

SECTION 9: POLLUTION AND CLEAN-UP

Defined Events

Any accident caused by or through or in connection with any vehicle described in the schedule or in connection with the loading and/or unloading of such vehicles against all sums including claimant's costs and expenses arising out of:

- (i) The sudden and accidental pollution or contamination of the atmosphere or of any water, land or other tangible property
- (ii) The cleaning up or removal of or otherwise handling of anything of whatsoever nature conveyed in or on the vehicle
- (iii) The prevention or mitigation of any loss that may be the subject of indemnity under this section incurred with the Company's written consent.

Provided that such costs and expenses:

- (a) resulted from transported cargo and
- (b) are limited to R200 000 unless incurred with the written consent of the company and pertain to losses where the insured is found to be legally liable

Limits of indemnity

Unless otherwise stated the liability of the company under this section in respect of any one occurrence shall not exceed the limits of indemnity as stated in the schedule.

Definitions

1. Occurrence

The term occurrence shall mean an occurrence or series of occurrences arising from one cause in connection with any one vehicle or part of a combination of vehicles in respect of which indemnity is provided by this insurance.

2. Vehicle

The term vehicle shall mean

- (a) Private type motor cars (including station wagons, safari vans, estate cars and the like or similar vehicles designed to seat not more than 9 persons including the driver) and commercial vehicles of which the gross vehicle mass does not exceed 2000 kg
- (b) Commercial vehicles and special type vehicles as described in the schedule
- (c) Motor cycles (including motor scooters and 3-wheeled vehicles)
- (d) Buses (including any vehicle used for business purposes and designed to seat more than 9 persons including the driver)
- (e) Trailers i.e. any vehicle without means of self propulsion designed to be drawn by a self propelled vehicle, but excluding any parts or accessories not permanently fitted thereto any such vehicle stated in the schedule or for which the company has agreed to add to the schedule.

Extensions

1. Cross liabilities

Where more than one insured is named in the schedule the company will indemnify each insured separately and not jointly and any liability arising between such insured shall be treated as though separate policies had been issued to each, provided that the aggregate liability of the company shall not exceed the limit of indemnity stated in the schedule.

Memoranda

1. Premium adjustment clause

If this section is issued on a non-specified vehicle basis, the insured shall submit to the company at the end of each period of insurance a declaration of the total number of vehicles owned, hired or leased at such expiry dated. The company shall upon receipt of this declaration make premium adjustment of 50 per cent of the annual rate per vehicle applied to the difference in the number of vehicle at inception or renewal and the number declared.

2. Description of use clause

Use for social, domestic and pleasure purposes and use for the business or occupation of the insured excluding hiring, racing speed or other contests, rallies, trails, or the carriage of any load or passengers exceeding the capacity for which it is constructed or licensed to carry or use for any purpose in connection with the motor trade. The indemnity to the insured in connection with any vehicle shall operate while such vehicle is in the custody or control of a member of the motor trade for the purpose of its overhaul upkeep or repair.

3. First amount payable

In respect of each and every occurrence giving rise to a claim, under this policy, the insured shall be responsible for the first amounts payable stated in the schedule (according to the type of vehicle) of any expenditure (or any less expenditure which may be incurred) for which provision is made under this policy (including any payment in respect of costs, expenses and fees) and of any expenditure by the company in the exercise of any discretion it may have under this insurance. If the expenditure incurred by the company shall include any first amount payable for which the insured is responsible, such amount shall be paid by the insured to the company forthwith.

4. Jurisdiction Clause

The company shall not be liable for compensation for damages or costs and expenses of litigation recovered by any claimant from the insured in respect of judgments delivered or obtained in the first instance otherwise than by a court of competent jurisdiction within the Republic of South Africa, Namibia, Botswana, Lesotho or Swaziland

Specific Exceptions and Warranties

The company shall not be liable under this section in respect of:

1. Any or all costs arising whilst the vehicle is being used otherwise than in accordance with the description of use clause
2. So much of any compensation or claim as falls within the scope of any compulsory motor vehicle insurance enactment. This exception shall apply notwithstanding that no insurance under such enactment is in force or has been effected
3. Death of or bodily injury to any person.
4. Liability arising from the operation demonstration or use for purposes other than maintenance or repair of a vehicle (unless it is a fork lift truck) of any tool or plant forming part of or attached to or used in connection with a vehicle or anything manufactured by or contained in any such tool or plant
5. Any and all costs arising out of or in connection with the handling, storage, transportation or disposal of asbestos and/or any substance or compound that incorporates asbestos
6. Any and all costs arising out of wrongful or incorrect delivery
7. Any claim arising from contractual liability, unless such liability would have attached to the insured notwithstanding such contractual agreement.

It is warranted that no cover exists under any of the following circumstances:

1. Whilst any vehicle is being driven by:
 - (a) The insured while under the influence of intoxicating liquor or drugs (unless administered by or prescribed by and taken in accordance with instructions of a member of the medical profession other than himself) or while not licensed to drive such vehicle
 - (b) Any other person with the general consent of the insured who to the insured's knowledge is under the influence of intoxicating liquor or drugs (unless administered by or prescribed by or taken in accordance with the instructions of a member of the medical profession other than himself)
2. If any insured vehicle or any other vehicle forming a part of a combination of vehicles together with an insured vehicle, driver or operator at the time of any accident giving rise to a claim in terms of this Policy is found not to comply with the National Road Traffic Act No. 93 of 1996 (as amended) and the regulations issued there under or any relevant traffic ordinance insofar as they apply to vehicle licenses, clearance certificates, operators permits, drivers licenses, Professional Drivers Permits and dangerous goods.
3. If the insured vehicle or any other vehicle forming a part of a combination of vehicles together with an insured vehicle, is at the time of any incident giving rise to a claim in terms of this Policy is found to be in a state or condition which is not roadworthy or does not comply with Part II of the regulations and standards promulgated in terms of the National Road Traffic Act No 93 1996 (as amended)
4. If the insured vehicle or any other vehicle forming a part of a combination of vehicles together with an insured vehicle either singularly or in combination is at the time of any incident giving rise to a claim in terms of this Policy is found to be overloaded as provided for in terms of the National Road Traffic Act No 93 1996 (as amended) and the regulations issued there under or where the combined mass of the combination of vehicles

and the load thereon exceeds 56 000 kilograms

Specific Condition

If during the currency of this policy any driver's license in favour of the insured or their authorised driver is endorsed, suspended or cancelled or if he or they shall be charged or convicted of negligent, recklessness or improper driving, notification shall be sent in writing to the company immediately the insured have knowledge of such fact.