



UNIVERSITY OF CAPE TOWN

PROFESSIONAL INDEMNITY POLICY

2019

Arranged by

Guardrisk Allied Products and Services (Pty) Ltd



UNIVERSITY OF CAPE TOWN

(hereinafter termed the Insured)

PROFESSIONAL INDEMNITY INSURANCE POLICY

effected through

STALKER HUTCHISON ADMIRAL (PTY) LTD

GENERAL OPERATIVE CLAUSE

In consideration of the payment of the premium and in reliance upon the proposal or other information supplied which shall be the basis of this contract of insurance, the Insurers specified in the Schedule agree to indemnify the Insureds in the manner and to the extent stated herein.

This insurance will apply only to claims first made against an Insured during the Period of Insurance or during the Extended Reporting Period, if purchased, and advised to Insurers as soon as practicable thereafter.

If, however, subject always to the above provisions, an Insured notifies Insurers during the period of this Policy in accordance with Condition 6.1 hereof of any circumstance occurring during the period from the applicable retroactive date to the expiry date of this Policy, then any claim or claims which may subsequently arise in connection with such circumstances shall be treated as having been made during the period of this Policy.

A handwritten signature in black ink, appearing to read 'J. Schreeman', is written over a horizontal line.

UNDERWRITER

Stalker Hutchison Admiral (Pty) Ltd

Company Reg. Number: 1985/00368/07 / VAT Number: 4310103082 / FSP Number: 2167

In accordance with authority granted under Section 48A of the Short Term Insurance Act No. 53 of 1998

For and on behalf of **Santam Limited** at Johannesburg on 24 January 2019

Company Reg. Number: 1918/001680/06 / VAT Number: 4440102095 / FSP Number: 416

POLICY SCHEDULE

Policy Number	4000/24898	
Broker	Marsh (Pty) Ltd (VAT no. 4810179509)	
Insured	University of Cape Town and all entities as declared to Underwriters. (VAT No. 4540125707)	
Business	All past and present activities of the Insured and the Insured's predecessors in similar business.	
Territorial Limits	Worldwide but not in connection with any business carried on by the Insured at or from premises within or any contract for performance of work within North America.	
Period of Insurance	From :	01 January 2019
	To 24:00 on	31 December 2019, both dates inclusive
Retroactive Date	01 January 1994	
Insurer	Santam Limited (Reg. no. 1918/001680/06) (VAT no. 4440102095)	

Schedule of Limits of Indemnity/Liability			
Section/Extension	Per Claim	Per Policy Period	Excess/ Deductible
Professional Indemnity	R 125,000,000	R 125,000,000	R 25,000 each and every claim, R 100,000 each and every claim in respect of Contracted Duties and as Endorsed below in respect of Medical Malpractice.

All amounts stated in this Policy are expressed exclusive of VAT. In settling claims the Insurer will add VAT at 15% 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 an excess/deductible is expressly recovered by the Insurer from the Insured the excess / deductible in terms of the policy does not constitute a consideration as defined in the VAT Act and as such has no VAT consequence

Schedule of Premium		
Section	Premium	
Professional Indemnity	Premium (Excl. VAT)	R 217,411.30
	VAT @ 15%	R 32,611.70
	Premium (Incl. VAT)	R 250,023.00

In terms of a ruling issued by SARS, this document together with proof of payment of premium constitutes an alternative to a tax invoice, debit note or credit note as contemplated in sections 20(7) and 21(5) of the VAT Act respectively and supercedes any policy documentation or renewal notice issued by Insurers for this purpose.

Extensions	
Extension	Granted
7.1 – Medical Malpractice	YES
7.2 – A.I.D.S	YES
7.3 – Employee Dishonesty	YES
7.4 – Contracted Duties	YES
7.5 – Clinical Trials	YES
7.6 – Legal Aid Clinics	YES
7.7 – Consulting Activities	YES
7.8 – Joint Venture and/or Consortium Agreements	YES
7.9 – Loss of Documents	YES
7.10 – Public Relations Expenses	YES
7.11 – North American Extension	YES
7.12 – Sub-Contracted Duties	YES
7.13 – Additional activities/mergers/acquisitions	YES
7.14 – Breach of Copyright / Intellectual Property Right	YES

Endorsements

1. It is hereby noted and agreed that cover in respect of claims arising out of gynaecology, obstetrics, invasive treatments of minors under 12 years, midwifery, pregnancy termination and circumcisions is limited to R 31,250,000 per Policy Period with a deductible of R 500,000 each and every claim.

For the purpose of this Insurance, invasive procedures are defined as any diagnostic, therapeutic, exploratory or surgical technique or procedure that requires entry of a body cavity or interruption of normal body functions or by which the body is pierced by a devise or instrument or by manual digitations, including childbirth and related procedures.

2. It is hereby noted and agreed that the deductible in respect of any claims arising out of, directly or indirectly or in any way in connection with or relating to:-
 - a) financial loss following the withdrawal of any advertisement for any reason whatsoever;
 - b) breach of copy rights, intellectual property rights, confidentiality or trademarks;
 - c) defamation, libel or slander;
 - d) invasion of privacy; and
 - e) false and / or misleading advertising;
 arising out of campus publishing and broadcasting activities, is R 250,000 each and every claim.

1. **INSURING CLAUSE**

The indemnity granted by this Policy applies to all claims first made against the Insured during the Period of Insurance and in respect of which the Insured shall become legally liable to pay compensation, including claimants' costs, fees and expenses, arising out of:

- a) any actual or alleged (other than by the Insured) negligent act, error or omission;
- b) Medical Malpractice (subject to the provisions of Extension 7.1);

in the execution and conduct of the Professional Activities and Duties undertaken by the Insured in the conduct of the Business.

2. **DEFENCE COSTS**

The Insurers will pay all costs, fees and expenses incurred with their prior consent in producing and certifying any particulars or details required by them in order to investigate, defend or settle any claim made against the Insured and the costs of representation at any inquest, inquiry or other proceedings in respect of matters which have a direct relevance to any claim made or which might be made against the Insured, provided such claim or claims are or would be the subject of indemnity by this Policy.

3. **LIMIT OF INDEMNITY**

3.1 The total liability of the Insurers, in terms of the Insuring Clause:

- a) Per Claim or series of claims arising from one originating cause or source, including interest thereon, all claimants' costs, fees and expenses and Defence Costs;
- b) in respect of all claims Per Policy Period;

shall not exceed the Limit of Indemnity stated in the Schedule.

3.2 Where applicable, the Insurers will indemnify the Insured for any Value Added Tax (VAT) obligation that may be incurred in addition to the Limit of Indemnity.

4. **DEFINITIONS**

For the purpose of the insurance granted by this Policy:

4.1 "The Insured", named in the Schedule, shall include:-

- (a) The tertiary institution as listed in the Schedule to this Policy as established in terms of the Higher Education Act No. 101 of 1997 (as amended) or replaced with similar legislation;
- (b) The Government, Provincial Government, Local Authority or Government department or organisation to the extent required in terms of an agreement entered into for the purposes of the Business;
- (c) Any present (including appointments made during the Period of Insurance) or former partner, director, member or Employee of the Insured, if the Insured so requests;

For the purposes of this definition, Employee shall be deemed to include but shall not be limited to the following:

Executives, members of council, members of committees, including Ethics and Disciplinary committees (notwithstanding Definition 4.2), students, visiting academics, visiting students and specifically identified scholars who by invitation of the Insured attend courses, all whilst engaged in the activities of the Insured, as well as any self-employed person and person/s on secondment to the Insured, but only in respect of work carried out in the name of the Insured.

- (d) To the extent required by the conditions of any contract and in connection with any liability arising from the performance of a contract, any Contractor, Sub-contractor, Agent or Employer named in any contract entered into by the Insured for the purposes of the business

For the purpose of this Insurance, "Contractor", "Sub-Contractor" or "Agent" shall mean any present or past employee or any present student of any other Tertiary Institution as well as any other suitably qualified individual person contracted by the Insured to perform professional services.

- (e) Any party who enters into an agreement with the Insured for any purpose of the Business but only to the extent required by such agreement to grant such indemnity and only to the extent that the Insured would have become liable in the absence of such agreement;
- (f) In the event of the death or legal incompetency of the Insured, to the estate, heirs, legal representatives or assignees of the Insured in respect of liability incurred by such person;
- (g) The personal representatives of any person indemnified by reason of this Definition in respect of liability incurred by such person;
- (h) Any duly qualified non-employees forming part of a constituted committee of the Insured;

provided that:-

- (i) the aggregate liability of the Insurer is not increased beyond the Limit of Indemnity stated in the Schedule;
- (ii) any person or organisation to whom Definition 4.1 applies is not entitled to indemnity under any other policy;
- (iii) each party to whom the indemnity hereunder applies shall observe, fulfil and be subject to the terms, Exclusions and Conditions of this insurance in so far as they can apply.

4.2 "Professional Activities and Duties" shall be understood to mean those duties which the Insured provides as their usual business and for which they are qualified by relevant examination, training or experience and which form the subject of the Business stated in the Schedule.

4.3 "Employee" shall mean any person under a contract of employment, apprenticeship or clerkship with the Insured and for which remuneration is received.

4.4 "Documents" shall mean bonds, debentures, scrip certificates, deposit receipts, transfers, coupons, warrants, title deeds, powers of attorney, deeds, wills, agreements, maps, plans, records, computer system records (whether on paper, microfilm, magnetic tape or disc) and written and printed documents and forms of any nature belonging to the Insured or for which the Insured is responsible in connection with the Business, excluding bearer bonds, coupons, bank notes, currency notes and negotiable instruments.

- 4.5 "Deductible" shall mean that first amount of each and every claim to be borne by the Insured, it being understood and agreed that if any expenditure is incurred by the Insurers which, by virtue of the Deductible, is the responsibility of the Insured, then such expenditure shall be forthwith reimbursed by the Insured.

The Deductible shall apply Per Claim or series of claims arising from one originating cause or source.

- 4.6 "North America" shall mean 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 or subject to the jurisdiction of courts of the afore-mentioned territories.
- 4.7 "Contracted Duties" shall mean the Professional Activities and Duties arising out of a contract entered into between a registered commercial entity owned by the Insured with a third party or third parties in terms of which the registered commercial entity owned by the Insured would receive a fee for such Professional Activities and Duties rendered.
- 4.8 "Consulting Activities" shall mean the giving of professional advice by the Insured, for which the Insured is qualified by relevant examination, training or experience, to any third party in the conduct of the business of the Insured.
- 4.9 "Legal Aid Clinics" shall mean the provision of legal advisory services, other than on an ad hoc basis, by the Insured in the conduct of the business of the Insured, to any third party who is unable to afford private legal representation and/or who is unable to obtain the services of legal practitioners in private practices, and for which legal advisory services the Insured is qualified by relevant examination, training or experience.
- 4.10 "Clinical Trial" shall mean drug trials carried out on human participants (research subjects) in compliance with the "Guidelines for Good Practice in the Conduct of Clinical Trials with Human Participants in South Africa" as issued by the South African Department of Health during 2006 (as amended from time to time) or any succeeding legislation, excluding non-pharmacological interventions, surgical procedures, genetic manipulation of human tissue, infliction of genetic injury, invasive methods (intra muscular, intravenous, intradermal and subcutaneous injections, infusions, the use of cannula, biopsies of the skin and prostheses shall not be deemed invasive methods) and trials related to existing injuries.
- 4.11 "Environmental Impairment / Pollution" shall mean the emission, discharge, release, dispersal, disposal, seepage or escape of solid, liquid, gaseous or thermal contaminants or irritants, 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 soil, the atmosphere or any watercourse or body of water which changes the natural state or condition of the soil, the atmosphere or any watercourse or body of water other than by a sudden, unexpected and unintended event; the depositing or storing of effluent, noxious substances, nuclear material or nuclear waste and the breach of any legislation relating to the foregoing.
- 4.12 "Crisis Event" shall mean any actual or alleged (other than by the Insured) negligent act, error or omission that may have a material adverse effect on the Insured's reputation.

5. EXCLUSIONS

The Insurers shall not be liable to indemnify the Insured in respect of claims:

- 5.1 for the cost of replacing or restoring any lost or damaged Documents.
- 5.2 arising out of the death of or bodily injury to or illness or disease sustained by any Employee where such death, injury, illness or disease arises out of or in the course of their employment by the Insured.
- 5.3 arising out of any property manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured.
- 5.4 arising out of any deliberate or wilful dishonest, malicious, criminal or illegal act or omission by or on behalf of the Insured.
- 5.5 arising out of defamation.
- 5.6 arising from any condition directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus Type III (HLTVIII) or Lymphadenopathy Associated Virus (LAV) to the mutants, derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome (AIDS) or any Syndrome or condition of a similar kind howsoever it shall be named.
- 5.7 arising from Contracted Duties.
- 5.8 directly or indirectly arising from insured's participation in or conduct of pharmacological trials, prostheses trials, non-pharmacological interventions, any form of trial or test involving surgical procedures, genetic manipulation of human tissue, infliction of genetic injury, invasive methods and/or trials relating to existing injuries.
- 5.9 arising from the insured's provision of legal advisory services through Legal Aid Clinics.
- 5.10 arising from the insured's direct or indirect participation, conduct or involvement in any Consulting Activities.
- 5.11 for fines, penalties, punitive and exemplary damages or the multiplied portion of multiplied damages.
- 5.12 arising out of the insolvency of the Insured.
- 5.13 arising out of any failure by or on behalf of the Insured to arrange finance.
- 5.14 in respect of any third party claim arising from or contributed to by depreciation (or failure to appreciate) in value of any investments, including securities, commodities, currencies, options and futures transactions or as a result of any actual or alleged representation, advice, guarantee or warranty provided by or on behalf of the Insured as to the performance of any such investments.

It is agreed, however, that this exclusion shall not apply to any loss due solely to negligence on the part of the Insured or employee of the insured in failing to effect a specific transaction in accordance with the specific prior instructions of a client of the Insured.
- 5.15 up to the amount of the Deductible.

- 5.16 directly or indirectly caused by or contributed to by or arising from:-
- a) nuclear weapons material, ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

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

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

- 5.17 arising out of any act, error or omission, or other event for which indemnity is granted by this Policy, committed or occurring prior the Retro-active Date stated in the Schedule.

If no date is stated in the Schedule, this Exclusion shall be of no effect, provided always that nothing contained herein shall be construed as releasing the Insured from their obligation to reveal as material facts details of any events or circumstances known by the Insured to have occurred and which may subsequently give rise to a claim or claims being made against the Insured during the Period of Insurance or agreement by the Insurers to provide indemnity in respect of such claim or claims;

- 5.18 for any award or damages granted in terms of judgements, awards or settlements including all claimants' costs, fees and expenses and Defence Costs brought in the first instance within the jurisdiction of courts of North America or for any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part or brought subject to the laws of North America.

- 5.19 resulting from discrimination based on, but not limited to, race, colour, creed, religion, age, national origin, handicap, disability, sex or sexual preference whether or not for alleged violation of any law or regulation prohibiting such discrimination.

5.20 War and Terrorism Exclusion

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;

- a) 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

- b) any act of terrorism;

For the purpose of this Exclusion "any act of terrorism" means an act, including but not limited to the use of force or violence and/or 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.

This Exclusion also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (a) and/or (b) above.

If the Insurers allege that by reason of this Exclusion, any loss, damage, cost or expense is not covered by this Policy 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;

5.21 arising out of:-

- a) any Environmental Impairment / Pollution;
- b) any contravention of Pollution and / or Environmental Laws;
- c) delays in projects requiring official regulatory Environmental approval.

5.22 arising in respect of aviation and marine risks unless any contract relating thereto has been specifically endorsed on the Policy or in respect of Unmanned Aerial Vehicles (UAVs), used in compliance with civil aviation legislation/regulation or other legislation/regulation governing the use of UAVs and provided that full disclosure of such UAVs has been made to and cover confirmed by Insurers in writing.

Notwithstanding the above, this Insurance will not respond to any claims arising out of, directly or indirectly or in any way in connection with or relating to consequential losses arising from claims in respect of UAVs, other than the cost of redesign, rectification, replacement and material damage as a consequence of the defect.

5.23 whether actual or alleged to 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.

5.24 directly or indirectly due to 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.

5.25 or provide any benefit hereunder where the indemnity, claim payment or provision of such benefit is contrary to the edicts, recorded principles, 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.

5.26 It is hereby noted and agreed that this Insurance will not respond to any claims arising out of, directly or indirectly or in any way in connection with or relating to:-

- a) any guarantee, warrantee or contractual agreement relating to the quantity, quality or output of any minerals or any other matter related thereto;
- b) consequential losses, other than the cost of redesign, rectification, replacement and material damage as a consequence of the defect result of mining and related activities.

5.27 The Insurers shall not be liable to indemnify the Insured in respect of claims 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.

6. CONDITIONS

- 6.1 The Insured shall give written notice to the Insurers as soon as reasonably practicable of any claim made, or any specific event or circumstance that may give rise to a claim being made, against the Insured and which forms the subject of indemnity in terms of this Policy and shall give all such additional information as the Insurers may require. Every claim, writ, summons or process and all documents relating to the claim, event or circumstance shall be forwarded to the Insurers immediately they are received by the Insured.

If the Insured notifies the Insurers during the Period of Insurance of any event or circumstance which the Insurers accept may give rise to a claim being made against the Insured, then such claim shall for the purpose of this Policy be treated as having been first made against the Insured during the Period of Insurance.

This Policy will allow the Insured the opportunity to notify Insurers of claims made against them or circumstances that may give rise to claims being made against them for up to 30 days after expiry of this insurance provided that the Insured first became aware of the claim or circumstance prior to expiry.

- 6.2 No admission, offer, promise or payment shall be made or given by or on behalf of the Insured without the prior written consent of the Insurers. The Insurers, if they so wish, shall be entitled to take over and conduct, in the name of the Insured, the defence or settlement 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 give all such information and assistance as the Insurers may reasonably require.
- 6.3 The Insured shall give notice as soon as reasonably possible of any fact, event or circumstance which materially differs from the information supplied to the Insurers at the time when this Policy was effected, and the Insurers may amend the terms of this Policy according to the materiality of such difference.
- 6.4 The Insurers may at any time pay to the Insured in connection with any claim or series of claims under this Policy to which an Indemnity Limit applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims 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 such payment being made the Insurers shall relinquish the conduct and control of and be under no further liability in connection with such claims.
- 6.5 The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or Schedule shall bear such specific meaning wherever it may appear.

The interpretation and enforcement of the terms, Conditions and Exclusions of this Policy (and any phrase or word contained therein) shall be in accordance with the law of the Republic of South Africa whose courts shall have jurisdiction to the exclusion of the courts of any other country.

- 6.6 Where the Premium is provisionally based on the Insured's estimates, the Insured shall keep accurate record and after expiry of the Period of Insurance shall declare to the Insurers as soon as possible such details as the Insurers require. The Premium shall then be adjusted and any difference paid by or allowed to the Insured as the case may be, subject to any Minimum Premium that may apply.

- 6.7 If any indemnity is sought under this Policy by any fraudulent means:-
- a) all benefit in respect of such claim shall be forfeited;
 - b) the Insurers may cancel the Policy with immediate effect by notice in writing to the last known address of the Insured.
- 6.8 It is a condition precedent to the liability of the Insurers under this Policy that the Insured shall, wherever applicable, have carried out the following tests:-
- a) Serological Screening, including Irregular Antibody Screening;
 - b) H.B.S. Ag Screening for Hepatitis B;
 - c) R.P.R. Screening for Syphilis.
- 6.9 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.
- 6.10 Whenever this Policy provides notice to be given to the Insurers such notice shall be given to:
- STALKER HUTCHISON ADMIRAL (PTY) LTD**

THE PAVILION	P.O. BOX 55347
THE WANDERERS OFFICE PARK	NORTHLANDS
52 CORLETT DRIVE	2116
ILLOVO	JOHANNESBURG
2196	SOUTH AFRICA

TELEPHONE: (+27 11) 731-3600 FACSIMILE: (+27 11) 447-0085

7. EXTENSIONS (only applicable if included on the Schedule)

The following Extensions are deemed to apply, subject to payment of an additional premium, (where applicable) only if so stated in the Schedule and, unless specifically varied herein:-

- a) shall be subject, where stated in the Schedule, to the Limits of Indemnity and Deductibles applicable to the Extensions unless specifically stated otherwise;
- b) are subject otherwise to the terms, Exclusions, Conditions and limitations of the Policy;

provided always that the total amount of the liability of the Insurers is not increased beyond that which would have applied in the absence of such Extensions.

7.1 MEDICAL MALPRACTICE

It is hereby declared and agreed that, the indemnity granted by this Policy extends to include claims made against the Insured arising out of Medical Malpractice, provided always that:-

- a) for the purposes of the indemnity granted by this Extension:-
 - i) "Medical Malpractice" shall mean medical services rendered or which should have been rendered by or under the authority of any qualified Medical Practitioner whilst acting under the auspices of the Insured.
 - ii) "Medical Practitioner" shall mean any person qualified in the treatment of the minds and bodies of humans and animals.
- b) no indemnity shall be provided in respect of claims arising out of:-
 - i) the performance of any operation to terminate pregnancy unless pathologically indicated;

- ii) the performance of any dental procedures requiring general anaesthesia unless carried out in a hospital or clinic;
- iii) the operation of blood banks except where these are purely providing blood or blood products in the course of professional services not otherwise excluded by this Policy;
- iv) any services rendered by any person(s) for or on behalf of the Insured whilst such person(s) to the Insured's knowledge is under the influence of intoxicants or narcotics.

7.2 A.I.D.S.

It is hereby declared and agreed that Exclusion 5.6 is deleted provided always that wherever applicable, the Insured shall have carried out H.I.V. Screening for Acquired Immune Deficiency Syndrome (A.I.D.S.) where such tests are mandatory regarding the handling of blood and blood derivatives.

7.3 LIABILITY FOLLOWING EMPLOYEE DISHONESTY

Notwithstanding anything to the contrary contained in this Policy, the indemnity granted by this Policy extends, in accordance with the Insuring Clause, to include claims arising out of any dishonest, fraudulent or malicious act or omission of any Employee (not being a Director, Partner or Principal) of the Insured, provided always that :

- a) the Insurers shall not be liable to indemnify the Insured in respect of claims arising out of the dishonest, fraudulent or malicious act or omission of any Employee after the discovery or reasonable suspicion of any such act or omission on the part of the same Employee which has given or may give rise to a claim under this Extension;
- b) any claim under this Extension arising out of the collusion of two or more Employees shall be deemed to be one claim;
- c) no indemnity shall be granted in respect of losses which are insured or insurable under a Fidelity Guarantee policy of insurance.
- d) no indemnity shall be granted in respect of losses which are insured or insurable under a Misappropriation of Trust Funds or trust property policy of insurance.

7.4 CONTRACTED DUTIES

Notwithstanding anything to the contrary contained in Exclusion 5.7, the indemnity granted by this Policy extends to include Contracted Duties provided always that:-

- a) no indemnity shall be provided in respect of claims arising out of design and construct type contracts :-
 - i) for any consequential loss other than reasonable and necessary costs of rectification of defects of the works and reasonable and necessary costs of re-design;
 - ii) for cost overruns, exchange rate fluctuations and financial estimates.

7.5 CLINICAL TRIALS

The indemnity granted by this Policy extends to include claims by a research subject, but only arising out of any actual or alleged negligent act, error or omission on the part of the Insured resulting from the Insured's participation in or conduct of Clinical Trials in the conduct of the Insured's business on condition that such Clinical Trials are carried out in compliance with the "Guidelines for Good Practice in the Conduct of Clinical Trials with Human Participants in South Africa" as issued by the South African Department of Health during 2006 (as amended from time to time) or any succeeding legislation.

7.6 LEGAL AID CLINICS

Notwithstanding anything to the contrary contained in Exclusion 5.9 the indemnity granted by this Policy extends to include claims for any actual or alleged negligent advice given, services performed, any omission and/or duties undertaken by Insured, whether gratuitous or for a fee, arising from any legal aid clinics operated by the Insured;

Provided always that the Insurers shall not be liable for claims arising from the giving of any advice on North American Law.

7.7 CONSULTING ACTIVITIES

Notwithstanding anything to the contrary contained in Exclusion 5.10, the indemnity granted by this Policy extends to include claims in respect of Consulting Activities arising out of the Business of the Insured

7.8 JOINT VENTURE AND/OR CONSORTIUM AGREEMENTS

Insurers agree that the indemnity provided under this Policy shall extend to include any and all liability of the Insured, including defence and investigation costs, arising out of any Joint Venture Agreements and/or Consortium Agreements, provided always that:

- a) no separate indemnity, other than that provided for under this Policy, has been arranged for the benefit of the Insured under the Joint Venture Agreements and/or Consortium Agreements;
- b) Insurers shall be entitled to exercise any rights of recourse in respect of loss indemnified hereunder which rights vest in the Insured by virtue of the Joint Venture Agreements and/or Consortium Agreements.

7.9 LOSS OF DOCUMENTS

Notwithstanding anything to the contrary contained in Exclusion 5.1, the indemnity granted by this Policy extends to include all costs and expenses incurred by the Insured with the written consent of the Underwriters in the replacement or restoration of any Documents following loss or damage to such Documents discovered during the Period of Insurance.

For the purposes of this Extension, the total liability of the Insurers in respect of all claims hereunder during the Period of Insurance shall not exceed R250,000 each and every claim with a R10,000 deductible applicable each and every claim payable by the Insured subject to an annual aggregate limit of R1,000,000.

Provided always that Insurers shall not be liable for the cost of replacing or restoring any lost or damaged computer system records (whether on paper, microfilm, magnetic tape or disk) bearer bonds, coupons, bank notes, currency notes or negotiable instruments.

7.10 **PUBLIC RELATIONS EXPENSES**

The cover provided by this Policy extends to include the reasonably incurred cost of employing a suitable public relations firm or in-house consultant to deal with press and public announcements following a Crisis Event.

For the purposes of this Extension, the total liability of the Insurers in respect of all claims hereunder during the Period of Insurance shall not exceed R 2,500,000 in the aggregate with a R 25,000 deductible applicable each and every claim payable by the Insured.

7.11 **NORTH AMERICAN EXTENSION**

1. **North American Jurisdiction**

Notwithstanding anything to the contrary contained in Exclusion 5.18 the indemnity granted by this Policy extends to include claims for judgements, awards or settlements including claimants' costs, fees and expenses and Defence Costs brought in the first instance within the jurisdiction of courts of North America or to any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part or brought subject to the laws of North America.

2. Notwithstanding anything contained in the Territorial Limits as appearing in the Schedule, the indemnity granted by this Policy extends to include:-

- a) Principals and/or employees of the Insured temporarily visiting North America in the course of their business providing the policy excludes indemnity to any North American entity of the said Insured;

and/or

- b) the activities of a branch or division or office of the Insured located in but controlled or managed or owned by an entity or partnership not itself located or incorporated in North America;

provided that:-

- i) the fee income derived from (a) and/or (b) does not exceed fifteen percent (15%) of the Insured's total fee income.

- ii) Insurers shall not be liable for:-

- a) any fines and/or penalties and/or punitive damages and/or exemplary damages and/or aggravated damages and/or any additional damages resulting from the multiplication of compensatory damages and/or any other non-compensating damages of any kind awarded against Insured

- b) any claim(s) based upon, caused by, arising out of, relating to, contributed to in consequence of or in any way involving:-

- i) Environmental Impairment / Pollution including any sudden, unexpected and unintended event;

- ii) any actual or alleged violation of any responsibilities obligations or duties imposed by the Employee Retirement Income Security Act of 1974 or any amendment thereof;

- iii) any actual or alleged violation of any of the provisions of the Securities Act of 1933 the Securities Exchange Act 1934 or any similar federal or state law relating thereto;
- iv) any actual or alleged violation of the Racketeer Influenced and Corrupt Organisation Act 18 USC Section 1961 et seq and any amendments thereto or any rules or regulations promulgated thereunder;
- v) any advice given on North American law;
- vi) Clinical trials.

7.12 SUB-CONTRACTED DUTIES

This insurance extends to indemnify the Insured in respect of the professional activities and duties necessary to carry out the Business, sub-contracted and/or sub-let by the Insured, provided always that:

- a) such activities and duties shall only be sub-contracted and/or sub-let to suitably qualified firms, persons or parties;
- c) the Insured shall at all times retain rights of recourse against such firms, persons or parties and will give all reasonable assistance to the Insurers in effecting such rights.

7.13 ADDITIONAL ACTIVITIES/MERGERS/ACQUISITIONS

It is agreed that, subject to the terms, Exclusions and Conditions of the Policy, any similar activity commenced by the Insured during the Period of Insurance and any acquisition during the Period of Insurance of any company by the Insured is automatically insured by this Policy for any loss which occur after such acquisition until the following renewal date when details will be submitted to the Insurers, other than :-

- a) North American domiciled operations;
- b) Acquisitions where the turnover is greater than 10% of that declared at the inception of this Policy.

Notwithstanding (b) above, where the turnover of the acquisition exceeds 10% of that declared at inception or previous renewal date, or where the activity of the new acquisition is dissimilar to those conducted by the Insured at date of acquisition, cover will apply to such acquisition at the discretion of Insurers provided that the Insured declares it to the Insurers within 90 days of acquisition and pays any additional premium that may be required and further subject to any further terms, Exclusions and Conditions that Insurers may impose to such acquisition.

It is further agreed that the Retroactive Date in respect of such new entity shall be deemed to be the date when a newly formed and/or acquired entity first purchased Liability insurance of a type hereby insured on a "Claims Made" basis (or the Retroactive date of this Policy, whichever is the later), subject to a declaration from the newly formed and/or acquired entity's previous management of no known or reported claims or circumstances likely to give rise to a claim at the date of acquisition. In the event of no such declaration, the Retroactive Date shall be the date of such formation and/or acquisition.

7.14 **BREACH OF COPYRIGHT / INTELLECTUAL PROPERTY RIGHT**

The Insurers will indemnify the Insured for any claim or claims first made against the Insured during the Period of Insurance by reason of any inadvertent disclosure of the confidential information, or any inadvertent infringement of any patent or copyright or the inadvertent unauthorized use or inadvertent infringement of the systems or designs of others.