

BOARD NOTICE 192 OF 1998

FINANCIAL SERVICES BOARD

SHORT-TERM INSURANCE ACT, 1998

(ACT NO. 53 OF 1998)

FORM OF GUARANTEE

I, Richard Gray Cottrell, Registrar of Short-term Insurance, hereby notify, in terms of regulation 4.2(a) under the Short-term Insurance Act, 1998, that the guarantee to be provided in terms of regulation 4.1(2) shall be in the following format:

FORM OF GUARANTEE

[Section 45 of the Short-term Insurance Act of 1998 read with the regulation 4 thereto]

DEMAND GUARANTEE
Issued by

in favour of

THE SOUTH AFRICAN INSURANCE ASSOCIATION

1. **INTRODUCTION**

1.1. Section 45 of the Short-term Insurance Act No. 53 of 1998 ("the Act") read with the regulations made in terms of Section 45(b) of the Act governs the receipt by independent intermediaries of monies in respect of premiums on behalf of short term insurers and Lloyd's underwriters ("insurers") and relating to short-term insurance business carried on in the Republic of South Africa ("premium monies").

1.2.("independent intermediary") of [address]

receives premium monies and is required by section 45(b) of the Act to furnish a guarantee to The South African Insurance Association ("the Association") for the benefit of insurers.

1.3 We, [name of insurer or bank]
.....

.. ("the guarantor") of [address]

being a [nature of business]

represented by
..... in his capacity as
..... and duly
authorised in terms of a written authority dated (a copy
of which is either annexed hereto or has been previously lodged with the
Association) have agreed to furnish such guarantee.

2. **GUARANTEE**

We undertake that upon receipt by us of a written demand from the Association

for payment by us to the Association of a specified sum of money ("the demand amount") not exceeding R

.....]
 ("the guarantee amount") to pay the demand amount to the Association, for the benefit of the insurers, at

[address] provided that the demand is signed by the chief executive officer of the Association and that the demand records that:

- 2.1. the Independent intermediary has failed to pay the demand amount to insurers within the period required in terms of regulation 4(3)(1) of the Act; and
 - 2.2. the Association has issued a notice to all insurers of the possibility of a claim by an insurer in respect of the Independent intermediary; and
 - 2.3. more than 12 (twelve) months have elapsed since the date appearing on such notice and the demand amount is not more than the aggregate of all claims in respect of premium monies due by the Independent intermediary to the insurers received by the Association up to the date of the demand.
3. If the aggregate of the claims received by the Association in terms of clause 2.3 exceeds the guarantee amount then the guarantee amount will be apportioned between the insurers which have lodged claims in terms of clause 2.3 on the following basis:
- 3.1. the amount of premium monies received by the Independent intermediary on behalf of insurers within a 120 day period commencing 60 days prior to and including the date of the notice in terms of clause 2.2 above and terminating 60 days after such date will be determined and the guarantee amount will be apportioned between such insurers in proportion to the premium monies so determined as owing to each of them; and

- 3.2. if the guarantee amount exceeds the total of the premiums referred to in clause 3.1 above, the balance of the guarantee amount will be apportioned between insurers in proportion to the outstanding amount of premium monies received by the Independent intermediary on behalf of each of such insurers outside the period referred to in clause 3.1 above.

4. **DOMICILIUM**

We choose our address set out in clause 1.3 above as our *domicilium citandi et executandi*.

5. **EXPIRY**

This guarantee will terminate upon the earliest of the following dates:

- 5.1. the date of payment of the guarantee amount; or
- 5.2. on _ / / _ _ _; or
- 5.3. the date of expiry of at least 60 days' written notice of termination given by us to the Association and to the independent intermediary or their respective addresses mentioned above; or
- 5.4. the date of expiry of at least 60 days' written notice of termination given by the Independent intermediary to the Association and to us at its and our respective addresses mentioned above.

Notwithstanding such termination, this guarantee will remain of full force and effect in regard to any liability which arose prior to the date of such termination provided that a written demand in terms of clause 2 above is received by us in respect of such liability within 3 (three) years of the date of termination.

6. GENERAL

- 6.1. This guarantee is limited to the payment of money only and is neither negotiable nor transferable and must be returned to us upon its termination.
- 6.2. Payment of the guarantee amount to the Association under this guarantee will constitute a final discharge of our obligation hereunder to the Association and the insurers.

Signed atthis day of

(For)

As witnesses:

1. -----

2. -----

R G COTTRELL
REGISTRAR OF SHORT-TERM INSURANCE