



*caring|compassionate|compensation*

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# COIDA POLICY

## CLASS XIII

**IRON STEEL, ARTIFICIAL LIMBS, GALVANISING, GARAGES, METALS, etc.**

## COIDA POLICY

### Policy of Insurance for Employers in terms of the Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993 (COIDA)

#### 1. INSURING CLAUSE

In consideration for payment of the premium and subject to the terms and conditions of this Policy, the Rand Mutual Assurance Company Limited (the “Insurer”) hereby undertakes to indemnify an employer (the Employer) identified in a Letter of Good Standing issued by the Insurer for the full extent of the Employer’s liability in terms of COIDA, for all Employees in respect of accidents that occur or occupational diseases that are contracted during the period of this insurance, by paying compensation to the Employees or to the Employer directly, if applicable.

#### 2. DEFINITIONS

- 2.1** “**Assessment Period**” means the period commencing on the 1st of March each year or any other period as agreed upon between the Insurer and the Employer, and ending on the last day of February of the following year;
- 2.2** “**Assessment Rate**” means the percentage applied to the Earnings to determine the premium;
- 2.3** “**COIDA**” means the Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993, and any regulations or other subordinate legislation made and any directions, directives, order and instructions issued under or applicable to that Act;
- 2.4** “**Commencement Date**” means 1<sup>st</sup> March or any other date as agreed by the Insurer and Employer;

**2.5** “**Compensation Commissioner**” means the Compensation Commissioner appointed in terms of section 2(1)(a) of COIDA;

**2.6** “**Employee(s)**” means an “Employee or Employees” as defined in COIDA who is employed by the Employer during the period of insurance, and in the case of a deceased Employee, includes any “dependant of an Employee” as defined in COIDA;

**2.7** “**Effective Date**” means 1 March 2017 or any other date as agreed between the Insurer and the Employer;

**2.8** “**Earnings**” mean Basic salary, housing allowance, annual bonus, incentive bonus also includes:

(a) The value of any food or quarters or both supplied by the Employer to the Employee;

(b) Any overtime payment or other special remuneration in cash or in kind of a regular nature or for work ordinarily performed, but excluding-

(i) Payment for intermittent overtime;

(ii) Payment for non-recurrent occasional services;

(iii) Amounts paid by the Employer to an Employee to cover any special expenses;

(iv) *Ex- gratia* payments whether by the Employer or any other person.

**2.9** “**Policy**” means this Policy together with its Benefits Schedule.

**2.10** Any other words or expression in this Policy defined in COIDA will have the same COIDA meaning and will be interpreted according to COIDA.

**20.11** In the event of a conflict between the provisions of this Policy and COIDA, the provisions of COIDA shall override the provisions contained herein.

### 3. PREMIUM

#### 3.1 Rate of Premium

3.1.1 The premium payable by the Employer in respect of this Policy shall be:

3.1.1.1 calculated in accordance with the Premium Calculation Policy as approved by the Board of the Insurer from time to time, provided that such approval is prior to the commencement or renewal of this Policy; and

3.1.1.2 based on the estimated Earnings of all Employees declared to the Insurer in terms of clause 3.1.2 below (**“the Deposit Premium”**).

3.1.1.3 subject to the minimum premium stated in the Policy Benefits Schedule which may vary on renewal as the Insurer deems fit. The minimum premium shall apply where the premium derived from the application of an assessment rate on the annual Earnings is less than the amount stated in the Policy Benefits Schedule.

3.1.2 The Employer shall complete and submit to the Insurer on the Insurer’s prescribed form:

3.1.2.1 the true and accurate details of all its Employees, such details certified by the Employer as correct, including the name, surname, physical address and identity number (or in the case of a foreign worker the passport number) of such Employees, as at the date of commencement or renewal of this Policy; and

3.1.2.2 must ensure that the information supplied to the Insurer complies with the provisions of the Protection of Personal Information Act, No. 4 of 2013. In this regard the Employer must confirm that the

information collected from Employees and provided to the Insurer is provided with the direct consent of the Employees.

### **3.2 Adjustment of Premium**

- 3.2.1 The premium calculation in clause 3.1 above is based on the estimated Earnings of the Employees for the Assessment Period as provided by the Employer. Upon expiry of the Assessment Period, the Employer shall as soon as possible, but not later than the 31<sup>st</sup> of March each year, furnish the Insurer with details of all its Employees' actual Earnings for the Assessment Period and such further particulars and information as the Insurer may require for the purpose of recalculating the premium for such Assessment Period ("**the Final Premium**").
- 3.2.2 If the Final Premium is greater than the Deposit Premium, the Employer shall be liable to the Insurer for the difference between the Final Premium and the Deposit Premium and shall pay such amount to the Insurer on demand.
- 3.2.3 If the Final Premium is less than the Deposit Premium, the Insurer shall refund to the Employer the difference between the Deposit Premium and the Final Premium.
- 3.2.4 In the event that the Employer, upon the expiry of the Assessment Period, fails to furnish the Insurer with the detail of the Employees' actual Earnings for the Assessment Period, the Final Premium may, at the Insurer's sole discretion, be calculated using the confirmed actual details in respect of the previous year, or the Final Premium on the previous year's estimates or the Deposit Premium for the year under review. In this instance the Insurer shall implement the penalty provisions of clause 3.5.

- 3.2.5 The Deposit Premium raised or paid may not be adjusted and/or reduced by virtue of the existence of an industrial action which results in the Earnings on which the Deposit Premium was calculated reducing prior to the expiry date of the Assessment Period.

### **3.3 Premium on Termination**

In the event that this Policy terminates for any reason, the premium for the period from commencement of the Assessment Period to the date of termination shall be recalculated in accordance with clause 3.2 above as at the date of termination and the provisions of clauses 3.2.2 and 3.2.3 above shall apply provided that the Employer shall forfeit its entitlement to any refund of premium if any claims for compensation have been paid under this Policy.

### **3.4 Payment of Premium**

- 3.4.1 The premium is payable within 30 days of the invoice date. The Insurer is not obliged to accept premium tendered to it after due date but may do so upon such terms as the Insurer in its sole discretion may determine.

- 3.4.2 The Insurer reserves the right to refuse premium tendered in cash.

### **3.5 Non-Payment of Premium and Penalties**

- 3.5.1 In the event of the Employer failing to make payment of the premium on the due date, or failing to make payment of any amount for which the Employer is liable to the Insurer under this Policy on the due date, the Insurer shall notify the Employer of the non-payment and shall call upon the Employer to, within 30 days of the said notice pay the full outstanding amount.

- 3.5.2 In the circumstances of non-or late payment, the Policy shall not be cancelled by the Insurer and shall remain valid, however:

- 3.5.2.1 where the premium payment remains outstanding, and an accident occurs which results in the incurring of a liability by the Insurer, the associated costs, including the capitalized value of any pension payable, shall become the personal liability of the director(s) (jointly and severally), in the case of the Employer being a juristic body, or against the owner of the mine or works where same is owned by a natural person;
- 3.5.2.2 the overdue amount shall attract interest at an applicable rate to be charged monthly; and
- 3.5.2.3 the Insurer may take and execute a civil judgement against the Employer, and in this regard the Employer, shall be liable for the legal costs thereof on an attorney and client scale and the collection commission.
- 3.5.3 If the Employer fails to provide Employees declarations, the Insurer shall be entitled to estimate the Earnings for the Assessment Period concerned and any premium overdue and relating to Earnings estimated by the Insurer shall be deemed to be unpaid premium and dealt with in terms of this clause 3.5.
- 3.5.4 In the event of the Employer failing to furnish the returns of earnings as anticipated in clause 3.2 the Insurer shall be entitled to impose upon and recover from the Employer, a fine of up to 10% of the difference between the actual amount (as determined at the discretion of the Insurer in terms of clause 3.2) and the Deposit Premium.
- 3.5.5 In the event of the Employer submitting figures for the calculation of the Final Premium which are greater than the original estimated Earnings and upon which the Deposit Premium is calculated, the Insurer shall be entitled to impose upon and recover from the Employer, a fine of up to 10% of the difference between the actual amount and the Deposit Premium.
- 3.5.6 Notwithstanding the provision of this clause 3.5, where an Employer (the mandator) has engaged the services of a contractor to execute the whole or any part of work undertaken by the Employer and such contractor fails to pay premium, the Employees of the contractor shall

be deemed to be the Employees of the Employer (the mandator) and the Employer shall pay the premium in respect of such Employees.

3.5.7 Where the Insurer is required to pay a benefit to an Employee of the contractor where the premium has not been paid by either the Employer or by such contractor engaged by the Employer, then the Insurer may recover the compensation from either the Employer or the contractor engaged by such an Employer.

#### **4. MEDICAL AID PROVIDED BY THE EMPLOYER**

4.1 The Employer may apply to the Insurer for permission to offer medical aid to its Employee.

4.2 The Insurer may grant such permission or approval after it has satisfied itself that the medical aid to be offered to the Employees is more favourable than that offered by the Insurer.

4.3 Where the Insurer has given the approval or permission in terms of clause 4.2, such Employer shall be obliged to provide medical cover for a maximum period of (2) two years calculated from the date of the accident whereafter the liability for the provision of the medical cover will be transferred to the Insurer.

4.4 To the extent that the Employer request an extension of the two-year period referred to in clause 4.3, the extension shall be subject to a two-year time limitation whereafter the Insurer shall be liable for the medical cover.

#### **5. INCREASED COMPENSATION DUE TO NEGLIGENCE OF THE EMPLOYER**

5.1 In the event that the Employee meets with an accident or contracts an occupational disease which is due to the negligence of the Employer, or any other person referred to in section 56(1) of COIDA, and the Employee may



apply for increased compensation, and the Insurer shall upon payment of the increased compensation amount be entitled to recover from the Employer the difference between the increased compensation paid to the Employee and the amount that would have been payable to such Employee had the accident or occupational disease not occurred due to the negligence of the Employer.

- 5.2** The amount of such additional compensation awarded for negligence, in terms of this Policy, shall not exceed the amount of the pecuniary loss which the Employee has in the opinion of the Insurer suffered or can reasonably be expected to suffer as a direct result of the said accident or occupational disease.

## **6. INSPECTION OF PAYROLL RECORDS**

The payroll (salary earnings) and other relevant payroll documents of the Employer shall be open for inspection at all reasonable times in strict confidence by any employee or agent of the Insurer duly authorised thereto.

## **7. CLAIMS CONDITIONS**

On occurrence of any accident involving an Employee, or the Employee contracting any occupational disease covered under COIDA, the Employer shall at its own expense:

### **7.1 Reporting of Accidents**

Submit the Insurer's prescribed form for reporting accidents and claiming compensation, fully completed, to the Insurer within seven (7) days of becoming aware of an accident to an Employee;

## **7.2 Reporting of Occupational Diseases**

- 7.2.1. In the case of occupational disease, submit the Insurer's prescribed form for reporting the contracting of an occupational disease and claiming compensation, fully completed, to the Insurer within fourteen (14) days of becoming aware of the Employee's diagnosis.
- 7.2.2 Notwithstanding the provision of clause 7.2.1 above, this Policy excludes cover for and in respect of compensable diseases as defined in the Occupational Diseases in Mines and Works Act, No. 78 of 1973, irrespective of whether the mine is controlled or uncontrolled and/or whether the work is risk work or not.

## **7.3 Further Information**

Provide the Insurer with such proof, information and sworn declarations as the Insurer may require as soon as reasonably possible after being called upon to do so.

## **7.4 Fingerprints**

In the event of the death or permanent disablement of an Employee, the Employer shall submit on the Insurer's prescribed form and as part of the Employer's compliance with its obligations under clause 7.1 and 7.2 above:

- 7.4.1 a full set of fingerprints of the disabled Employee concerned; and
- 7.4.2 in the case of death, full set of the fingerprints of any dependants of the Employee concerned.

**8. MISREPRESENTATION**

8.1 The Employer declares that the information to be provided in the prescribed form for reporting accidents or occupational diseases and claiming compensation would be correct in all respects and acknowledge that the Insurer would utilise the information contained therein for purposes of adjudicating the Employee's claim for compensation.

8.2 In the event that a compensation is paid as a result of any misrepresentation or incorrect information, the Employer or Employee may be required to repay or return the amount of compensation paid. In this regard the Insurer shall be entitled to take legal action to recover the compensation paid and any costs involved.

8.3 Notwithstanding the provision of clause 8.2 above, the Insurer shall not refuse to discharge its liabilities to an Employer in terms of this Policy on the grounds of error or inaccuracy in the claim form for reporting accidents or occupational diseases, provided that-

8.3.1 the Insurer is not or would not be seriously prejudiced by such error or inaccuracy if it is corrected; and

8.3.2 such error or inaccuracy was caused by an oversight, absence from the the Republic or other reasonable cause.

## **9. TEMPORARY ABSENCE FROM THE REPUBLIC OF SOUTH AFRICA**

9.1 In the event that an Employee is employed by the Employer to work temporarily outside the Republic of South Africa-

9.1.1. for a period not exceeding 12 (twelve) consecutive months ("**Permissible Period**")-

9.1.1.1 the cover in respect of such Employee shall remain in force and continue uninterrupted for the duration of the Permissible Period; and

9.1.1.2 the Premiums shall remain payable in respect of the Employee for the duration of the Permissible Period.

9.1.2 for a period exceeding 12 (twelve) consecutive months ("**the Impermissible Period**") -

9.1.2.1 the cover in respect of the Employee shall cease with effect from the commencement of the Impermissible Period;

9.1.2.2 no further Premium shall be payable in respect of such Employee;

9.2 In the event that an Employee is employed by an Employer outside the Republic of South Africa, however performs his/her employment duties for a consecutive period of 12 (twelve) months in the Republic of South Africa –

9.2.1 such Employee shall receive cover in terms of this Policy with effect from the expiry of the 12 (twelve) month period, provided that the Premiums are paid in respect of such Employee.

## **10. EMPLOYER AND EMPLOYEES TO ASSIST THE INSURER**

10.1. The Employer and the Employee shall give the Insurer or its duly appointed representatives every facility and assistance and shall comply with all reasonable requests of the Insurer to gather or furnish information and to

supply documents that may be required to investigate any accident or occupational disease, or in prosecuting or defending any action or proceedings arising out of a claim in respect of an Employee.

10.2 The Parties acknowledge that this Policy is for the benefit of the Employer's Employees and in some instances, their dependants. The Parties further acknowledge that by accepting the benefits of this Policy, the beneficiaries (Employees and / or dependants) agree to be bound by the terms and conditions of the Policy. Prior to the payment of any benefits in terms of this Policy, the beneficiary shall be required to agree, in writing, to be bound by the Policy terms and conditions.

10.3 In this regard the attention of the beneficiary will be drawn to the requirement that the beneficiary shall not be entitled to be compensated for his/ her loss and damages more than once and the Insurer shall be entitled to recover any benefit paid which relates to the wrong doing of any third party, from such third party. To enable the Insurer to so recover the beneficiary shall be required to sign all necessary documentation required by the Insurer to institute a claim for recovery, including the cession of any claim the beneficiary may have against any third party.

## **11. UNCLAIMED AMOUNTS**

All benefits payable in terms of this Policy shall remain the property of the Insurer until actually paid over to and received by the Employee. If the Employee cannot be traced or if, for any other reason, the benefit cannot be paid to the Employee, no amount shall be payable by the Insurer and if any amount has been paid to the Employer it shall be refunded to the Insurer within a reasonable time. The Employer shall advise the Insurer of the details of any unpaid benefits on a monthly basis. Should the Employee subsequently be traced or if any other impediment to payment is resolved, the Insurer shall be obliged to pay the amount of the benefit to the Employee via the Employer or, if that is not possible, directly to the Employee.

## **12. CIRCUMSTANCES UNDER WHICH BENEFIT MAY BE REVIEWED**

- 12.1 The Insurer may after notice, if possible, to the party concerned and after giving such party an opportunity to submit representations, at any time review any decision in connection with a claim for compensation or the award of compensation on the ground-
- 12.1.1 that the Employee has not submitted himself to medical examination after having been so directed by the Insurer;
- 12.1.2 that the disablement giving rise to the award is prolonged or aggravated by the unreasonable refusal or failure of the Employee to submit himself to medical aid;
- 12.1.3 that compensation awarded in the form of a periodical payment or a pension is excessive or insufficient because of existing or changed circumstances;
- 12.1.4 that the decision or award was based on an incorrect view or misrepresentation of the facts, or that the decision or award would have been otherwise in the light of evidence available at present but which was not available when the Insurer made the decision or award.
- 12.2 The Insurer may, after it has considered the evidence and representations submitted to it and made such inquiry as it may deem necessary, confirm, amend or set aside its decision, and may suspend, discontinue, reduce or increase compensation awarded.
- 12.3 For the purposes of this clause 12.2 compensation shall include medical aid.
- 12.4 The review process contemplated in terms of this clause shall also apply to medical aid.

### **13. OBJECTION AGAINST A DECISION MADE BY THE INSURER**

- 13.1 Any person affected by a decision of the Insurer or a trade union or employers' organization of which that person was a member at the relevant time may, within 180 days after such decision, lodge an objection against that decision in the prescribed manner.
- 13.2 An objection lodged in terms of this clause shall be considered and decided by an Independent Tribunal.
- 13.3 The Tribunal shall be convened by the Insurer from the database of qualified members which is established and maintained by the Compensation Commissioner.
- 13.4 The Tribunal shall comprise of a presiding officer assisted by two assessors, of whom one shall be an assessor representing employees, and one an assessor representing employers.
- 13.5 If the Insurer deems it necessary, it may call in the assistance of a medical assessor who shall be part of the Tribunal.
- 13.6 After considering an objection, the presiding officer shall, provided that at least one of the assessors, excluding any medical assessor, agrees with him/her, confirm the decision in respect of which the objection was lodged or give such other decision as he/she may deem equitable.
- 13.7 If neither of the assessors agrees with the view of the presiding officer, the presiding officer shall submit the dispute to a High Court with jurisdiction for decision.
- 13.8 The presiding officer may in connection with proceedings in terms of this clause 13 make such order as to costs and/or disbursements, and the payment thereof as he/she may deem equitable.
- 13.9 Any person affected by a decision of the Tribunal may appeal to a High Court with jurisdiction against such a decision regarding-
- 13.9.1 the interpretation of COIDA, this Policy or any other law;

- 13.9.2 the question whether an accident or occupational disease causing the disablement or death of an Employee was attributable to his or her serious and wilful misconduct;
- 13.9.3 the question whether the amount of any compensation awarded is so excessive or so inadequate that the award thereof could not reasonably have been made;
- 13.9.4 the right to increased compensation in terms of clause 5 of this Policy.
- 13.10 Subject to the provisions of this subsection, such an appeal shall be noted and prosecuted as if it were an appeal against a judgment of a magistrate's court in a civil case, and all rules applicable to such an appeal shall *mutatis mutandis* apply to an appeal in terms of this subsection.

#### **14. PRESCRIPTION**

A right to benefits in terms of this Policy shall lapse if the accident in question is not brought to the attention of the Insurer within 12 months after the date of such accident.

#### **15. PERIOD OF POLICY**

##### **15.1 Period**

The Insurer undertakes to provide the cover and benefits to the Employees in terms of this Policy with effect from the Effective Date for the duration of the Assessment Period unless terminated in accordance with clause 15.2.

##### **15.2 Termination**

Notwithstanding the provision of clause 15.1 above, this Policy shall terminate if the licence issued to the Insurer by the Minister of Labour in terms of section 30 of COIDA is suspended, withdrawn or not renewed, on the date thereof.



**15.3 Effect of Termination**

Termination shall not prejudice the rights of any Employer or of any Employee accrued up to the time of termination in respect of any accident that occurred, or occupational disease that was contracted, prior to the date of termination.

**16. POLICY RENEWAL**


16.1 This Policy shall automatically renew on the anniversary of each new Assessment Period for a further term unless terminated in terms of clause 15.2.

16.2 The Insurer shall inform the Employer at least 30 (thirty) days before the new Assessment Period of any new terms and conditions and the revised benefits if any.

16.3 The Insurer reserves the right to review the Assessment Rate on the expiry date of the Assessment Period.

Signed at Parktown on this the 09 day of November 2017

for **Rand Mutual Assurance Company, Limited**



.....  
**Chief Operations Officer**  
**(duly authorised and warranting such authority)**

## **COIDA POLICY BENEFITS SCHEDULE FOR CLASS XIII EMPLOYERS**

The COIDA Policy together with this Benefits Schedule constitutes an indivisible agreement between the Insurer and the Employer.

### **A1. BENEFITS LIMITS**

The benefits based on earnings and/or medical costs shall be calculated in accordance with the definition of Earnings contained in this Policy subject to the maximum Earnings prescribed in terms of COIDA.

### **A2. BENEFITS FOR TEMPORARY TOTAL DISABLEMENT**

A2.1 During Temporary Total Disablement, periodical payments shall be made by the Insurer at a rate of 75% (seventy-five per cent) of the Employee's monthly Earnings.

A2.2 Payment for Temporary Partial Disablement shall consist of such portion of the amount calculated in terms of clause A2.1 above as the Insurer may deem equitable.

### **A3. BENEFITS FOR PERMANENT DISABLEMENT**

A3.1 Should an Employee suffer Permanent Disablement, the Insurer shall pay or cause to be paid to such Employee a benefit calculated according to the degree of Permanent Disablement determined in terms of the COIDA, as follows:-

A3.1.1 Where the degree of Permanent Disablement is 30% (thirty per cent), a lump sum of fifteen times monthly Earnings;

A3.1.2 Where the degree of Permanent Disablement is under 30% (thirty per cent), lump sum bearing the same proportion to the lump sum calculated

in accordance with paragraph A3.1.1 of this clause as the degree of Permanent Disablement bears to 30% (thirty per cent);

A3.1.3 Where the degree of Permanent Disablement is 100% (one hundred per cent), a monthly Pension equal to 75% (seventy-five percent) of monthly Earnings;

A3.1.4 Where the degree of Permanent Disablement is under 100% (one hundred per cent) but in excess of 30% (thirty per cent), a monthly Pension which bears to the Pension calculated in accordance with paragraph A3.1.3 of this clause the same proportion as the degree of Permanent Disablement bears to 100% (one hundred per cent).

**A4. BENEFITS WHEN EMPLOYEE DIES**

A4.1 When the Employee dies, the Insurer shall pay or cause to be paid a monthly Pension to a Dependent to whom a monthly Pension is payable in terms of COIDA;

A4.2 The sum of the Pension payable to Dependents in terms of this clause A4 shall not exceed the Pension, which would have been payable to the Employee in terms of paragraph A3.1.3 of clause A3 of this Benefits Schedule.

**A5. BENEFITS FOR MEDICAL AID**

The Insurer shall pay the reasonable costs of treating an injured Employee or Employee who contracts a compensable disease.

**A6. NO INTEREST PAYABLE**

No benefit payable under this Policy shall carry interest.

**A7. BENEFITS TO EMPLOYEE MAY NOT BE ALIANATED OR REDUCED**

A7.1 Benefits payable in terms of this Policy shall not: -

A7.1.1 be ceded or pledged;

A7.1.2 be set off against any debt of the person other than the Employer entitled to compensation;

A7.1.3 be capable of attachment or any form of execution under a judgement or order of a court of law;

A7.2 Notwithstanding sub-clause A7.1 of this clause, the Insurer may pay benefits payable to an Employee in whole or in part to the Employer to the extent to which the Employer has made payments to the Employee in respect of Disablement arising out of an accident or occupational disease, as the case may be.

**A8. CESSION OR RELINGUISHMENT OF BENEFITS IS VOID**

Any provision of any agreement in existence at the time of commencement of this Policy or concluded thereafter under which an Employee cedes or relinquishes or purports to cede or relinquish any rights to benefits payable in terms of this Policy to a third party shall be void and unenforceable against the Insurer.

**A9. BENEFITS NOT TO FORM PORTION OF DECEASED EMPLOYEE'S ESTATE**

Benefits payable in terms of this Policy arising out of the death of an Employee shall not form portion of the Employee's estate.

A10. **MINIMUM PREMIUM**

As published from time to time by the Compensation Fund in a Government Gazette.