



### LIABILITY INSURANCE POLICY

The Insured named in the Schedule having applied to the Insurers for the Insurance and in consideration of the payment of the premium by the Insured or on his behalf and having agreed that any proposal or other information supplied by the Insured or on his behalf shall be the basis of this contract of insurance, the Insurers agree to indemnify the Insured subject to the terms Exclusions and Conditions of this Policy.

Two handwritten signatures in black ink are positioned above a horizontal dotted line. The signature on the left is more cursive and complex, while the one on the right is simpler and more stylized.

Underwriters

For and on behalf of Santam Limited at Johannesburg on this 17th day of November 2015  
(Company Number 1918/001680/06)  
(Vat Number 4440102095)  
FSP Number 3416

in accordance with the authority granted under Section 48A  
of the Short Term Insurance Act No. 53 of 1998 to Stalker  
Hutchison Admiral (Pty) Limited  
(Reg. No. 1985/000368/07)  
(Vat No. 4310103082) (FSP  
No. 2167)

**THIS POLICY REPLACES POLICY NO. 1000/22804 DATED 2 DECEMBER 2014**

**SCHEDULE**

**INSURED:** Motorsport South Africa NPC, (SA National Motorsport Federation), Racing Controlling Bodies, Sanctioning Organizations, or any subdivisions thereof, Officials, Affiliated Club Members, Competitors, Organizers and Promoters, Advertisers, Owners and Lessees of premises utilized for events and/or those for whom the Insured has authority to insure all for their respective rights and interests

**Vat Number 4570151219**

**INSURERS:** Santam Limited  
(Reg. Number 1918/001680/06)  
**(Vat Number 4440102095)**

**POLICY NO.:** 1000/22804

**BUSINESS:** SA National Motorsport Federation, Governing Body of Motorsport, Lessees and/or Lessors of Properties, Venue Facilitators, Motor Sport Event Managers, Organisers and Administrators etc, and all other activities relating to the holding of any Motorsport event for which authority has been given by Motorsport South Africa and where appropriate property owners and tenants, the provision of canteen, social, sports, first aid, fire fighters and welfare facilities for the benefit of the Insured's staff

(AND NONE OTHER FOR THE PURPOSES OF THIS INSURANCE)

**PERIOD OF INSURANCE:** From: 1 January 2016  
To: 31 December 2016  
(both days inclusive)

plus any subsequent period for which the Insurers agree to accept a renewal premium and as subsequently endorsed hereon

**RETROACTIVE DATE:** 1 September 1986, but 1 October 2015 in respect of Employment Practices Liability

**TERRITORIAL LIMITS:**

Anywhere in the world but not in connection with any business carried on by the Insured at or from premises outside or any contract for the performance of work outside the Republic of South Africa, Namibia, Botswana, Lesotho, Swaziland, Zimbabwe, Malawi and Zambia.

**VAT CLAUSE:**

All amounts stated in this Policy are expressed exclusive of VAT. In settling claims the Insurer will add VAT at 14% to the VAT exclusive settlement to allow for a vendor Insured's output VAT liability under section 8(8) of the VAT Act. For clarity it is noted that in cases where a Deductible is expressly recovered by the Insurer from the Insured the Deductible in terms of the policy does not constitute a consideration as defined in the VAT Act and as such has no VAT consequence.

**BROKER:**

Marsh (Pty) Limited  
**(Vat Number 4810179509)**

### SCHEDULE OF LIMITS OF INDEMNITY

Section	Class	Basis	Limit of Indemnity	
			Any one Occurrence	Annual Aggregate
PL	Public Liability/Tenants/Property Owners & Away Risks	CM	R 50 000 000	Not Applicable
PR	Products Liability	CM	R 50 000 000	R 50 000 000
LDC	Statutory Legal Defence Costs	NA	R 1 000 000	R 1 000 000
WA	Wrongful Arrest/Dismissal and Defamation	CM	R 1 000 000	R 1 000 000
EL	Employers Liability	CM	R 50 000 000	Not Applicable
EPL	Employment Practices Liability	CM	R 500 000	R 500 000
XL	Excess of Loss - Motor Liability	LO	R 45 000 000	Not Applicable
All	Claims Preparation Costs	N/A	R 500 000	Not Applicable

### SCHEDULE OF DEDUCTIBLES

Section	Class	Deductible
PL	Public Liability/Tenants/Property Owners & Away Risks	R 25 000
	Spread of Fire	R 50 000
PR	Products Liability	NIL
LDC	Statutory Legal Defence Costs	NIL
WA	Wrongful Arrest/Dismissal and Defamation	NIL
EL	Employers Liability	NIL
EPL	Employment Practices Liability	R 5 000
XL	Excess of Loss - Motor Liability	NIL
All	Claims Preparation Costs	NIL

## LIABILITY INSURANCE POLICY

### GENERAL CLAUSES

General Clauses, General Conditions and General Exceptions are applicable to all Sections of this Policy unless stated otherwise

Specific Conditions and Specific Exclusions will override General Conditions and General Exceptions

#### 1. OPERATIVE CLAUSE

The Insurers will indemnify the Insured as more particularly described in the various Sections of this Policy against their legal liability to pay damages and claimants' costs in connection therewith arising out of the performance of the Business within the Territorial Limits and in accordance with the law and procedure applicable anywhere in the world but not in respect of:

- 1.1 any judgement, award or settlement made within countries which operate under the laws of the North America (or to any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part)

#### 2. DEFINITIONS

For the purpose of determining the indemnity granted by this Policy the following terms shall mean:

- 2.1 "Damage"

loss of or physical damage to tangible property

- 2.2 "Deductible"

the first amount stated as such in the Schedule for which the Insurers are not liable to indemnify the Insured in respect of each claim (or series of claims arising out of one originating cause). In the event of a claim being indemnified under more than one Section of the Policy the highest single deductible shall apply.

- 2.3 "Employee"

- 2.3.1 person/s employed under a contract of service or apprenticeship with the Insured

- 2.3.2 any person/s engaged by or on behalf of the Insured to perform a contract constituting the provision of labour only for the purpose of carrying out the day-to-day operations of the Business

- 2.3.3 any person engaged by or seconded to the Insured (including a volunteer worker) whilst performing any function for or on behalf of the Insured.

- 2.4 "Injury"

death, bodily injury, illness or disease of or to any person

2.5 "Product"

any tangible property after it has left the custody or control of the Insured which has been manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured but not food or drink provided mainly to the Insured's Employees as a staff benefit.

2.6 "Vehicle"

means a land vehicle (including any machinery or apparatus attached thereto) whether or not subject to motor vehicle registration and whether or not self-propelled including railway locomotive and rolling stock

2.7 "Pollution"

the emission, discharge, release, dispersal, disposal, seepage or escape of any solid, liquid, gaseous or thermal irritant, contaminant or pollutant including vapours, smell, odours, humidity, fumes, smoke, soot or other airborne particulates; acids, alkalis, chemicals and waste; electromagnetic waves, noise, vibrations; other emission of effluent or noxious substances into or upon the land, the atmosphere or any watercourse or body of water.

2.8 "Occurrence"

an event or series of events or continuous or repeated exposure to the same or similar set of conditions which unexpectedly or unintentionally results in liability as insured in terms of this Policy. All such exposure to substantially the same general conditions at or emanating from one premise or location shall be deemed an occurrence.

2.9 "Costs and Expenses"

Costs, charges and expenses incurred by the Insurers or by the Insured with the Insurers consent

2.9.1 in the defence or settlement of any claim under this Policy or any action or prosecution brought against the Insured in respect of Injury or Damage or other liability as insured in terms of this Policy;

2.9.2 in the representation at any inquest or accident inquiry in respect of Injury which may form the subject of indemnity under this Policy and/or in defending any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of indemnity by this Policy;

2.9.3 for such emergency medical treatment as may appear necessary in respect of Injury which may form the subject of indemnity by this Policy.

2.10 "North America"

The United States of America (being the fifty states of the union plus the district of Columbia), Canada and any territory operating under the laws of the afore-mentioned territories.

## LIMITS OF INDEMNITY

Insurers total liability to pay damages and claimants' costs and expenses and also costs and expenses in connection therewith shall not exceed the sum stated in the Schedule of Limits of Indemnity for each Section in respect of any one occurrence or claim as stated in each Section of the Policy and, where stated, in the Annual Aggregate per Section. The limits of indemnity are in excess of the deductible and/or self-insured retention.

Should any Limit of Indemnity in respect of any Section of the Policy be altered during the Period of Insurance the original Limit of Indemnity shall apply to all claims made or deemed to have been made or arising out of any occurrence prior to the date of such alteration.

The indemnity in terms of Section XL – Excess of Loss Liability, shall apply in excess of the Insured's primary liability insurance policy and only after the Limit in terms of the primary policy has been exhausted.

In the event of any one originating cause giving rise to a claim or series of claims which form the subject of indemnity by more than one Section of this Policy, each Section shall apply separately and be subject to its own separate limits of indemnity provided always that the total amount of Insurers' liability shall be limited to the greatest Indemnity Limit available under any one of the Sections affording indemnity for the claim or series of claims.

All amounts stated in this Policy are expressed inclusive of VAT at 14%. For clarity it is noted that in cases where the excess/deductible is expressly recovered by the Insurer from the Insured the excess / deductible in terms of the policy so recovered does not constitute a consideration as defined in the VAT Act and as such has no VAT consequence.

## GENERAL EXTENSIONS

### 1. INDEMNITY TO OTHERS

The indemnity granted shall extend at the Insured's option and subject to Insurers' consent which consent shall not be unreasonably withheld to :

- 1.1 any party other than a stadium or venue owner (as defined in the safety at Sports and Recreational Events Act of 2010) who enters into an agreement with the Insured for any purpose of Business and where the agreement requires the Insured to grant such Indemnity
- 1.2 officials and/or employees of the Insured in their business and/or private capacity arising out of the conduct of the business;
- 1.3 the officers, committee and members of the Insured's canteen, social, sports, medical, fire fighting, security units and welfare organisations and visiting sports teams and members thereof in their respective capacity as such;
- 1.4 the personal representative of any person indemnified by reason of this Extension in respect of liability incurred by such person

Provided always that all such persons or parties shall observe, fulfil and be subject to the Terms, Exclusions and Conditions of this Policy insofar as they can apply, as though they were the Insured.

### 2. CROSS LIABILITY

Each legal entity indemnified is separately indemnified in respect of claims made against any of them by any other, subject to Insurers' total liability not exceeding the stated Limit of Indemnity.



## GENERAL EXCLUSIONS

This Policy does not cover liability:

### 1. REASONABLE PRECAUTIONS

arising out of the deliberate, conscious and intentional disregard by the Insured's management of the need to take reasonable precautions to prevent any event or circumstance which may give rise to a claim.

### 2. FINES, PENALTIES, ETC.

for fines, penalties, punitive and exemplary damages

### 3. POLLUTION

arising out of or for the cost of removing, nullifying or cleaning up of Pollution provided always that this Exclusion shall not apply where such Pollution is caused by a sudden, unintended and unexpected happening

Nothing herein shall be construed as extending this Insurance to indemnify the Insured for any liability which would not have been covered under this Insurance in the absence of this General Exclusion 3.

### 4. ASBESTOS

whether actual or alleged for any claim or claims in respect of loss or losses directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to the extent contributed to, by the hazardous nature of asbestos in whatever form or quantity. This Exception does not apply to any Personal or Motor Liability Sections, if included in the Policy.

### 5. RETROACTIVE DATE

arising from any Injury or Damage or event giving rise to Pure Financial Loss (if cover is provided for loss not related to Physical Damage to Property) occurring or alleged to have occurred prior to the applicable Retroactive Date stated in the Schedule.

### 6. KNOWN EVENTS (Applicable to Claims Made Sections Only)

arising out of any circumstance, matter or thing which the Insured may reasonably be expected to suppose may give rise to a claim against the Insured and known by the Insured to have occurred prior to the inception of this Policy

### 7. WAR AND TERRORISM RISKS

for loss, damage, cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

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

- (2) any act of terrorism

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

- (3) loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way to (1) and (2) above

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

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

## **8. NUCLEAR RISKS**

- 8.1 for loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss

- 8.2 for any legal liability of whatsoever nature

directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel

For the purposes of this Exclusion only combustion shall include any self-sustaining process of nuclear fission .

The indemnity provided by this Policy shall not apply to nor include any loss destruction damage or legal liability directly or indirectly caused by or contributed to by or arising from nuclear weapons material.

## **9. UNLAWFUL COMPETITION**

any claim or claims whether actual or alleged howsoever arising in connection with or based upon or arising from or in any way involving actual or alleged unlawful competition, unfair practices, abuse of monopoly power, cartel activities or as may otherwise arise from or be based upon or relate to any breach of a provision of the Competition Act No. 89 of 1998 as amended or any similar provision, act or regulation as may be in force in any jurisdiction or country in which the Insured's liability arose.

**10. COMPULSORY INSURANCE**

except for so much of any compensation payable by the Scheduled Underlying Motor Liability insurance in respect of liability for death of or bodily injury to persons being carried in or upon or getting into or alighting from a vehicle, no indemnity is granted by this policy against liability for injury which:

1. is the subject of legislation enacted for the purpose of providing compensation for loss or damage wrongfully caused by the driving of a motor vehicle, or
2. is the subject of legislation controlling the use of motor vehicles or trailers and in respect of which liability:
  - 2.1 the insured is compelled to effect insurance or otherwise furnish security, or
  - 2.2 the State or other governmental authority has accepted responsibility
3. is suffered as a result of an emotional shock by a person other than an injured party on witnessing, observing or being informed of the injury of another person as a result of the driving of a motor vehicle.

This exclusion shall apply notwithstanding that no insurance under such legislation is in force or has been effected, or that compensation is not paid for any reason whatsoever.

**11. DATA**

for loss or damage (including detrimental change) and any consequence therefrom to any Data howsoever caused. Data means any information, facts or program stored as or on, created or used on, or transmitted to or from computer software.

**12. COMPETITOR LIABILITY**

- (i) arising out of competitor to competitor liability
- (ii) arising out of organiser to competitor liability

**13. SANCTIONS EXCLUSION**

and Insurers shall not indemnify and Insurers shall not be liable to pay any claim or provide any benefit hereunder where the indemnity, claim payment or provision of such benefit is contrary to the prohibitions or restrictions under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America irrespective of enactment in the jurisdiction where indemnity or benefit is provided or payment made.

## GENERAL CONDITIONS

This Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule shall bear such specific meaning wherever it may appear.

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

### 1. CLAIMS

1.1 in respect of Sections on Losses Occurring Basis

1.1 The Insured shall give notice to the Insurers as soon as reasonably practicable of any claim made against the Insured.

1.2 in respect of Sections on Claims Made Basis

1.2.1 the Insured shall give notice to the Insurers as soon as reasonably practicable of any claim made against the Insured.

1.2.2 the Insured shall give notice to the Insurers as soon as reasonably practicable (but not later than 60 days after the Period of Insurance) of any circumstance matter or thing which occurred subsequent to the Retroactive Date and prior to expiry of the Period of Insurance which the Insured may reasonably be expected to suppose may give rise to a claim against the Insured. Such notice having been given, any claim arising out of any such circumstance matter or thing shall be deemed to have been made during the Period of Insurance.

1.3 every claim, writ, summons or other legal process and all documents relating to the claim or circumstance that may give rise to a claim shall be forwarded to the Insurers immediately they are received by the Insured.

1.4 the Insurers shall be entitled to investigate all and any matters which in their absolute discretion are relevant to the foregoing and the Insured shall do all things necessary to enable the Insurers to investigate as aforesaid.

### 2. INSURERS' RIGHTS AFTER AN EVENT

The Insured shall not without the consent in writing of the Insurers make any admission offer promise or payment in connection with any claim against the Insured or circumstance or other matter or thing which may give rise to a claim under this Policy. The Insurers shall be entitled but not obliged to take over and conduct in the name of the Insured the settlement or defence of any claim or to prosecute in the name of the Insured for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall make available such information and afford access to such records as the Insurers may require.

**3. MATERIAL FACTS**

The Insured shall give notice to the Insurers as soon as reasonably practicable of any material variation in any of the facts, or information supplied to the Insurers by or on behalf of the Insured at the time this Policy was effected or renewed. The Insurers may amend the terms of this Policy according to the materiality of such information.

**4. INSURED'S DUTIES**

The Insured shall at all times

- 4.1 comply with all statutory requirements relevant to the business. (This Condition shall not apply to Section LDC Statutory Legal Defence Costs)
- 4.2 take all reasonable precautions to prevent any circumstance matter or thing which may give rise to a claim under this Policy

**5. RELINQUISHMENT OF CLAIMS**

The Insurers may at any time pay to the Insured in connection with any claim or series of claims under the Policy the appropriate Limit of Indemnity after deduction of sums already paid or any lesser amount for which such claim can be settled, plus Costs and Expenses incurred prior to the date of such payment, provided that the total amount so payable including such Costs and Expenses shall not exceed the Limit of Indemnity and upon payment being made the Insurers shall relinquish the conduct and control of and be under no further liability in connection with such claims.

**6. ADJUSTMENT OF PREMIUM**

Where the premium is based provisionally on the Insured's estimates, the Insured shall keep an accurate record containing all particulars relative thereto and as soon as possible after expiry of the Period of Insurance provide the Insurers with such particulars and information as the Insurers may require to enable the Premium to be adjusted and any difference paid or allowed to the Insured as the case may be subject to any minimum Premium that may apply. Where the estimates include remuneration to Employees, the required particulars shall include remuneration to all persons defined as Employee.

**7. FRAUD**

If any claim under this Policy is in any respect fraudulent the benefit afforded under this Policy in respect of any such claim shall be forfeited

**8. CANCELLATION**

This Policy or any Section may be cancelled by the Insurers by giving 30 days' written notice of such cancellation or by the Insured giving immediate written notice. The Insured shall be entitled to a pro-rata refund premium of the unexpired period of insurance, subject to the terms of Condition 6, provided that Insurers have not been notified of any claim under the Policy or any circumstance, matter or thing which may give rise to a claim.

**9. DUE OBSERVANCE**

The due observance and fulfilment of any of the provisions of this Policy that requires anything to be done or complied with by the Insured and the truth of the answers and statements in the proposal are precedent to any liability of the Insurers in respect of any claim made by the Insured under this Policy.

**10. MANIFESTATION CLAUSE**

When the facts do not speak for themselves and the Insured cannot mutually agree when the Injury or the Damage occurred, then for the purposes of determining the indemnity granted:

10.1 the Injury shall be deemed to have occurred when the claimant first consulted a qualified practitioner regarding such Injury, whether or not it was correctly diagnosed at the time. If no such consultation took place, then the Injury shall be deemed to have occurred when the Insured was first advised of the Injury

10.2 the damage shall be deemed to have occurred when it first became evident to the claimant, even if the cause was unknown

**11. ONLY ONE SECTION**

Each Section of this Policy excludes any liability more specifically indemnified by any other Section.

**13. CESSION**

Neither this Policy nor any benefit, interest or right in this Policy or to any proceeds of the Policy may be ceded without the prior written consent of the Insurer.

**SECTION PL - PUBLIC LIABILITY****PL1 INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and/or arising out of Injury and/or Damage but not against claims arising out of or in connection with the nature or condition of any Product.

**PL2 SPECIFIC EXCLUSIONS**

This Section does not cover liability:

**PL2.1 EMPLOYEE**

for Injury to any Employee where Injury arises from and in the course of employment

**PL2.2 VEHICLES**

arising out of the ownership possession or use by or on behalf of the Insured of any Vehicle other than claims:

PL2.2.1 caused by the use as a tool of trade of any vehicle or of plant forming part of or attaching to or used in connection with any vehicle

PL2.2.2 arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any Vehicle

PL2.2.3 arising out of any Vehicle temporarily in the Insured's custody or control using parking facilities gratuitously provided by the Insured

PL2.2.4 arising out of any Vehicle on the Insured's premises for which compulsory insurance is not required by legislation provided the Insured is not indemnified by any motor policy

PL2.2.5 arising out of the possession or use by or on behalf of the Insured of any Vehicle the property of Transnet Limited while being used by the Insured at any railway siding.

PL2.2.6 in respect of any trailer not attached to and not having become unintentionally detached from any mechanically propelled vehicle

PL2.2.7 arising out of any Vehicle whilst participating in activities as defined in the Schedule under the Business description provided the Insured is not indemnified by any motor policy

**PL2.3 COMPULSORY INSURANCE**

arising out of any circumstances compulsorily insurable by legislation governing the use of any Vehicle

PL2.4 AIRCRAFT/WATERCRAFT

arising out of the ownership possession or use by or on behalf of the Insured of any aircraft, watercraft or hovercraft (other than watercraft not exceeding 15,25 metres in length and then only whilst on inland waterways)

PL2.5 PROPERTY

for damage to property owned leased or hired by or under hire purchase or on loan to the Insured or otherwise in the Insured's care, custody or control other than:

PL2.5.1 premises (or the contents thereof) temporarily occupied by the Insured for work therein, or other property temporarily in the Insured's possession for work thereon (but no indemnity is granted for damage to that part of the property on which the Insured is working and which arises out of such work)

PL2.5.2 directors' employees' partners' members' and visitors' clothing and personal effects

PL2.5.3 property of Transnet Limited

PL2.5.4 premises tenanted by the Insured for which the Insured is responsible

PL2.6 REMOVAL OF SUPPORT

for loss of or damage to property caused by dewatering operations or by the removal or weakening of or interference with support to such property

PL2.7 DESIGN, FORMULA ETC

arising out of design, formula, specification, supervision, treatment or advice given by or on behalf of the Insured

PL2.8 AIRPORTS, AIRSTRIPS AND HELIPADS

arising out of ownership, hire, leasing or operation of any airport, airstrip or helicopter pad other than airstrips or helicopter pads which are not equipped with control tower operation or navigational aid facilities



## SECTION PR - PRODUCTS LIABILITY

### PR1 INDEMNITY

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the period of Insurance for and/or arising out of Injury and/or Damage but only against claims arising out of or in connection with the nature or condition of any Product

### PR2 SPECIFIC EXCLUSIONS

This Section does not cover liability:

#### PR2.1 KNOWN DEFECTS

for any defect in any Product of which the Insured was aware prior to inception of this Policy

#### PR2.2 PRODUCT REPLACEMENT

for the cost of repair, reconditioning or replacement of any Product or part thereof and/or the loss of use of any Product or part thereof

For the purpose of this Exclusion the term "replacement" shall be deemed to include any credit or refund granted or alternative Product provided by or on behalf of the Insured in lieu of replacement of the defective Product

#### PR2.3 PRODUCT RECALL

for costs incurred by the Insured in the recall of any Product or part thereof

#### PR2.4 INEFFICACY

arising out of the failure of any Product or any part thereof to fulfil its intended function or to perform as specified warranted or guaranteed but this Exclusion shall not apply to consequent Injury or Damage

#### PR2.5 AVIATION PRODUCTS

arising out of any Product which with the Insured's knowledge is intended for incorporation into the structure, machinery or controls of any aircraft

#### PR2.6 EXPORTS TO NORTH AMERICA

arising out of any Product (including any marketing advisory service in connection with any Product) within or en route to North America where such Product was to the knowledge of the Insured intended for sale or resale in North America

In any action suit or other proceedings where the Insurers allege that by reason of the provisions of this Specific Exclusion any liability is not covered by this Section, the burden of proving that such liability is covered shall be upon the Insured

PR2.7 DESIGN ETC NOT IN CONNECTION WITH A PRODUCT

arising out of design, formula, specification, treatment or advice by or on behalf of the Insured unless in connection with a Product

## SECTION EL - EMPLOYERS LIABILITY

### EL1 INDEMNITY

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the Period of Insurance for and/or arising out of Injury to any Employee arising from and in the course of employment

### EL2 EXCLUSIONS

This Section does not cover liability:-

#### EL2.1 CONTRACTUAL LIABILITIES

arising out of liability assumed by the Insured by agreement unless such liability would have attached to the Insured in absence of such agreement

#### EL2.2 OCCUPATIONAL INJURY

arising out of or related to or in respect of any occupational, industrial, employment-related disease caused by or contributed to by or precipitated by prolonged or repeated exposure to substances of any sort, factors or circumstances peculiar to any industry, particular employment, occupation, workplace or working environment;

#### EL2.3 COMPULSORY INSURANCE

arising out of any circumstances or claim compulsorily insurable as falls within the scope of any legislation, regulation or decree entitling an Employee (including a dependant of an Employee) to receive any benefit, allowance, pension or annuity. This Specific Exclusion shall apply notwithstanding the fact that no insurance under such legislation, regulation or decree be or has been in force or has been effected.

## SECTION LDC - STATUTORY LEGAL DEFENCE COSTS

### **LDC1 INDEMNITY**

The Insured or any Employee of the Insured is indemnified by this Section for costs and expenses incurred with the Insurer's consent (which consent shall not be unreasonably withheld) in the defence of any prosecution of the Insured or any Employee of the Insured for their unintentional breach of any statute in the course of the Business provided that the Insurers shall not be liable for any fines or penalties imposed as a consequence of prosecution.

### **LDC2 EXCLUSIONS**

This Section does not cover liability:

#### **LDC2.1 VEHICLES, AIRCRAFT AND WATERCRAFT**

arising out of any Statute governing the ownership, use or licensing of vehicles, aircraft and watercraft

## **SECTION WA - WRONGFUL ARREST/DISMISSAL AND DEFAMATION**

### **WA1 INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause in respect of claims first made against the Insured during the period of Insurance as a direct result of:

- WA1.1 wrongful arrest, including assault in connection therewith
- WA1.2 wrongful dismissal of an Employee
- WA1.3 defamatory statements whether written or verbal made by the Insured

### **WA2 EXCLUSIONS**

This Section does not cover liability:

#### **WA2.1 UNFAIR LABOUR PRACTICE**

arising out of any actual or any alleged unfair labour practice as contemplated by the Labour Relations Act 66 of 1995 (and amended) or any Act passed in substitution thereof or similar legislation in any other territory.

## SECTION EPL – EMPLOYMENT PRACTICES LIABILITY

### EPL1 INDEMNITY

The Insurers will indemnify the Insured against Loss in respect of a Claim first made against the Insured during the Period of Insurance within the Territorial Limits and in accordance with the law and procedure of courts of competent jurisdiction within the Republic of South Africa and not in respect of any foreign judgment, award, writ or order recognised or enforced by a South African court whether in terms of a bi-lateral treaty, reciprocal legislation or common law.

### EPL2 SPECIFIC DEFINITIONS

#### EPL2.1 Insured Entities

If the Insured is reflected in the Schedule as

- i) an Individual, then both the Insured and spouse (whether such status is derived by reason of Statutory Law, Common Law or otherwise) or their heirs or legal representatives are deemed to be Insureds for their respective rights and interests in relation to the business.
- ii) Company/Close Corporation, then both the company/corporation are Insured Entities. The shareholders or Members shall also be deemed to be Insureds but only for their respective liability as shareholders or Members.
- iii) Partnership or Joint Venture, the partnership/joint venture shall be Insured Entities. Partners and their respective spouses (whether such status is derived by reason of Statutory Law, Common Law or otherwise) or their heirs or legal representatives shall also be deemed to be Insureds for their respective rights and interests.

No person or organisation is covered for any current or past partnership or joint venture not named in the Policy Schedule.

#### EPL2.2 Loss shall mean legal liability of the Insured for:

- i) damages, judgements or awards as determined by the Commission for Conciliation Mediation and Arbitration (CCMA), a registered Bargaining Council, the Labour Court or the Labour Appeal Court.
- ii) settlements as agreed by all parties, whether by negotiation, mediation or arbitration and entered into with the Insurers' prior written consent (such consent not to be unreasonably withheld).
- iii) Defence Costs.

Loss does not include:

- i) fines or penalties.

- ii) non-monetary liability.
- iii) liquidated damages where there is a finding of wilfulness.
- iv) punitive or exemplary damages.
- v) payment of any employee benefits, including incentives and bonuses but not salary or wages, which would have become due to the Employee had the Insured provided a continuation of employment.
- vi) severance, retrenchment or redundancy packages or compensation in respect of a notice period or amounts determined to be owing under an express written contract of employment or pursuant to an express written obligation to make payments in the event of termination of employment.
- vii) costs incurred by the Insured to modify or adapt any building or property in order to make such building or property more accessible or accommodating to any disabled person.
- viii) matters which may be deemed uninsurable according to the law under which this policy is construed.

EPL2.3 **Discrimination** means termination of the employment relationship, a demotion or failure to employ or promote or denial of any employment benefit or the taking of any adverse or differential employment action because of race, gender, marital status, ethnic or social origin, colour, religion, conscience, belief, culture, language, birth, age, sex, disability, pregnancy, sexual orientation.

EPL2.4 **Sexual Harassment** means unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature that:

- i) are explicitly or implicitly made a condition of employment.
- ii) are used as a basis for employment decisions.
- iii) create a work environment that interferes with performance.
- iv) result in a Constructive Dismissal.
- v) result in the termination of the employment relationship.

EPL2.5 **Unfair Dismissal** means termination of the employment relationship by the Insured:

- i) without following proper procedures for dismissal as laid out in the Insured's own documented disciplinary procedures.
- ii) without establishing an Employee's misconduct or incapacity.
- iii) without properly establishing that the operational needs of the business required the dismissal. Operational needs mean requirements based on the economic, technological, structural or similar needs of the Insured.

- EPL2.6. **Agreed Settlement** means a settlement and release of liability signed by Insurers, the Insured and the claimant or the claimant's legal representative.
- EPL2.7. **Automatically Unfair Dismissal** means termination of the employment relationship by the Insured:
- i) because an Employee intended to or did take part in a strike afforded protection under Chapter IV of the Labour Relations Act 66 of 1995.
  - ii) because an Employee refused to do the work of a striking worker.
  - iii) to force an Employee to accept a demand.
  - iv) because an Employee is, was or intended to become pregnant.
  - v) because an Employee intended to or did exercise a legal right or took part in legal action against the Insured.
- EPL2.8. **Constructive Dismissal** means termination of the employment relationship by an Employee because the Insured had made continued employment intolerable for the Employee.
- EPL2.9. **Defamation** means the impairment of an Employee's reputation in respect of job skills, job performance, qualifications for employment, professional reputation, disciplinary history or termination of employment.
- EPL2.10. **Unfair Employment Practice** means:
- i) Discrimination.
  - ii) Sexual Harassment.
  - iii) Unfair Dismissal.
  - iv) Automatically Unfair Dismissal.
  - v) Constructive Dismissal.
  - vi) Defamation.
- EPL2.11. **Employee** means:
- i) an individual who has entered into and works under any contract of service whether verbal or written, with the Insured.
  - ii) a person who has not entered into any contract of service, whether verbal or written, with the Insured but is considered as an employee due to the degree of control and supervision provided by the Insured by operation of law.



- iii) contract, leased or temporary workers, volunteers, employees of independent contractors, individuals who are independent contractors or non executive directors but only if they are considered to be employees of the Insured by operation of law.

EPL2.12. **Claim** means any one or more of the following notices received by the Insured in which it is alleged that an Unfair Employment Practice has taken place:

- i) CCMA or Bargaining Council referral form.
- ii) a Notice of Set Down or any other notice of proceedings of the CCMA.
- iii) a summons from the Labour Court or any other court of law.
- iv) a written demand for damages from the Employee.

EPL2.13. **DEFENCE COSTS** means those reasonable and necessary expenses incurred by the Insured, with the prior written consent of the Insurers, which consent shall not be unreasonably withheld, that result from the investigation, settlement or defence of a Claim including attorneys fees and expenses, the cost of legal proceedings, security for costs of appeal, the cost of bonds to release property being used to secure a legal obligation (but only for bond amounts within the coverage limits that apply), all reasonable expenses that any Insured incurs at Insurer's request while helping to investigate or defend a Claim and/or costs taxed against any Insured in connection with a Claim.

Defence costs do not include salaries and expenses of Insurer's employees, including employed attorneys, salaries and expenses of the Insured's employees, fees and expenses of independent adjusters that Insurers may hire and interest that accumulates on the amount of a judgement.

EPL2.14. **DEDUCTIBLE** means the first amount stated as such in the Schedule for which the Insurers are not liable to indemnify the Insured in respect of each Claim (or series of Claims arising out of one originating cause) which Deductible shall also apply to Defence Costs and any other costs cumulatively.

### 3. **POLICY EXTENSION (If stated to be applicable in the Schedule)**

#### **Extended Reporting Period**

Should the Insurer refuse to offer any terms or conditions to renew this Policy and this Policy is accordingly neither renewed nor replaced by any other policy (or by a section within any other policy) by the Insurers or by any other insurer offering similar indemnity, the Insured shall subject to payment of the Additional Premium shown in the Schedule, the Specific Conditions and all other terms, Exclusions and Conditions of this Policy, have the right to notify the Insurers for a period of 12 months following expiry of the Period of Insurance (hereinafter the Extended Reporting Period) of an Occurrence that happened subsequent to the applicable Retroactive Date and prior to expiry of this Policy which in the Insured's reasoned opinion may give rise to a claim against the Insured and seek to have any such claim treated as having been made against the Insured during the Period of Insurance.

### **Specific Conditions**

- 3.1 This Extension does not apply if the Insured fails to pay the due Additional Premium or cancels or refuses to renew this Policy or refuses to accept the alternative terms offered by the Insurers for renewal of this Policy.
- 3.2 This Extension does not apply if this Policy is terminated by the Insurer by reason of the Insured's non payment of premium or failure to comply with the terms and conditions of this Policy.
- 3.3 The offer by the Insurer of alternative premiums, terms, limitations, exclusions or limits of indemnity differing from those current at expiry does not constitute a refusal by the Insurer to renew.
- 3.4 This Extension may be exercised no later than 30 (thirty) days after expiry of the Period of Insurance by written request accompanied by confirmation that this insurance has not been replaced and payment of the additional premium.
- 3.5 The Extended Reporting Period is immediately cancelled should alternative insurance offering similar indemnity to the indemnity afforded by this Policy, be obtained by the Insured.
- 3.6 The Extended Reporting Period once exercised by the Insured and subject to compliance by the Insured with these Specific Conditions may not be cancelled by either party other than in circumstances contemplated in 3.5 above.
- 3.7 This Extension is not available to and may not be exercised by any governmental official or agency or by any curator, receiver, liquidator or business rescue practitioner acting or appointed to take over the Insured's business for the operation of or for the liquidation thereof or for any other purpose.
- 3.8 Nothing in this Extension shall have the effect of increasing the Limit of Indemnity.

## **4. SPECIFIC EXCLUSIONS**

This Policy does not indemnify

### **4.1 WORKERS COMPENSATION**

any liability arising out of any obligation under any worker's compensation, disability benefits or unemployment compensation laws or any similar law. This exclusion does not, however, apply to any Claim for Unfair Employment Practice on account of the filing of a worker's compensation claim or a claim for disability benefits.

### **4.2 BREACHES OF INTERNAL PROCEDURES**

Loss arising out of the malicious or wilful or intentional failure to comply with the Insured's own documented procedures for dealing with discipline or grievances in the workplace. The Insurers may waive this exclusion if the Insured is able to demonstrate that reasonable steps were taken to follow such procedures in respect of the specific Unfair Employment Practice.

**4.3 WILFUL FAILURE TO COMPLY WITH THE LAW**

any liability arising out of the wilful or intentional failure to comply with any law or any governmental or administrative order or regulation by or with any Insureds' knowledge or consent or acquiescence.

**4.4 CONTRACTUAL LIABILITY**

any loss for which any Insured becomes legally liable by reason of the assumption of another's liability for an Unfair Employment Practice in a contract or agreement. This exclusion does not apply to liability for damages because of an Unfair Employment Practice that any Insured would have incurred in the absence of the contract or agreement.

**4.5 CONSEQUENTIAL LOSS**

loss suffered by any claimant's domestic partner, spouse, child, parent, brother or sister as a consequence of an Unfair Employment Practice.

**4.6 DISMISSALS FOR OPERATIONAL REQUIREMENTS**

an Unfair Employment Practice which arises out of any reorganisation operations, downsizing operations, closure of one or more plants or places of business operations unless such actions result in the termination, retrenchment or redundancy within any sixty (60) day period of less than fifty (50) employees, or less than twenty percent (20%) of the total number of the Insured's Employees, whichever is the lesser, and provided the Insured has followed the procedures outlined in s189 of the Labour Relations Act 66 of 1995.

**4.7 MINIMUM WAGE VIOLATIONS**

an allegation that the Insured failed to meet any minimum wage requirements as determined by any statute, sectoral determination or collective bargaining agreement.

**4.8 RETROACTIVE DATE**

any Unfair Employment Practice which occurred prior to the Retroactive Date (if any) stated in the Schedule, provided that nothing contained within this exclusion shall be interpreted as releasing the Insured from their obligation to reveal as a material fact all details of Claims made or outstanding or Insured Events or circumstances ostensibly of the nature of an Insured Event likely to give rise to a Claim.

**5. SPECIFIC CONDITIONS**

**5.1 LEGAL ACTION AGAINST INSURERS**

No person or organisation has a right under this Policy

- i) to join Insurers as a party or otherwise bring the Insurers into a suit claiming damages from an insured; or
- ii) to sue Insurers under this Policy unless all its terms have been fully complied with.

A person or organisation may sue Insurers to recover on an Agreed Settlement or on a final judgement against an Insured obtained after an actual trial, but Insurers shall not be liable for damages that are not payable under the terms of this Policy or that are in excess of the applicable Limit of Indemnity.

## SECTION XL - EXCESS OF LOSS LIABILITY

### **XL1 INDEMNITY**

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of Injury to persons and/or Damage caused by or through or in connection with any event for which indemnity is provided in terms of the scheduled Underlying Insurances.

### **XL2 SPECIFIC EXCLUSIONS**

This Section does not grant Indemnity in respect of claims:

- XL2.1 which form the subject of indemnity by the Underlying Insurances but are uninsured by the Underlying Insurance by virtue of any excess and/or deductible clause there under or which do not form the subject of indemnity by the Underlying Insurances
- XL2.2 which form the subject of any extension to the Underlying Insurances where the liability of Insurers under such extension is less than the Indemnity Limit of the Underlying Insurance specified in the Schedule of Underlying Insurances

### **XL3 SPECIFIC CONDITIONS**

#### **XL3.1 CONDITIONS AGREEMENT**

The following are conditions precedent to the granting of indemnity by the Insurers of this Section:

- XL3.1.1 the Underlying Insurances are warranted to be in force throughout the currency of this Policy for not less than the Indemnity Limits shown
- XL3.1.2 any alteration to the terms, exclusions or conditions of any of the Underlying Insurances must be disclosed immediately in writing to the Insurers of this Policy and their written confirmation obtained of continuation of cover under this Section.

#### **XL3.2 EXHAUSTION CLAUSE**

In the event of reduction or exhaustion of any aggregate limit of indemnity under the Underlying Insurances by reason of claims paid thereunder, this Section shall:

- XL3.2.1 in the event of reduction pay the excess of the reduced underlying limit
- XL3.2.2 in the event of exhaustion continue in force as underlying insurance provided always that the liability of the Insurers shall not be increased beyond the Limit of Indemnity.

XL3.3      ADMISSION OF LIABILITY

liability to pay under this Section shall not attach unless and until the Insurers of the Underlying Insurances shall have paid or have admitted liability or have been held liable to pay the full amount of their indemnity.

XL3.4      CONSENT OF INSURERS

in the event of a claim arising to which the Insurers hereon may be liable to contribute no costs shall be incurred on their behalf without their consent being first obtained (such consent not to be unreasonably withheld). No settlement of a claim shall be effected by the Insured for such a sum as will involve this Section without the consent of Insurers hereon.

XL3.5      NOTIFICATION OF CLAIMS

the Insured shall notify the Insurers as soon as reasonably possible of

XL3.5.1      any claim made against the Insured or

XL3.5.2      the discovery of any event, occurrence or circumstance which is payable under or which is likely to give rise to a claim under the Underlying Insurances

XL3.6      RECOVERIES

all recoveries or payments recovered or received subsequent to a loss settlement under this Section shall be applied as if recovered prior to such settlement and all necessary adjustments shall then be made between the Insured and the Insurers provided always that nothing in this Section shall be construed to mean that loss settlements under this Section are not payable until the Insured's ultimate net loss has been finally ascertained.

XL3.7      UNDERLYING INSURANCES

except as otherwise provided herein this Section is subject to the same terms exclusions conditions and definitions as the Underlying Insurances.

XL3.8      UNDERLYING INSURANCE BASIS OF INDEMNITY

Insurers agree to follow the insuring clause of any appropriate underlying insurance to determine the basis of indemnity, being either

XL3.8.1      a claim or claims as a result of an Occurrence happening during the period of Insurance "Occurrence Basis"; or

XL3.8.2      a claim or claims first made against the Insured during the period of Insurance "Claims Made Basis"

For the purpose of this clause, the interpretation of the underlying insuring clause will be the decision of Insurers hereon, not of the underlying insurers. If the underlying insurance is on a "Claims Made Basis", Insurers hereon will deal with any claim arising out of an event or circumstance first notified during the Period of Insurance as if the claim had been made during such period.

#### SCHEDULE OF UNDERLYING INSURANCES

Insurer & Policy No.	Cover	Indemnity Limit	
		Each & Every	Annual Aggregate
Mutual & Federal – Policy No.618258939	Motor Liability	R 5 000 000	Not Applicable