

Professional Indemnity Proposal Form for Business Rescue Practitioners

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 in writing during the Period of Insurance provided the Policy is still in force at the time the claim is made.

The Policy will not provide cover for:-

- ❖ Events that occurred prior to the retroactive date of the Policy.
- ❖ Claims made if the Policy has lapsed, been cancelled or is not renewed.
- ❖ Claims made after the expiry of the Period of Insurance even though the cause of action giving rise to the claim may have occurred during the Period of Insurance or any Extended Notification Period if provided by the Insurers.
- ❖ 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 Period of Insurance.
- ❖ Facts or circumstances in your knowledge prior to the Period of Insurance, which you knew or ought to reasonably to have known 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):

Copy of your COR123.2 appointment certificate in this particular Business Rescue: ☐

Copies of your current curriculum vitae (CV): ☐

Copies of previously implemented Business Rescue Plans: ☐

Claims information (if relevant): ☐

Please attach details where not enough space is provided on the proposal

1. Details of Proposed Insured

1.1 Please provide the following details:-

Insured / BRP (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)			
a) Is the Insured's annual Turnover or Asset Value LESS than R 2,000,000? Yes <input type="checkbox"/> No <input type="checkbox"/>			
b) What is the Present Legal Constitution of the Insured Company? Sole Practitioner <input type="checkbox"/> Partnership <input type="checkbox"/> Incorporated Co. <input type="checkbox"/> Limited Co. <input type="checkbox"/> Closed Corp. <input type="checkbox"/>			
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 has each person been in this Practice	Licensed / Registered BRP's in terms of CIPC
				Yes <input type="checkbox"/> / No <input type="checkbox"/>
				Yes <input type="checkbox"/> / No <input type="checkbox"/>
				Yes <input type="checkbox"/> / No <input type="checkbox"/>
				Yes <input type="checkbox"/> / No <input type="checkbox"/>

1.4 Staff complement

Total Number of:

Partners / Principals / Directors		All Other Staff	
Professional Staff (Other than above)		Total	

- 1.5 Is the firm or any of the Directors / Partners connected or associated (financially or otherwise) with any other firm, Company or Organisation?

Yes ☐ No ☐

If yes, please provide full details:

2. Detailed Business Description:

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%)

3. Details of Business Rescue activities:

- 3.1 Name of each Business Rescue Practitioner(s) ("BRP") appointed: [Click or tap here to enter text.](#)

- 3.2 Has the BRP or any BRP of the Insured ever been suspended and/or struck off the roll as an attorney / auditor from any professional body or been terminated or removed or replaced as a BRP by an order of court in terms of section 139 of the Companies Act and/or from the CIPC register of duly registered BRPs?
Yes ☐ No ☐

If yes, please provide full details:

- 3.3 Is management of the BRE intended to be delegated to its existing management who are not duly appointed Subcontractors, or would the proposed Insured / BRP assume an active role in the management of the BRE?
Yes ☐ No ☐

If yes, please provide full details:

- 3.4 What BRP business qualifications and/or expertise in management of any business or company does the proposed Insured / BRP's have?

- 3.5 Has any BRE administered by the proposed Insured / BRP ever been placed into liquidation after commencement of the business rescue proceedings?
Yes ☐ No ☐

If yes, please provide full details:

- 3.6 Has any creditor or affected person ever formerly alleged that a BRE, administered by the proposed Insured / BRP, have been mismanaged?
Yes ☐ No ☐

If yes, please provide full details:

- 3.7 Has the BRP ever been requested to provide security by a court to secure the interests of the BRE and any affected persons?

Yes ☐ No ☐

If yes, please provide full details:

4. Details of Company / Companies under Business Rescue (“the BRE”):

- 4.1 How many companies are currently assigned to the proposed Insured / BRP’s? [Click or tap here to enter text.](#)

- 4.2 What is the maximum number of BRE’s the proposed Insured / BRP’s intend to rescue simultaneously at any given time? [Click or tap here to enter text.](#)

- 4.3 Supply details of the company / companies currently under Business Rescue to which the proposed Insured / Business Rescue Practice / Practitioners have been appointed:-

Name of BRE Company		
Physical Address		
VAT Reg. No.		
Public Interest Score		
Date BRP was appointed to BRE		
Estimated Duration of Business Rescue		
Brief Description of Assets and Liabilities of BRE		
Nature of business activities of BRE		
Are any securities of the company or any subsidiary or part of a group of companies listed or publicly traded? Yes <input type="checkbox"/> No <input type="checkbox"/>		
Was the BRE placed under Business Rescue:-	voluntary <input type="checkbox"/>	by way of a Company resolution or made in terms of an order of court <input type="checkbox"/>
Was the nomination and appointment of the BRP in respect of this BRE’s made:-	voluntary <input type="checkbox"/>	by way of a Company resolution or made in terms of an order of court <input type="checkbox"/>

Name of BRE Company		
Physical Address		
VAT Reg. No.		
Public Interest Score		
Date BRP was appointed to BRE		
Estimated Duration of Business Rescue		
Brief Description of Assets and Liabilities of BRE		
Nature of business activities of BRE		
Are any securities of the company or any subsidiary or part of a group of companies listed or publicly traded? Yes <input type="checkbox"/> No <input type="checkbox"/>		
Was the BRE placed under Business Rescue:-	voluntary <input type="checkbox"/>	by way of a Company resolution or made in terms of an order of court <input type="checkbox"/>
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VAT Reg. No.		
Public Interest Score		
Date BRP was appointed to BRE		
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❖ **Please add annexure containing the required information if not enough space**

5. Business conducted outside South Africa.

- 5.1 Do you or your company / firm do any business for your clients in any other countries? Yes
- ☐
- No
- ☐

☐

If yes, please provide full details:

- 5.2 Do you or your company / 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)

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

Yes ☐ No ☐

(if yes provide full details)

6. Approximate percentage of estimated gross income accruing from various activities:

Activity	Percentage
Business Recovery / Rescue	%

Other Activities (Please Provide details)			
	%		%
	%		%
	%		%
Total			100%

7. Name and contact details of any Subcontractors / or third party/ies to whom you will be sub-contracting any work or services for the purposes of providing professional duties and activities in respect of the BRE concerned:

Name of Company	Contact details	Activities

❖ Please add annexure containing the required information if not enough space

8. Financial Controls

- 8.1 Is any BRP employed by your company/firm allowed to sign a cheque on their signature alone and/or have access to internet banking passwords and make use of same for purposes of making any payments? Yes ☐ No ☐

If yes, please provide relevant person's details:

- 8.2 Over the past 5 years, has the Insured sustained any loss through the fraud or dishonesty of any partner or employee? Yes ☐ No ☐

If Yes, please attach full details.

- 8.3 How often are entries in the Cash Book checked with the vouchers and reconciled with the Bank Statements?

- 8.4 Who does the checking

- 8.5 Apart from petty cash cheques, are all cheques made out in favour of ultimate beneficiaries? Yes ☐ No ☐

9. Claims experience:

- 9.1 Have any claims ever been made against the proposed Insured / Partners / Directors / members or Employees and/or BRPs concerned 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:

- 9.2 After enquiry, are any of the proposed Insured / Partners / Directors / Members or Employees and/or BRPs concerned 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:

10. Details of Insurance

- 10.1 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:	

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

- a) declined a Proposal or renewal for this Company / Firm / Practice or any Partner / Principal or any person to be appointed as the BRP? 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:

10.3 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 ☐

11. Fee income (as at the company's financial year end)

11.1 What is the date of the Company's financial year-end: _____

11.2 Please give the audited fees for the last 5 completed financial years:

Year End	Fees	Year End	Fees
	R		R
	R		R
	R	Estimate for next 12 months	R

12. Quotations required

Kindly advise what limits you would like terms for:-

Limit any one Period of Insurance.

R _____

R _____

R _____

Deductibles

R _____

R _____

R _____

(Note: Limit any one Period of Insurance is inclusive of costs and expenses)

Important: Please be aware that, as appears from the beginning of this Proposal, the Policy to which this Proposal applies is underwritten on a claims made basis. This means that the policy for Business Rescue Practitioners will only respond to claims and/or circumstances which may give rise to a claim which are first made against the Insured and notified to the Insurer **during** the Period of Insurance as referred to in the Policy document unless such Period of Insurance is further extended by written agreement between the Insurers and the Insured (for which the Insurers will charge an additional premium) as provided for herein.

Declaration:

The signatory of this Proposal:

- ❖ hereby warrants that he/she is duly authorised to sign this Proposal and request the Policy to be issued for and on behalf of the Insured.
- ❖ declares that after proper enquiry the statements and particulars given above are true and that he/she have not miss-stated or suppressed any material fact.
- ❖ acknowledges and agrees that this Proposal Form, together with the Policy and Schedule thereto and any other written material and/or information supplied by me/us shall form the basis of any contract of insurance between the Insured and the Insurers effected thereon.
- ❖ acknowledges and agrees that words defined in the Policy shall have the same meanings attributed thereto in this Proposal.
- ❖ undertakes to inform Insurers of any material alteration to these facts occurring before the completion of the contract.
- ❖ hereby declares that each BRP who is appointed to a BRE Policy is a certified Business Rescue Practitioner and possess the required skills and experience to perform the Professional duties and activities set out in Chapter Six of the Companies Act in relation to any BRE to which they may be appointed.
- ❖ hereby declares that he/she is **NOT** aware of any settled or pending claim, action, regulatory enquiry or disciplinary process against any BRP insured under the Policy arising out the BRP's performance in the past as a BRP
- ❖ hereby declare that he/she is **NOT** aware of any settled or pending claim, action, regulatory enquiry or disciplinary process ("any matter") against any BRP arising out their performance to date as the BRP appointed in relation to the BRE named above.
- ❖ confirms that he/she understands that the Insured would not be able to make a claim in relation to any matter of which he/she was aware before the Inception Date of the Policy to which this declaration applies.

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
Braamfontein
Johannesburg
2001