

SECTION 10 TRUSTEES INDEMNITY

Definitions

The following definitions apply to the words or terms listed below wherever they appear in this section unless specifically otherwise indicated:

1 Claim

claim shall mean

- 1.1 a written or verbal allegation of any wrongful act communicated to the trustees and/or body corporate or
- 1.2 a civil proceeding commenced by issue of summons, statement of claim or any valid legal proceeding instituted against the trustees and/or body corporate alleging any wrongful act or
- 1.3 a criminal proceeding commenced by summons or charge against the trustees and/or body corporate alleging any wrongful act.

2 Wrongful act

wrongful act shall mean

any actual or alleged breach of trust, breach of duty, neglect, error, misstatement, misleading statement, omission or other act wrongfully committed or attempted by a trustee which arises solely by reason of his acting in his capacity as trustee of the body corporate

Where any such wrongful act results in more than one claim all such claims will jointly constitute one loss and be deemed to have originated in the earliest policy year in which any of such wrongful acts is first reported to the company.

Defined events

All sums that the body corporate and/or trustee(s) shall become legally liable to pay arising out of any wrongful act of a trustee, by the actual or alleged breach of trust, breach of duty, neglect, error, misstatement, misleading statement, omission or other act wrongfully committed or attempted by a trustee on or after the retroactive date reflected in the schedule and which results in a claim or claims first being made against the insured in writing during the period of insurance, in the course of acting in his capacity as trustee of the body corporate.

The limit of indemnity

The maximum amount payable under this section is limited to the amount stated in the schedule for any one event or series of events and in all in any one (annual) period of insurance (being the period of twelve consecutive months from the inception date or anniversary date). Such amount shall include the amount payable in respect of a claim made against the trustee(s) and/or body corporate for an illegal or fraudulent act and will include damages, judgments, settlements, order for costs as well as costs for charges and expenses incurred by the company or with their consent in the investigation, defence, monitoring or settlement of any claim.

Specific conditions

1 Cancellation or non-renewal

In the event of cancellation or non-renewal of this section

- 1.1 any claim resulting from a reported event, first made in writing against the insured during the 48 months immediately following cancellation or non-renewal shall be treated as having been made against the insured on the same day that the insured reported the event. If the claimant is a minor, the period of 48 months will be extended until the expiry of 12 months after the attainment of majority by the claimant
- 1.2 the insured may report an event in terms of general condition 3 (Claims) to the company for up to 15 days after cancellation or non-renewal, provided
 - 1.2.1 such event occurred during the period of insurance
 - 1.2.2 any subsequent claim first made in writing against the insured as a result of such event shall be treated as if it had first been made on the last day preceding cancellation or non-renewal and is subject to the 48 month period specified in 1.1 above

2 Reported event

Any claim first made in writing against the insured as a result of a defined event reported in terms of general condition 3 (Claims) (hereinafter termed reported event) shall be treated as if it had been first made against the insured on the same day as the insured reported the event to the company.

3 Series of claims

Any series of claims made against the insured by one or more than one claimant during the period of insurance consequent upon one event or series of events with one original cause or source shall be treated as if they all had been made against the insured

3.1 on the date that the event was reported by the insured in terms of general condition 3 (Claims) or

3.2 if the insured was not aware of any event which could have given rise to a claim, on the date that the first claim of the series was first made in writing against the insured.

Specific exceptions

The company will not indemnify the insured under this section in respect of

1 Cancellation or non-renewal

any claim (in the event of cancellation or non-renewal of this extension) not first made in writing against the insured within the 48 month period (or extended period in respect of minors) as specified in specific condition 1 (Cancellation or non-renewal).

2 Conflict of duties

a conflict of duty or interest of any trustee(s)

3 Circumstances not arising out of advice or omission to perform a trustee duty

death, disease or illness of or bodily injury to any person other than an employee of the body corporate or loss of or damage to property, unless arising out of advice or omission to perform a trustee duty

4 Defamation

loss or liability arising out of a publication or utterance of libel and slander or other defamatory or disparaging material

5 Employee

death, disease or illness of or bodily injury to any employee of the body corporate arising out of or in the course of such employment

6 Fines and penalties

finer, penalties, punitive, exemplary or vindictive damages

7 First amount payable

any first amount payable stated in the schedule

8 Illegal or fraudulent acts

any trustee(s) committing any illegal or fraudulent act, provided that this exception shall not apply to any innocent party affected by such act(s)

9 Intentional exercise of the power of the trustee

any intentional exercise of the power of the trustee(s) for the purpose other than the purpose for which such powers were conferred by the management rules of the body corporate

10 Jurisdiction

10.1 damages in respect of judgments delivered or obtained in the first instance otherwise than by a court of competent jurisdiction within the Republics of Namibia and Botswana, the Kingdoms of Eswatini and Lesotho and the Republic of South Africa

10.2 costs and expenses of litigation recovered by a claimant from the insured which are not incurred in and recoverable in the area described in 10.1 above

11 Known events and circumstances

11.1 any claim arising from an event known to the insured prior to inception of this section

11.2 any claim arising from an event known to the insured which is not reported to the company in terms of general condition 3 (Claims)

11.3 the consequences of any circumstance known to the insured at inception of this section and which might reasonably be expected to produce a claim, unless declared in advance by the insured and accepted by the company

12 Other insurance

any indemnity claimable or claimed in terms of any other insurance or otherwise more specifically insured or excluded by any section of this policy

13 Personal profit

any trustee(s) gaining or having gained any personal profit or advantage to which they were not legally entitled or for which they may be held accountable to the body corporate or any individual member thereof

14 Remuneration

any remuneration or other monies for which the body corporate or trustee(s) are legally liable

15 Sexual abuse assault harassment or molestation

any claims arising out of sexual abuse assault harassment or molestation including unwelcome sexual advances, requests for sexual favours and any unwelcome verbal, visual or physical contact of a sexual nature

16 Unauthorised monies

monies or gratuity given to any trustee(s) without authorisation by the body corporate where such authorisation is necessary pursuant to the management rules of the body corporate or prescribed law

17 VAT

any liability for the payment of VAT

