**Misappropriation of Trust Funds Proposal Form for   
(Firms other than Attorneys)**

**(ONLY OFFERED IN CONJUNCTION WITH PROFESSIONAL INDEMNITY COVER)**

**This proposal is for a CLAIMS MADE policy**

The policy will only respond to claims and/or circumstances, which are first made against the Insured and notified to the Insurer during the policy period. **The policy will not provide cover for**:-

* Events that occurred prior to the retroactive date of the policy.
* Claims made after the expiry of the policy period even though the Wrongful Act giving rise to the claim may have occurred during the policy period.
* Claims notified or arising out of facts or circumstances notified under any previous policy or noted on the current proposal form or any previous proposal form.
* Claims made, threatened or intimated prior to the commencement of the policy period.
* Facts or circumstances in your knowledge prior to the policy period, which you knew had the potential to give rise to a claim under the policy.

**DISCLOSURE**

You must disclose to the Insurer all information which is material to it in deciding whether to issue insurance cover to you, including any facts or conduct which might lead to a claim being made against you. Failing to do so could affect your rights to indemnity.

If you do not understand any part of this document, please contact your Broker BEFORE YOU SIGN IT.You will be bound by the answers, which are given, and by the information provided by you in this proposal form. It is in your interest to make sure that all information is correct and properly understood.

**When in doubt disclose**

**ATTACHMENTS**

Before you return this form, have you included the following (please indicate by ticking the boxes):

Company brochure/ additional information:

Claims information (if relevant):

**Please attach details where not enough space on the proposal**

1. **Details of Proposed Insured**

1.1 Please provide the following details:-

|  |  |  |  |
| --- | --- | --- | --- |
| Insured /  Practice Name  (*Please attach details of all subsidiary companies)* |  | | |
| Postal address |  | | |
| Physical address |  | | |
| Contact Person |  | | |
| Tel No. |  | Fax No. |  |
| E-mail address |  | Website address |  |
| Co. Reg. No. |  | VAT Reg. No. |  |
| **POLICY HOLDER PROTECTION DATA (COMPULSORY)** | | | |
| 1. Is the Insured’s annual Turnover or Asset Value LESS than R 2,000,000?   Yes  No | | | |
| 1. What is the Present Legal Constitution of the Insured Company? | | | |
| Sole Practitioner € Partnership € Incorporated Co. € Limited Co. € Closed Corp. € | | | |
| Date of commencement of Practice | As currently constituted |  | |
| As initially established |  | |

1.2 Are any branches of the Proposed Insured located outside of South Africa? Yes  No

If yes, please provide full details:

|  |
| --- |
|  |

1.3 Names and Qualifications of Principals / Partners / Directors / Members as applicable.

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Qualifications | Date Qualified | How long Principal in this Practice |
|  |  |  |  |
|  |  |  |  |
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1.4 Staff complement

1. Total Number of Employees and Principals, sub-divided as follows:-

a) Those having responsibility for money, cheques, share certificates, stock and / or accounts, including any financial dealing or trading (e.g. partners, executives, managers, account personnel, stock controllers, computer staff, staff with authority to transfer funds, etc.)

b) Those not having responsibility for or access to Funds.

c) Those not having responsibility for money, cheques, share certificates, stock and / or accounts, including any financial dealing or trading.

|  |  |  |  |
| --- | --- | --- | --- |
| Category (a) |  | Category (b) |  |
| Category (c) |  | Total |  |

2. State total number / names of employees having responsibility for, or access to Funds. (i.e. those who have been issued user IDs, etc.)

|  |  |  |
| --- | --- | --- |
| Names | Position | Length of Service |
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1. **Detailed Business Description:**

2.1 Please provide full details of all activities involved in:

(if engaged in multiple disciplines, please provide a percentage split – total must add up to 100%)

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2.2 Please indicate your principal activities in relation to handling of clients’ funds.

(Give approximate percentage if known.)

|  |  |
| --- | --- |
| Principal Activities | Percentage |
|  | % |
|  | % |
|  | % |

2.3 In the course of business, do you engage in trading securities, commodities, currencies, etc?

Yes  No

2.4 Do you pool funds on behalf of clients? Yes  No

|  |  |
| --- | --- |
| If yes, please advise approximate amount invested: | R |

2.5 Do you invest funds on behalf of clients? Yes  No

If yes, please advise:-

|  |  |  |
| --- | --- | --- |
| 1. Approximate amount invested: | R | |
| 2. Through which Financial Institutions: | |  |
|  | | |

|  |  |
| --- | --- |
| 3. How these fund are invested: |  |
|  | |
| 4. Are statements on Money Market Funds forwarded direct by the Financial Institution to the client or by you? | |
|  | |

1. **Audits**

3.1 Internal Audits:-

Do you have an internal Audit Department / Standard Committee? Yes  No

If Yes, please advise:-

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| a) Does this Department report directly to the Principals? | | | | Yes  No |
| If No, advise who they report to: |  | | | |
| b) Number of Employees assigned to Internal Audit: | | |  | |
| c) Do you have an internal audit and control procedures manual? | | | | Yes  No |
| d) How often are internal audits done? | |  | | |
| e) Are all locations (including Electronic Data Processing Facilities) included? | | | | Yes  No |
| f) Are there Internal Audit Department employees assigned to:- | | | | |
| i) Foreign Operations | | | | Yes  No |
| ii) Subsidiary Companies | | | | Yes  No |
| If yes, describe their reporting channels and indicate their relationship to local management. (Particularly with respect to management oversight and personnel matters.) | | | | | |
|  | | | | |
|  | | | | |

3.2 External Audits:-

1. Are your books audited by a qualified Accountant or Auditor? Yes  No

2. Are these audits complete and unqualified? Yes  No

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| --- | --- |
| If no, please describe the limitations / qualifications:- |  |
|  | |
|  | |

3. Have the Auditors made any recommendations in the last two audits that have not been adopted? Yes  No

If yes, please give details of recommendations are reasons for not adopting same

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1. **Controls**

1. Are account statements reconciled? Yes  No

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| --- | --- |
| Please described:- |  |
|  | |
|  | |

2. Are cash book entries independently checked with bank statements, bank paying book counterfoils, receipt counterfoils and vouchers and the balance tested with cash and unrepresented cheques at regular intervals? Yes  No

3. Is petty cash kept on the Imprest System and a quarterly independent check of the vouchers, receipts and cash balance made? Yes  No

4. Do you maintain a system of joint custody and dual control with respect to cash, cheques, negotiable securities, keys to safe and safe deposit boxes, codes, ciphers and test keys, land cheques and drafts and similar valuable property? Yes  No

5. Do you require countersignature on all cheques? Yes  No

|  |  |
| --- | --- |
| If no, please describe controls in place to prevent abuse:- |  |
|  | |

|  |  |
| --- | --- |
| 6. If applicable, what are the cheques limits? |  |
|  | |

7. Names and positions or the signatories authorized to sign cheques / release payments:-

|  |  |
| --- | --- |
| Name | Position |
|  |  |
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8. If safe deposit boxes are used, has the depository been instructed, in writing, to require the presence of two Employees before entry to any box is permitted? Yes  No

|  |  |
| --- | --- |
| If no, list persons permitted individual entry:- |  |
|  | |

9. Do you require all employees to take at least two consecutive weeks of uninterrupted vacation during each year? Yes  No

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| --- | --- |
| If no, please explain:- |  |
|  | |

10. What is the screening policy for Employees? (e.g. credit checks, etc.) Please provide full details.

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11. Within the last six years, has the Proposed Insured and / or any of it’s Employees been involved in any civil or criminal action or administrative proceeding charging in violation of any law or regulations or the commission of a fraudulent or dishonest act? Yes  No

|  |  |
| --- | --- |
| If yes, please provide full details:- |  |
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|  | |

12. To the best of the Proposed Insured’s knowledge, has any current Employee ever committed or been implicated in the commission of a fraudulent or dishonest act? Yes  No

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| --- | --- |
| If yes, please provide full details:- |  |
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(This Insurance excludes coverage for losses caused by an employee who is known by the Proposed Insured to have been implicated in a prior fraudulent or dishonest act.)

13. Please indicate which systems are used:-

|  |  |  |
| --- | --- | --- |
|  | Nedbank Corporate Saver | |
|  | Nedbank Pro Banker | |
|  | Investec Corporate Cash Manager | |
|  | Standard Bank Third Party Fund Administration | |
|  | Other (please specify):- |  |
|  |  | |

14. Does the Proposed Insured comply with regulations / controls / rules as stated in the Bank’s training manuals? Yes  No

|  |  |
| --- | --- |
| If no, please give reasons:- |  |
|  | |

1. **Claims experience**

5.1 Have any claims ever been made against the proposed Insured / Partners / Directors / members or Employees for the type of cover for which you are now applying, whether in terms of this Proposal or any other Proposal / Policy for the same type of cover? Yes  No

If yes, please provide / attach full details:

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5.2 After enquiry, are any of the Proposed Insured / Partners / Directors / Members or Employees aware of any circumstances which would be covered under a policy of this type, that may result in any claims or any possible claims being made against them? Yes  No

If yes, please provide / attach full details:

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1. **Details of Insurance**

6.1 Are you at present or have you in the past been insured for Professional Indemnity? Yes  No

If yes, please provide the following details and attach a copy of the Policy (please note the details of all policies if there is more than one in place):

|  |  |
| --- | --- |
| Name of Broker: |  |
| Name of Insurer: |  |
| Date cover expires/d: |  |
| Expiry of “Run-off” cover (if any): |  |
| Limit of Indemnity: |  |
| Deductible / Excess applicable: |  |
| Premium: |  |

6.2 For the type of Insurance now being proposed, has any Insurer ever :

a) declined a Proposal or renewal for this Practice or any Partner / Principal? Yes  No

b) required an increased premium or imposed special terms? Yes  No

c) cancelled an Insurance? Yes  No

If yes, please provide full details:

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6.3 Do you require cover in respect of any liability incurred but not discovered prior to the effecting of this insurance at a single premium to be negotiated (Retroactive cover)? Yes  No

1. **Business conducted outside South Africa.**

7.1 Do you or your firm do any business for your clients in any other countries? Yes  No

If yes, please provide full details:

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| --- |
|  |

7.2 Do you or your firm do any business for your clients in the **North America** or any other countries / states governed by their laws? Yes  No

If Yes, please provide the following details:-

|  |  |
| --- | --- |
| a) What percentage of your fees are attributable to these activities? |  |

b) Do you have physical offices in these areas? Yes  No

If yes:-

|  |  |  |
| --- | --- | --- |
| i) Under who’s Management and Control are these offices? | |  |
|  | |

ii) Is there any foreign shareholding in these offices and if so what percentage?

|  |  |  |
| --- | --- | --- |
| Yes € / No € | Percentage | % |

iii) Do you give any advice relating to the Laws of these Countries? Yes  No

(if yes provide full details)

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| --- |
|  |

c) Does the company or any partner, Director, etc. own any assets in the North America?

Yes  No

(if yes provide full details)

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| --- |
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1. **Trust Funds**

|  |  |
| --- | --- |
| 8.1 Total value of fund administered (all banks): | R |

8.2 Please give the amount of Trust Money held at the Financial Year End for the last 3 financial years

|  |  |
| --- | --- |
| Year End | Funds under Management |
|  | R |
|  | R |
|  | R |

1. **Quotations required**

|  |  |  |
| --- | --- | --- |
| **Limit any one Period of Insurance.** |  | **Deductibles** |
| R |  | R |
| R |  | R |
| R |  | R |

(Note: Limit any one period of insurance is inclusive of costs and expenses)

**Declaration:**

* I/we declare that after proper enquiry the statements and particulars given above are true and that I/we have not miss-stated or suppressed any material fact.
* I/we agree that this Proposal Form, together with any other material information supplied by me/us shall form the basis of any contract of insurance effected thereon.
* I/we undertake to inform Insurers of any material alteration to these facts occurring before the completion of the contract.

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| --- | --- | --- |
|  |  |  |
| Signed on behalf of Insured |  | Full name |
|  |  |  |
| Position held at Insured |  | Date |

**PROTECTION OF PERSONAL INFORMATION ACT**

We understand that the information provided in this application for insurance and all documentation provided with it may be deemed to be personal information in terms of the Protection of Personal Information Act 2013 (the POPI Act) and we will accordingly take all reasonable steps to ensure that your information is processed / used / stored in accordance with the POPI Act and for the following purposes:

• To verify the information disclosed herein against any other source;

• To communicate with you directly should you request us to and in accordance with relevant regulatory requirements;

• To compile non-personal statistical information to assist in assessing similar risks;

• To assess the risk to be underwritten and, if a Policy of Insurance is issued pursuant to and based upon such information, to use the disclosed information at claims stage to assess any claims that may be made against any such Insurances;

• To transmit your personal information to any affiliate, subsidiary, service provider/consultant/advisor or re-insurer so that we can provide insurance services to you and to enable us to further our legitimate interests including statistical analysis, reinsurance and credit control;

• To combat insurance fraud and properly evaluate risks, we will store your personal information on a shared database created by the South African Insurance Association (SAIA) in order to verify it against available sources and databases on the system.

Personal Information of Minors (Complete if Applicable)

If any information provided herein relates to a Minor (i.e. a child under the age of 18) we require that a competent person (parent/legal guardian) provide consent to the processing of such information for the above purposes and for any purpose that is compatible therewith.

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (full name of competent person), hereby provide my consent to the processing of any information provided herein relating to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of minor whose personal information is disclosed herein) for the purpose as disclosed above. I further understand that I have the right to withdraw this consent at any time but that this may mean that any insurance issued pursuant to this application may be terminated and/or that any claims issued against such insurance may not be able to be finalised

Further disclosures

Please note that there may be instances where we will be required to transfer your personal information outside South African borders, generally for purposes of furthering the Insurer’s legitimate interests regarding reinsurance or for the processing of any claim that arises outside South African borders. However, before transferring your personal information, we will ensure that the entity to whom the information is being transferred is subject to similar data protection conditions as those imposed by the POPI Act failing which we will advise you accordingly and request your consent to transfer information as required.

Note that the provision of the information required/requested herein is mandatory as it is necessary for us to accurately underwrite the insurances, which you are hereby applying for, and if any information is withheld or is misrepresented the Insurer may be entitled to void any insurances issued pursuant to this application.

Although any insurance issued pursuant to this application will be reviewed annually (where appropriate) it is your responsibility to ensure that the information provided to the Insurer remains accurate and up to date, we therefore encourage you to contact us at any time to advise us of changes to the information provided.

In addition, you may contact us at any time to exercise the following rights that you have in terms of the POPI Act (subject to any regulatory obligations placed on us/Santam Ltd):

- To request that we provide you with access to your personal information held/processed by us;

- To request that we erase or correct the your personal information that we hold (where appropriate/possible);

- To request that we transfer any personal information held by us to you or to any other person/system selected by you in a structured, commonly used and machine-readable format;

- To request that we restrict the processing of your personal information for reasons provided for in the POPI Act.

Should you wish to lodge a complaint regarding our compliance with the POPI Act or in respect of the processing of your personal information, please contact the Santam Client Care department (contact details below):

Email: complaints@santam.co.za

Telephone: 0860 102 725

Fax: (021) 915 7434

Alternately, you also have the right to approach the South African Information Regulator (contact details below) should the above process not adequately address your concerns.

Email: complaints.IR@justice.gov.za

Postal address:

PO Box 31533

Braamfontein

Johannesburg

2017

Physical address:

JD House

27 Stiemens Street

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