so; or
    - (iii) brought or maintained by a liquidator, receiver or administrative receiver, or similar person under the laws of any other jurisdiction; or
  - 3.3.4.2 Defense Costs;
- 3.3.5 based on, arising from or attributable to any Claim or Investigation brought or maintained against an Insured Person in their capacity as a trustee of any pension, , health, welfare or any other employee benefit programme established by the Company or for any actual or alleged breach of an Insured's responsibilities or obligations as imposed in the Pensions Funds Act 24 of 1956 or other legislation relevant to such programme as from time to time amended, and in the United States of America by the Employee Retirement Income Security Act of 1974 both as from time to time amended, or any similar laws, common or statutory including the equivalent laws in other jurisdiction;
- 3.3.6 based on, arising from or attributable to any public offering of any Securities during the Policy Period;
- 3.3.7 (i) for bodily injury, mental illness, emotional distress, injury to feelings, sickness, disease or death of any person; or
  - (ii) for damage to or destruction of any tangible property including loss of use of such property;
 Provided that the above does not apply to:
  - 3.1.7.1 Non-Indemnifiable Loss; or
  - 3.1.7.2 emotional distress and/or injury to feelings resulting from an Employment Related Wrongful Act.
- 3.3.8 based on, arising from or attributable to Pollution provided that this exclusion shall not apply to:
  - 3.3.8.2 Non-Indemnifiable Loss; or
  - 3.3.8.3 Defense Costs or Legal Representation Expenses paid by the Company for a Claim or Investigation brought outside the United States of America against an Insured, up to the sub-limit shown at Item 11 of the Schedule; or

- 3.3.8.4 any Claim instigated by any shareholder of the Company on their own behalf or in the name of the Company without the solicitation or participation of an Insured unless legally compelled to do so

**Exclusions Applicable to Insuring Agreements D, and E only**

The Insurer shall not be liable to make any payment:

- 3.3.9 based on, arising from or attributable to the Company's performance or attempted performance of professional services or any act, error or omission relating thereto;
- 3.3.10 based on, arising from or attributable to any actual or alleged contractual liability assumed by the Company under any contract or agreement provided that this exclusion shall not apply to:
  - 3.3.10.1 a Claim brought against the Company alleging an Employment Related Wrongful Act; or
  - 3.3.10.2 Defense Costs for a Claim brought against the Company, up to the sub-limit shown in Item 16 of the Schedule.
- 3.3.11 based on, arising from or attributable to any actual or alleged infringement, misappropriation or violation of any copyright, patent, trade-marks, service marks, trade secrets, title or other proprietary or licensing rights or intellectual property of any products, technologies or services;
- 3.3.12 for direct or indirect tax obligations of any kind;
- 3.3.13 based on, arising from or attributable to legal action or litigation brought in a court of law constituted in the United States of America or Canada, or arising out of the activities of the Company in the United States of America or Canada;
- 3.3.14 based on, arising from or attributable to any pension, health, welfare or any other employee benefit programme established by the Company or for any actual or alleged breach of the Company's responsibilities or obligations as imposed in South Africa by the Pensions Act 24 of 1956 and in the United States of America by the Employee Retirement Income Security Act 1974 both as from time to time amended, or any similar laws, common or statutory, including the equivalent laws in any other jurisdiction;
- 3.3.15 based on, arising from or attributable to any liability assumed by the Company under an express employment contract or agreement unless the Company would have had such liability even in the absence of such contract or agreement;
- 3.3.16 based on, arising from or attributable to any Claim brought or maintained by or on behalf of the Company;
- 3.3.17

**3.4 Conditions Applicable to Section 3**

- 3.4.1 **Limit of Liability**
  - 3.4.1.1 The amount shown in Item 3(i) of the Schedule is the Insurer's maximum aggregate liability under this Section of the Policy, irrespective of the number of claims under this Section of the Policy, the amount claimed, the number of Insured's who claim, or when such claims are made under this Section of the Policy.
  - 3.4.1.2 Any sub-limit specified in this Section shall be the Insurer's maximum aggregate liability under each such sub-limit irrespective of the number of claims under this Section of the Policy, the amount claimed or the number of Insured's who claim.
  - 3.4.1.3 If a single Wrongful Act or act or a series of related Wrongful Acts or acts give rise to a claim under this Section of the Policy then all claims made after the expiry of this Section of the Policy arising out of such similar or related Wrongful Acts or acts shall be treated as though first made during this Policy Period.

3.4.2 **Retention**

3.4.2.1 The retentions shown in Items 4(i) – 4(vi) of the Schedule are payable by the Company. In the event an Insured Person is required to repay all or part of the retention to the Company the Insurer agrees to pay such amount to the Company on behalf of the Insured Person.

3.4.3 **Notification of Claims, Investigations and Reporting Circumstances**

3.4.3.1 It is a condition precedent to the Insurer's liability to make any payment in respect of a Claim to which clause 3.5.4(ii) or (iv) is applicable, that the Insured gives written notice to the Insurer of such Claim as soon as practicable. For all other claims under this Policy the Insured shall give written notice to the Insurer as soon as practicable (but this shall not be a condition precedent). In any event all notices under this clause shall as a condition precedent to the Insurer's liability be made during the Policy Period or within 90 days thereafter, or if applicable, during the Discovery Period or within 30 days thereafter.

3.4.3.2 Notice and all information shall be sent in writing to the Insurer at  
Ground Floor, The Bridle, Hunts End, Office Park 38, Wierda Road West, Wierda Valley Sandton 2196

3.4.3.3 If during the Policy Period the Insured shall become aware of any circumstances that might give rise to a claim under this Policy and gives notice of the same to the Insurer, then any Claim or Investigation later made against any Insured shall for the purposes of this Policy be treated as a Claim made or Investigation commenced during the Policy Period.

3.4.4 **Conduct of Proceedings**

In respect of Insuring Agreements A, B and C, the Insured Person shall have the duty to defend any Claim or Investigation notified under this Policy, and the insurer shall have the right to associate with the Insured Person in such defense.

In respect of Insuring Agreements D and E, the insurer shall have the right to defend, on behalf of the Company, any Claim or Investigation notified under this Policy.

The Insurer will accept the retention of separate legal representation by any Insured Person as reasonable to the extent required by a material conflict of interest.

The Insurer shall have the right to defend any Claim brought against an Insured Person by or on behalf of any:

Company; or Outside Entity

Unless such claim is:

3.4.4.1 for contribution or indemnity if such Claim directly results from another Claim that would otherwise be covered under this Policy; or

3.4.4.2 a shareholder derivative action brought or maintained on behalf of the Company or Outside Entity without the solicitation or participation of an Insured Person, Company or Outside Entity unless legally compelled to do so; or

3.4.4.3 brought or maintained by a liquidator, receiver or administrative receiver, or similar person under the laws of any other jurisdiction.

With respect to such Claims the Insurer shall have no duty or obligation to communicate with any other insured in relation to such Claim.

- 3.4.4.4 The Insured shall not do anything which could prejudice the Insurer in respect of a claim made under this Policy.
- 3.4.4.5 The Insured shall not make any admission of liability in respect of, or agree to settle any Claim or Investigation or incur any Loss, without the prior written consent of the Insurer (which shall not be unreasonably withheld or delayed).
- 3.4.4.6 The Insured must give the Insurer and any representatives appointed by the Insurer all information they reasonably require, and fully co-operate and assist in the conduct of any investigation into any claim under this Policy.
- 3.4.4.7 If there is a dispute between the Insurer and the Insured about whether to agree to a proposed settlement or about whether a Claim should continue to be defended (taking into account whether the Claim is likely on the balance of probabilities to be defended and such possibilities as may exist for settling the Claim), the Insurer may obtain an opinion from a Senior Counsel or equivalent in a different jurisdiction to decide the issue. That decision shall be binding upon the Insurer and the Insured who shall act accordingly in relation to the proposed settlement or in continuing or not continuing to defend the action as the case may be.

3.4.5 ***Advancement of Defense Costs and Allocation of Loss***

- 3.4.5.1 The Insurer shall advance Defense Costs on an ongoing basis prior to the final payment or settlement of any Claim and shall advance Legal Representation Expenses provided that any payment shall be repaid to the Insurer in the event that the Insured is not entitled to such payment.
- 3.4.5.2 The Insurer shall advance Defense Costs and Legal Representation Expenses which the Company fails to advance or indemnify.
- 3.4.5.3 In the event of:
  - (i) a Claim against an Insured which is not wholly covered by this Policy; and/or
  - (ii) a Claim against an Insured being also made against one or more persons / companies who are not Insured's;

the Insurer and the Insured shall then use their best endeavors to determine a reasonable allocation of Loss that is covered under this Policy and loss that is not covered on the basis of the relative legal and financial exposures.

- 3.4.5.4 In the event of a dispute as to allocation under sub-paragraph (iii) above, such dispute shall be submitted to binding arbitration in accordance with the then current rules for expedited arbitration of the Arbitration Foundation of South Africa (**AFSA**) by 1 (one) arbitrator appointed by agreement between the parties, including any appeal against the arbitrator's decision. If the parties cannot agree on the arbitrator or appeal against the arbitrator's decision. If the parties, including any appeal arbitrators within a period of 10 (ten) business days after the referral of the dispute to arbitration, the arbitrator and appeal arbitrators shall be appointed by the secretariat of AFSA. The arbitration shall be held at Sandton South Africa.

3.4.6 ***Takeovers and Mergers***

If during the Policy Period a Transaction takes place then:

- 3.4.6.1 the Company shown in Item 1 of the Schedule shall give written notice of such to the Insurer within 30 days of the effective date of such Transaction; and
- 3.4.6.2 the cover provided under this Policy shall apply only to Wrongful Acts or conduct prior to the effective date of such Transaction.

### 3.4.7 **Order of Payments**

The Insurer shall pay, in the following order:

- 3.4.7.1 Non-Indemnifiable Loss;
- 3.4.7.2 all other Loss within Insuring Agreement A;
- 3.4.7.3 Loss paid by the Company on behalf of an Insured Person; and
- 3.4.7.4 Loss on behalf of the Company.

The insolvency of any Company shall not relieve the Insurer of any of its obligations to prioritise payment of Loss under this Policy.

### 3.4 **Discovery Period**

3.4.7 If the Company shown in Item 1 of the Schedule refuses to renew this Policy, it may purchase the Discovery Period in Item 9(a) of the Schedule. If the Insurer refuses to renew this Policy, an Insured may purchase the Discovery Period in Item 9(b) of the Schedule.

3.4.8 The Discovery Period shall only apply to:

- 3.4.8.1 any Claim first made against the Insured before or during the Discovery Period, but only in respect of Wrongful Acts prior to expiry of the Policy Period; or
- 3.4.8.2 any Investigation first commenced before or during the Discovery Period, but only in respect of conduct prior to expiry of the Policy Period.

3.4.9 The right to purchase the Discovery Period as set out above may only be exercised by notice to the Insurer in writing within 30 days of expiration of the Policy Period, and is only effective upon payment of the additional premium. If such right is not exercised within such 30 day period then it shall lapse.

3.4.10 The Insurer's offer of renewal terms, conditions, limits of liability or premium different from those of the expiring policy shall not constitute a refusal to renew.

3.4.11 The Insured shall not have the right to purchase the Discovery Period if a Transaction takes place.

3.4.12 The Insurer shall not be liable to make any payment in respect of any Claim first made against the Insured or Investigation first commenced during the Discovery Period if at any time the Insured obtains any other directors and officers insurance policy covering in whole or in part the Discovery Period.

## **SECTION 8 – MACHINERY BREAKDOWN**

### **COVER**

Subject to the terms, conditions, exclusions and limitations applying to Section 8 (as well as those applying to all Sections of the Policy), the Company agrees to indemnify You, up to the Limit of Liability applicable to Section 8 against any physical loss or damage to any Machine resulting from Breakdown.

### **SPECIFIC DEFINITIONS APPLICABLE TO SECTION 8**

#### **Breakdown means**

Any sudden and accidental damage to any Machine or part thereof which manifests itself at the time of its occurrence resulting in the actual breaking, seizing, deformation or burning out of any part of a Machine causing stoppage of the functions thereof and necessitating repair or replacement before it can resume its normal function.

#### **Machine means**

Air-conditioning plant, swimming pool machinery, saunas, spa baths, Jacuzzis, borehole pumps, automatic gates, garage doors, boilers, electrical switchgear, escalators, hoists, lifts and transformers forming part of the buildings

Machine shall not mean or include:

- a) any sewer piping, any underground gas piping, any piping forming a part of a sprinkler system or any water piping other than boiler feed water piping, boiler condensate return piping or water piping connected to or used with an air conditioning system, or
- b) any structure, foundation or setting (other than a bedplate of a machine) supporting or housing such machines or lining or fire wall of any unfired vessel, or
- c) any vehicle or mobile equipment, aircraft or floating vessel, or
- d) any crane, hoist, power shovel, dragline or conveyor but not excluding any pressure vessel, electrical, or mechanical equipment used with such a machine, or
- e) any computing machine, electronic data processing equipment or electronic computer control equipment, x-ray machines, spectrographs, gauges or other apparatus using radioactive materials and radio and television apparatus,
- f) any penstock draft tube, or well casing, or
- g) any steam or gas turbine-generator, or
- h) all property located underground, or
- i) plant that is leased, hired or on loan, or
- j) mobile plant or equipment.

## **BASIS OF SETTLEMENT**

1. Where damage to a Machine can be repaired, The Company will pay all expenses necessarily incurred to restore the damaged item to its state of serviceability immediately before the occurrence of damage. If the repairs are executed by You, The Company will pay the cost of materials and wages reasonably incurred for the purpose of the repairs, plus a reasonable allowance to cover overhead charges. If any parts are found to be unprocurable, The Company's liability for these parts shall be limited to the manufacturers' or suppliers' last list price.

1. Where a Machine is totally destroyed, The Company will, at its option, either

- a) pay the actual value of the item immediately before the occurrence of damage, such actual value to be calculated by deducting reasonable depreciation from the new replacement cost of the item; or
- b) supply an equivalent replacement item similar in type, capacity and condition to the Machine immediately before the occurrence of damage and pay any costs for the ordinary freight and installation. A Machine will be deemed to be totally destroyed if the cost of repairs as detailed in paragraph 1 above equals or exceeds the actual value of the insured item immediately before the occurrence of damage.

## **LIMIT OF LIABILITY AND EXCESS**

### **Limit of Indemnity**

The Company's liability to indemnify You under Section 8 will not exceed the Limit of Liability applicable to Section 8 for any one loss or series of losses arising out of any one event.

### **Excess**

You must pay the amount stated in the Schedule as the Excess payable in respect of Machinery Breakdown Cover. The Excess applies to each and every event and the Company's liability to indemnify You under Section 8 is over and above the Excess.

## **SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 8**

In addition to the general exclusions applying to all Sections of the Policy, The Company will not be liable under this Section for:

- 1. damage, defects or defective insulation due to the wearing away or wearing out of any part of a Machine caused by or naturally resulting from ordinary use or working;
- 2. gradually developing flaws, defects, defective insulation and cracks or partial fractures in any part which do not cause immediate stoppage and necessitate repair or replacement although at some future time repair or renewal of the parts affected may be necessary;
- 3. renewal or repair of fuses collecting brushes overload protection devices or electrical contacts at which sparking or arcing occurs in ordinary working;
- 4. tightening up or refitting or renewal of keys;
- 5. erosion or corrosion of valves and seatings;
- 6. the renewal of transformer or switch oil, unless caused by a Breakdown;

7. explosion (which does not include the bursting nor disruption of turbine compressor engine or hydraulic cylinders flywheels or other parts subject to centrifugal force transformers or oil immersed switchgear);
8. escape of water from apparatus containing water (other than apparatus or appurtenance(s) forming part of the Insured Property or directly connected therewith);
9. damage to or replacement of foundations, brickwork and masonry and/or steel structures forming part of any conveyor system;
10. damage to or replacement of electric heating elements, fuses, glass bulbs, tubes, valves, electronic components or circuitry;
11. damage to or replacement of cutting tools, drills, saw blades, abrasive wheels or discs, dies, moulds, flexible piping, flexible drives or expendable parts;
12. damage resulting from imposition of abnormal conditions directly or indirectly relating to testing, intentional overloading or experiments;
13. loss or damage caused by operation of a Machine when in a materially defective condition and/or loss or damage and/or liability caused by Your willful act or Your willful neglect;
14. consequential loss of any kind whatsoever.

#### **SPECIFIC CONDITION APPLICABLE TO SECTION 8**

##### **Comprehensive maintenance agreement**

You must enter into and maintain a comprehensive maintenance agreement for the servicing and repair of Machines which operate lifts within Your Building.