

Section 20a & 20b : Motor Traders

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

1 **"The Vehicle"** - shall mean

1.1 any motor vehicle or trailer owned by or hired or leased to the insured (excluding any vehicle the property of the insured and hired or sold by the insured under a hire-purchase or similar agreement unless such vehicle is in the custody or control of the insured at the time of the occurrence of the event out of which any claim arises)

1.2 any motor vehicle or trailer in the custody or control of the insured other than a motor vehicle or trailer described in 1.1 hereinafter referred to as customers vehicles

1.3 shall mean any vehicle (mechanically propelled or otherwise) attached to a vehicle covered under 1.1 for the purpose of being towed or salvaged.

2. **"Territorial Limits"** - shall mean:

Botswana, Republic of South Africa, Namibia, Lesotho, Malawi, Swaziland and Zimbabwe.

3. **"Damages"** - shall include costs and expenses:

3.1 recoverable at law by a claimant from the insured

3.2 incurred with the consent of the company.

4. **"Injury"** - shall mean bodily injury including death and illness.

5. **"Employee"** - shall mean any person employed by the insured and acting in the course of the business.

6. **"Damage"** - shall mean physical damage including physical loss.

7. **"Property"** - shall mean tangible property.

8. **"Premises"** - the premises of the insured shown in the schedule.

Sub-Section A - Damage to the vehicle

(other than customers vehicles on the premises)

1. Defined event

Damage to the vehicle or any part of it whilst thereon.

2. Limits of indemnity

Unless otherwise stated the maximum amount payable by the company for the vehicle will be the limit of indemnity stated in the schedule or the reasonable market value of the vehicle at the time of loss or damage whichever is the lower.

3. Protection and repair of vehicle

3.1 If insured damage occurs the company will pay the reasonable cost of protection and removal to the nearest repairer including the reasonable cost of delivery to the insured after repair of such damage but not exceeding the reasonable cost of transport to the insured's premises within the territorial limits.

3.2 The insured may authorise repairs up to P2000 without the consent of the company provided a detailed quotation is first obtained and forwarded to the company.

4. Specific exceptions The company will not be liable under this sub-section for:

- 4.1 consequential loss;
- 4.2 depreciation, wear or tear, mechanical or electrical breakdowns, failures or breakages;
- 4.3 damage to tyres unless some other part of the vehicle is damaged at the same time;
- 4.4 damage to springs due to inequalities of the road or other surface or to impact with such inequalities;
- 4.5 loss or damage to accessories or spare parts by theft unless the vehicle is stolen at the same time;
- 4.6 defective workmanship or its consequences;
- 4.7 loss or damage to customers vehicles whilst in or on the premises;
- 4.8 damage to the vehicles defined in Definition 1. 1 and 1.3 whilst in or on the premises if the loss or damage is caused by or arises directly or indirectly from fire, explosion, lightning, theft or any attempt thereat, weather conditions, earthquake or earth tremor or volcanic eruption;
- 4.9 detention, confiscation, nationalisation or requisition by customs or other officials or authorities.

Sub-Section B'- Liability to third parties caused by the vehicle

1 Defined event

An accident caused by or in connection with the vehicle including the loading or unloading of such vehicle.

2 Indemnity to the insured

The company will indemnify the insured against all sums which the insured becomes legally liable to pay as damages in respect of

- 2.1 injury to any person other than an employee,
- 2.2 damage to property

resulting from **the** accident.

3 Representation and criminal proceedings The company may arrange for

- 3.1 representation at any inquiry into death
- 3.2 the defence of criminal proceedings for any act causing or relating to an event which may be indemnifiable under this section.

4 Indemnity to others

The company will indemnify any person who is driving or using the vehicle with the insured's permission provided that person

- 4.1 is not entitled to indemnity under any other policy except in respect of any amount not recoverable thereunder;
- 4.2 as though he were **the** insured is subject to the terms, exceptions and conditions of the policy as far as they can apply;
- 4.3 has not been refused any motor vehicle insurance.

5 Limits of indemnity

Unless otherwise stated the total liability of the company under this sub-section is limited to the limit of indemnity shown in the schedule. If more than one person is entitled to indemnity any limitation applies to the total amount of indemnity and the insured will receive priority.

6 Specific exceptions

The company will not be liable under this sub-section for

- 6.1 so much of any compensation as is insurable in terms of any compulsory motor vehicle insurance legislation;
- 6.2 injury to any person being carried in or upon or entering or getting on to or alighting from any motor cycle, motor scooter, side car or trailer,
- 6.3 injury to any person who is a member of the same household as the insured;
- 6.4 damage to property belonging to, held in trust by or in the custody or control of the insured or being conveyed by loaded on to or unloaded from the vehicle;
- 6.5 injury or damage caused by or arising out of the operation, demonstration or use for purposes other than maintenance or repair of the vehicle (unless it is a fork lift truck) of any tool or plant forming part

of or attached to or used in connection with the vehicle or anything manufactured by or contained in any such tool or plant.

Sub-Section C - Liability for damage to customers vehicles on the premises

1. Defined event

Accidental damage to customers vehicles or any part thereof occurring in on or about the premises.

2. Indemnity to insured

The company will indemnify the insured against all sums which the insured becomes legally liable to pay as damages as a result of damage to the customers vehicle.

3. Indemnity to others

At the request of the insured the company will indemnify any other party against liability for which the insured would have been liable and entitled to indemnity under this sub-section had the claim been made against the insured. Other than in the case of an employee, the insurer will not pay for injury or damage caused by the act or omission of the other party. If more than one person is entitled to indemnity the indemnity limit applies to the total amount of indemnity and the insured will receive priority.

4. Limit of indemnity

The maximum amount payable by the company in respect of any one vehicle shall not exceed the limit of indemnity stated in the schedule.

5. Specific exceptions

The company will not pay under this sub-section for damage to any vehicle caused by or arising directly or indirectly from

- 5.1 fire, explosion, lightning, theft, weather conditions, earthquake or earth tremor,
- 5.2 defective workmanship or any consequence thereof.

Specific general exceptions

1. Those applicable to Sub-sections A and B only

The company will not pay under these sub-sections for any accident, injury, damage or liability caused whilst any vehicle is being driven or used

- 1.1 other than in accordance with the Description of Use;
- 1.2 by the insured (or by any other person with his consent) unless licensed to drive such vehicle in terms of the legislation applying to any territory in the territorial limits. If a licence is subject to renewal the driver must have held and not be disqualified from holding or obtaining such a licence. This exception shall not apply whilst such vehicle is being driven by the insured (or any other person in the employ of the insured with his consent) whilst learning to drive if the laws and regulations relating to learner drivers are being obeyed;
- 1.3 by the insured, a member or director of the insured whilst under the influence of intoxicating liquor or drugs;
- 1.4 with the consent of the insured by a person who the insured knows is under the influence of intoxicating liquor or drugs;
- 1.5 for any unauthorised purpose by any employee of the insured or by any other person with whom the insured is acting in collusion.

2. Those applicable to sub-sections A, B and C

- 2.1 The company will not pay under these sub-sections for accident, injury, damage or liability which happens outside the territorial limits.
- 2.2 If the insured is a private individual, a partnership, a proprietary company or closed corporation, the company will not pay under these sub-sections for accident, injury, damage or liability caused to or by

any vehicle owned, hired or leased by the insured or member of the insured or any director of the insured in their private capacity.

- 2.3 The company will not pay under these sub-sections for accident, injury, damage or liability arising out of contractual liability unless such liability would have attached notwithstanding such contractual liability.

Description of use clause - applicable to Sub-sections A and B

1. The vehicle may only be used for

- 1.1 business purposes of the insured excluding transit delivery or conveying by or on behalf of the insured by casual drivers or persons not wholly and regularly engaged in the employ of the insured;
- 1.2 tuition provided the learner driver is accompanied by a fully licensed driver who is the insured or a member, director or employee of the insured;
- 1.3 demonstration including driving of the vehicle by the person to whom it is being demonstrated provided such person is accompanied by a fully licensed driver who is the insured or a member, director or employee of the insured;
- 1.4 social, domestic and pleasure purposes (whether such use is incidental to the business of the insured or not) by any person other than the insured, a member, a director or an employee of the insured.

2. The vehicle may not be used for

- 2.1 hiring out or as a taxi or for plying for public or private hire;
- 2.2 racing, pacemaking, rallies, any speed contest or trial or driving in a match for a wager;
- 2.3 carrying fare-paying passengers or guests of an hotel, private hotel or boarding house if the insured is the keeper of such hotel, private hotel or boarding house;
- 2.4 carrying explosives;
- 2.5 carrying any load in excess of that for which the vehicle is constructed.

No-claim rebate provisions

If a claim does not arise under this section during a period of insurance of not less than 12 months immediately preceding renewal date the renewal premium will be reduced by 10%. Reductions will not be cumulative. Should the insurer consent to a transfer of interest in this policy the period of insurance will commence at the date of consent.

Extensions which apply to this section

1. Unauthorised Use by employees

Specific General Exception 1.5 is deleted.

2. Social, Domestic and Pleasure use

Notwithstanding Description of Use Clause 1.4, the vehicles insured by this policy may also be used for social, domestic and pleasure purposes by the persons listed in the schedule.

3. Windscreen - applicable to sub-sections A & C only

The first amount payable and the no-claim rebate provisions shall not apply to any claim for damage to windscreen side or rear glass forming part of the vehicle provided that

- 3.1 no other damage has been caused to the vehicle at the time the glass was damaged
- 3.3 the insured shall be responsible for the first amount payable shown opposite this extension in the schedule

4. Work away from premises - applicable only to sub-section C

The definition of premises is extended to include any premises not under the control of the insured at which the insured is working upon a customers vehicle.

5. Contingent liability extension

The indemnity under sub-section B shall include claims made against

- 5.1 the insured in the event of an accident arising in the course of the business and caused by or through or in connection with any motor vehicle not the property of nor provided by the insured whilst being used by any partner in or of or any director or employee of the insured (hereafter in this extension referred to as such person);
- 5.2 any such person in the event of an accident arising in the course of the business and caused by or through or in connection with any motor vehicle not belonging to him nor to the insured nor leased nor hired by either of them, but only in so far as such person has not been refused any motor insurance or continuance thereof by any insurer,

provided that

- 5.3 the company shall not be liable for loss of or damage to any motor vehicle being used for the purposes and in the manner described in 5. 1 and 5.2 above;
- 5.4 the payment by the insured of subsidies or travelling allowances to such person for the use of his own vehicle for official purposes of the insured, including the carriage of persons for such purposes, is allowed without prejudice to the insurance by this extension;
- 5.5 if at the time of the occurrence of any accident giving rise to a claim under this extension the insured or such person is entitled to indemnity under any other policy in respect of the same occurrence, the company shall not be liable to make any payment hereunder except in respect of any excess beyond the amount payable under such other policy
- 5.6 the terms, exceptions and conditions of the policy shall otherwise apply.

6. Riot and strike extension

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

- 6.1 civil commotion, labour disturbances, riot, strike or lockout;
- 6.2 the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in 6.1 above;

Provided that this extension does not cover:

- 6.3 consequential or indirect loss or damage of any kind or description whatsoever
- 6.4 loss or damage resulting from total or partial cessation of work or the retarding or interruption or cessation of any
process or operation;
- 6.5 loss or damage occasioned by permanent or temporary dispossession resulting from confiscation, commandeering or requisition by any lawfully constituted authority;
- 6.6 loss or damage related to or caused by any occurrence referred to in general exception I(A) (ii) (iii) (iv) (v) or (vi) of this policy or the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any such occurrence.

If the company alleges that by reason of provisos 6.3 to 6.6 loss or damage is not covered by this section, the burden of proving the contrary shall rest on the insured.

7. Waiver of subrogation rights

For the purposes of this section if the insured so requests the company will waive all rights of subrogation or action which they may have or acquire against any other person to whom the indemnity hereunder applies and each such person shall observe, fulfil and be subject to the terms, exceptions and conditions (both general and specific) of this insurance in so far as they can apply.

8. Principals

Notwithstanding specific general exception 2.3 of this section the indemnity under sub-section B extends to indemnify (to the extent required by the conditions of any contract of the Building Industries Federation of South Africa and in connection with any liability arising from the performance of such contract) any principal named in such contract entered into by the insured for the purposes of the business provided that the liability of the company shall not exceed the limit of indemnity stated in the schedule.

9. 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.

Restrictions of cover which apply to this section if indicated in the schedule

1. Third party only cover

Sub-sections A and C and the No-Claim Rebate Provisions are cancelled.

2. Third party fire and theft cover - applicable to sub-section A

The no-claim rebate provisions are cancelled and the company will, subject to Specific Exception 4.8, only be liable under sub-section A if the damage to the vehicle results from fire, self-ignition, lightning or explosion or by theft or any attempt thereat.

3. External risks cover only

- 3.1 Sub-section C is cancelled.
- 3.2 The company will not pay under sub-sections A and B for damage or accidents which happen in on or about the premises.

4. Internal risks cover only

- 4.1 Sub-section A is cancelled.
- 4.2 The company will only pay under sub-section B for accidents which occur in on or about the premises.

5. Exclusion of demonstration risks

Description of Use Clause 1.3 is deleted.

6. Deletion of passenger cover

The company shall not be liable under sub-section B for injury to any person being carried in or upon or getting on to or entering or alighting, from the vehicle.

Memoranda

In respect of subsection B only General Exception 1 is deleted and replaced by the following.:

"This sub-section does not cover war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, mutiny, insurrection, rebellion, revolution, military or usurped power.

Specific conditions

1. Traffic offences

(Applicable to driving of vehicles other than those in on or about the premises) The insured shall notify the company in writing immediately he knows of

- 1.1 the endorsement, suspension or cancellation of his or his authorised driver's driving licence;
- 1.2 any driver of the vehicle being charged or convicted of reckless, negligent or inconsiderate driving.

2. Premium computation

The premium has been calculated on estimates of wages, salaries, commissions and other considerations payable by the insured to all employees and which the insured has supplied to the company.

Where the insured is an individual or a partnership, the amount indicated in the schedule must be added to the declaration for each principal in lieu of salary.

3. Replacement Parts Clause

In the event of any part being unprocurable as a standard part within this territorial limit as defined, the liability of the Company shall be limited to :

- 3.1 an amount equal to the value of such a part at the time of the loss for a comparable vehicle manufactured or assembled within the territorial limits
- or
- 3.2 the manufacturers latest price list quoted for such part referred to in 3.1 above
- and
- 3.3 the reasonable cost of freight other than by Air
- and
- 3.4 current labour charges for fitting plus any customs duty or tax applicable.