

LegalWise Platinum Membership Terms



1. We are Legal Expenses Insurance Southern Africa Limited, LegalWise, who insure and manage all aspects of The Member's Legal Expenses Insurance.

2. In consideration of payment of the monthly premium reflected in the Schedule of Insurance, we will pay The Member's Legal Expenses for:

- Civil Matter in a court of law, statutorily constituted body or other independent forum, which arises from Relevant Facts;
- Labour Matter in the Labour Court, including matters referred to the CCMA and Bargaining Councils, which arises from Relevant Facts; or
- Criminal Matter in which a Member is charged with a criminal offence which arises from Relevant Facts without The Member having the option of paying an admission of guilt fine, which is covered in terms of this Policy and occurs in the Republic of South Africa.

3. We do not pay Legal Expenses if the Matter is listed under Exclusion clause 34 and Our liability is subject to all the provisions of this Policy.

4. The Member includes:

- The person in whose name the Application is completed ("the Applicant");
- The spouse or partner named in the Application;
- The Member's children under 18 (eighteen) years of age; The Member's children between 18 (eighteen) and 21 (twenty one) years who are studying fulltime at a school, college or university and who are financially dependent on the Applicant and spouse or partner.

5. A Matter means all Civil Matters, Labour Matters and Criminal Matters that arise from the same Relevant Facts. A Matter has commenced when The Member first consults a Lawyer in connection with a demand or legal process received or to be issued in regard to a Matter.

6. Legal Expenses will only be paid if The Member is a citizen of the Republic of South Africa ("RSA") residing in the RSA, a permanent resident of the RSA or in possession of a lawful RSA work permit.

7. The Period of Insurance is each period of 1 (one) month during which a Premium is paid to Us.

8. The Period of Indemnity commences after 3 (three) consecutive Periods of Insurance commencing from the Issue Date and is a continuous unbroken series of monthly Periods of Insurance during which the Premium is paid and the Policy is renewed every month. Insurance cover for accidental death legal expenses benefit starts immediately upon issue date.

9. The Policy is the monthly contract between the parties which consists of the documents referred to in clause 66.

10. The Premium is the stipulated amount paid to Us each month in order to renew the policy every month.

11. Legal Expenses are, subject to the limits of benefits, The Member's Lawyer's costs and fees, and the opponent's costs that a Court orders The Member to pay in connection with a Matter covered under this policy.

12. Lawyer is an attorney or advocate who lawfully practices in the RSA.

13. All disputes which relate to this insurance or this Policy which cannot be settled will be determined by the Courts of the RSA according to the laws of the RSA.

14. A Claim is a written Platinum Claim Notification in the standard LegalWise Platinum format completed and signed by the Lawyer of The Member in respect of Legal Expenses incurred or to be incurred in regard to a Matter, received by Us within the prescribed time limits.

15. If We refer to "Relevant Facts", We mean a state of affairs, breach, infringement, omission, neglect or act that occurs entirely in the RSA and gives rise to a criminal charge or dispute of law or fact in the area of private law rights or obligations. If the validity or interpretation of any document, statute or any other legislation is in dispute, the date of coming into existence of the document, statute or legislation, is a Relevant Fact.

16. The Member's Place of Residence is the address on the Application, or, if no physical address is furnished, The Member's full-time residence. That address must be in the RSA.

TERMS AND CONDITIONS

17. A matter is only covered and Legal Expenses are only payable in respect of a Matter if:

17.1 the Relevant Facts occur; and

17.2 the Matter commences and is concluded; and

17.3 the Legal Expenses are incurred; and

17.4 the Claim is received by Us;

during a Period of Indemnity. In other words, The Member will only be entitled to payment of Legal Expenses if the Premium is paid every month for an unbroken Period of Indemnity during which all of the events listed above occur. The Member is not entitled to an indemnity if the Relevant facts occur prior to or within 3 (three) months after the Issue Date.

18. The Issue Date means:

18.1 If we receive and accept The Member's first premium on or before the 15th day of a month, the Issue Date is the first day of that same month, regardless of the date of receipt of The Member's Application.

18.2 If we receive and accept The Member's first Premium after the 15th of a month, the Issue Date is the first day of the following month, regardless of the date of receipt of The Member's Application.

19. Legal Expenses will only be paid if the Relevant Facts affect or are caused by or performed by The Member as an individual in a personal and private capacity and relating to the personal and private affairs of The Member.

20. Legal Expenses will only be paid in respect of a Civil and Labour Matters in which The Member has a direct proprietary and financial interest.

21. Legal Expenses will only be paid if The Member has a reasonable prospect of success in a Civil and Labour Matter.

22. A Serious Offence is murder, rape, robbery, sexual or physical abuse of children, assault with intent to do grievous bodily harm, dealing narcotic drugs, kidnapping, bribery, extortion, blackmail, corruption, housebreaking, breaking and entering, theft and fraud, or an attempt to commit any of those crimes. If a Criminal Matter is a Serious Offence, We only pay Legal Expenses if:

The Member has not claimed Legal Expenses from Us for a Serious Offence at any stage in the past;

and The Member has not committed a Serious Offence in the previous 6 (six) years.

23. If a Criminal Matter is not a Serious Offence, Legal Expenses will only be paid if The Member has not committed a similar offence in the previous 3 (three) years.

FINANCIAL LIMITS OF BENEFITS

24. We only pay Legal Expenses that are within the limits of the LegalWise Platinum Policy tariffs in force from time to time which The Member can inspect at any reasonable time.

25. The total aggregate limit of Our Liability for the Legal Expenses which any person who has ever been a Member referred to in any policy can claim during his/her lifetime (no matter how many policies they are party to) is 10 000 (ten thousand) times the Premium in force at the time We enforce the limit. Such a Member shall not be entitled to payment of any further Legal Expenses notwithstanding any future premium increases.

26. The maximum limit for Legal Expenses per Matter for each Member is 1 000 (one thousand) times the Premium when The Member reports the Matter to Us.

27. We only pay Legal Expenses that are Proportionate to the value of the Matter, namely either:

27.1 an amount not greater than twice the reasonable value of the claim against The Member; or

27.2 not greater than twice the value of a settlement or judgement of the Court in the Matter; or

27.3 not greater than the reasonable value of an unsuccessful claim by The Member; whichever is the lowest amount.

OTHER LIMITS TO BENEFITS

28. We only pay Legal Expenses after the Matter has been concluded. However, We may, in Our sole discretion, pay disbursements and, in exceptional circumstances, fees during the course of the Matter. If the Premium is not paid by or on behalf of The Member for the entire Period of Indemnity during which all the events listed in clause 17 above occur, The Member will be obliged to refund any Legal Expenses already paid.

29. We only pay Legal Expenses that arise from litigation:

29.1 if all reasonable attempts are made to settle the Matter before litigation is instituted and during the course of litigation;

29.2 until the date upon which an offer is first made by an opponent and

not accepted by The Member which is equal to or better than the total amount of money or other relief eventually accepted by The Member or awarded to The Member by the Court.

30. If:

30.1 other persons benefit from the legal services which The Member's Lawyer renders, or if they have a similar interest in the Matter to that of The Member, We only pay a portion of the Legal Expenses proportionately to the number of people who benefit or have an interest in the Matter;

30.2 The Member has any other policy or agreement which entitles The Member to claim legal expenses for the same Matter, We will only pay the rateable proportion of such expenses.

31. We do not pay Legal Expenses that are punitive costs awards.

32. We do not pay Legal Expenses duplicated by changing Lawyers or incurred because The Member does not co-operate with the Lawyer handling a Matter.

AMOUNT THE MEMBER MUST PAY

33. The Member must pay an amount towards the Legal Expenses equal to 3 (three) times the Premium in respect of each Matter before We become liable. In the event of Accidental Death Legal Expenses no excess is payable.

EXCLUSIONS

34. Subject to any addendum or endorsement, we do not pay Legal Expenses if the Matter arises out of, is based on, or relates to any of the following:

34.1 defamation, insult, verbal abuse or any other infringement of The Member's personality, reputation or dignity;

34.2 marriage, divorce, enforcement or annulment of a divorce order, alimony, maintenance disputes, maintenance investigations or enquiries or other proceedings, custody of children, visitation rights, child support, guardianship, paternity, engagement or promise to marry and living together as husband and wife or as permanent partners;

34.3 The Member's rights or obligations as an agent, contractor or sub-contractor;

34.4 The Member's rights or obligations as a director or officer in terms of the Companies Act 71 of 2008, as amended, or Close Corporations Act, 1984, as amended;

34.5 The Member's rights or obligations as a principal, shareholder, owner, co-owner, partner or Member of an existing or proposed business, farm, professional practice or any other business-related entity or activity;

34.6 a claim for commission by or against The Member as an agent or principal;

34.7 any surety, cession, assignment, novation, delegation or other derived right of recourse;

34.8 the drafting, negotiating, entering into or signing of any contract or any agreement or any will or testamentary document;

34.9 a tax or fiscal law;

34.10 a mineral right;

34.11 a copyright, patent or trade mark;

34.12 The Member's rights or obligations as a landlord;

34.13 immovable property other than The Member's Place of Residence;

34.14 changing The Member's own status, right or obligation, or the status, zoning or right of use of The Member's Place of Residence;

34.15 political activity;

34.16 a dispute between The Member and Us or any of Our employees or agents arising out of this Policy;

34.17 fraud or any other Criminal Matter related to Legal Expenses payable under this Policy;

34.18 an environmental issue;

34.19 insolvency;

34.20 a class or collective action;

34.21 inquests, burial disputes or the exhumation of bodies;

34.22 strike, lock-out or riot, civil commotion, labour disturbances, public disorder or civil disobedience or any act or activity which is calculated to bring about any of the above;

34.23 war, martial law, mutiny, military coup or usurped power, rebellion or revolution;

34.24 an unlawful protest, intimidation or threat of violence or force, to any public body;

34.25 an act aimed at promoting or frustrating economic, political, social or environmental change;

34.26 a dishonourable cause or motive or is tainted with illegality;

34.27 a cause of action which is vexatious or malicious or the proceedings themselves are vexatious or malicious;

34.28 a dispute which is capable of being resolved by Us or any administrative body or independent and impartial forum without legal representation.

PLATINUM SERVICES

35.1 We will provide Platinum Services to Platinum Members and in accordance with and subject to the LegalWise Platinum Services List, as amended from time to time. This List is available upon request.

35.2 These services are independent from the insurance component as defined in this policy document.

PREMIUM INCREASES, CHANGES AND TERMINATION

36. This Policy will be deemed not to have been renewed from the first day of any month in which The Member fails to pay the Premium before the 15th (fifteenth) day of that month. The Member bears the onus to ensure and prove that the Premium has been paid to Us.

37. On 30 (thirty) days' notice by ordinary mail posted to The Member's Place of Residence, We may:
give notice that We do not intend to renew this Policy for any reason in Our own discretion;
increase the Premium or change any of the terms and conditions of future monthly policies from time to time.

PREMIUM REFUND AND RETRENCHMENT ASSISTANCE

38. We do not refund premiums for any reason whatsoever unless the Policy terminates during the 3 (three) month period referred to in clauses 8 and 17. Any requests for refunds must be submitted to LegalWise by the Member in writing within 30 (thirty) days of the Policy terminating.

39. If a monthly policy is not renewed and We receive the tender of a premium after the 15th (fifteenth) day of the month, We will treat it as an application for a new Policy.

40. If the Applicant is retrenched or becomes Totally and Temporarily disabled as a result of an accident due to unnatural causes after more than a 12 (twelve) month continuous period of indemnity, there will be a grace period during which no Premiums need be paid of 6 (six) months or until the Applicant is again employed or is no longer so disabled, whichever is shorter, and We will renew the Policy each month during the grace period.

CLAIMS PROCEDURE FOR LEGAL EXPENSES

41. We will not be liable for payment of any Legal expenses relating to a Matter:

41.1 if a claim is not received by Us within 30 (thirty) days of consulting a Lawyer for the first time about such matter; and

41.2 unless We confirm the Claim and issue a written Confirmation of Cover to The Member.

42. We will pay The Member's Legal Expenses only on receipt of a detailed statement of account from the Lawyer handling the Matter.

REJECTION OF CLAIMS AND DISPUTES

43.1 If LegalWise rejects a claim, The Member will have 90 (ninety) days from the date of receipt of the notice of rejection to make representations in respect of Our decision. We will advise The Member of Our final decision, in writing, within 30 (thirty) days of receiving the representations, and The Member will have 6 (six) months after the expiry of the 90 (ninety) day period allowed for making representations, to institute legal action against Us, claiming Legal Expenses which The Member alleges are due under this policy.

43.2 If The Member makes representations during the 90 (ninety) day period, and if the claim is not rejected on the basis of non-payment of Premiums, The Member can, within the 90 (ninety) day period also request, in writing, that Our rejection be reviewed by an independent appraiser, chosen by Us and at Our cost. The independent appraiser's opinion is not binding on Us.

43.3 We will advise The Member of Our final decision within 30 (thirty)

days of receiving The Member's representations or the independent appraiser's opinion.

43.4 The Member will not have a claim against Us if The Member does not institute legal proceedings against Us claiming Legal Expenses within 6 (six) months after the expiry of the 90 (ninety) day period for making representations and The Member therefore has only 90 (ninety) days plus 6 (six) months within which to sue from the date of receipt of Our first notice rejecting The Member's claim.

44.1 If LegalWise disputes the quantum claim, The Member will have 90 (ninety) days from, the date of receipt of the notice of rejection to make representations in respect of Our decision. We will advise The Member of Our final decision, in writing, within 30 (thirty) days of receiving the representations and The Member will have 6 (six) months after the expiry of the 90 (ninety) day period for making representations to institute legal action against Us claiming Legal Expenses which The Member alleges are due under this policy.

44.2 The Member will not have a claim against Us if The Member does not institute legal proceedings against Us claiming Legal Expenses within 6 (six) months after the expiry of the 90 (ninety) day period for making representations and The Member therefore has only 90 (ninety) days plus 6 (six) months within which to sue from the date of receipt of Our first notice disputing the quantum of The Member's claim.

45. Our address for the purpose of any legal process is:

764 Golf Club Terrace, Constantia Ridge Office Park, Block B, Constantia Kloof, 1709.

46. The Member's address for all purposes under this Policy is The Member's last known Place of Residence.

INDULGENCES

47. If for any reason, We do not enforce any provision in this Policy strictly or at all, this does not mean that We waive any of Our rights or change Our obligations under this Policy nor will that indulgence stop Us from enforcing this Policy strictly thereafter.

INFORMATION

48. The Member agrees that We may obtain any information about a Matter from The Member's Lawyer or any third party acting as The Member's agent for this purpose.

CESSION AND SETTLEMENT

49. The Member hereby cedes to Us any contingent future or actual right to claim costs in respect of a Matter and;

49.1 The Member is not entitled, without Our consent in writing, to settle a Matter unless such settlement includes the right of full recovery of all Legal Expenses paid or to be paid by Us;

49.2 any amount recovered will first be used to pay all Legal Expenses paid by Us and any balance will belong to The Member.

BREACH OF CONDITIONS

50. We may in Our sole discretion refuse to pay any Legal Expenses if The Member breaches any material condition of this Policy.

ACCIDENTAL DEATH LEGAL EXPENSES COVER

51. The Accidental Death Legal Expenses cover is subject to all the other terms and conditions of the Policy with such changes as may be necessary and only to the extent not provided for in this Accidental Death Legal Expense cover section of the Policy.

52. All of the benefits in terms of The Accidental Death Legal Expenses provisions form an integral part of the Policy document and cannot be sold or bought separately.

53. Accidental Death Legal Expenses cover is only payable as a cash benefit payout, reflected in the Applicant's schedule of insurance, on the sudden and accidental death of the Applicant to assist the nominated beneficiary or next-of-kin of the Applicant to deal with the financial burden of the legal consequences of the sudden death i.e. the legal costs incurred in reporting and winding-up of the deceased estate, fending off unscrupulous creditors, seeking legal and financial advice, on the following additional terms and conditions:

54. An accidental death will be deemed to be accidental only if it was caused solely and directly by a sudden fortuitous, involuntary and uncertain event and by violent, external and visible means and independently of any other cause.

55. Insurance cover for accidental death legal expenses benefit starts

immediately upon receipt by the Company of the premiums. The policy will be deemed not to have been renewed if the Member fails to pay his monthly premium before the 15 (fifteenth) day of that month. Cover is as follows;

55.1 For all existing and paid up members as of June 2011, the benefit will be added to this policy with effect from 1 July 2011. No accidental death legal expenses cover exists prior to this date;

55.2 For all new members who join the Company on or after 1 July 2011, the benefit will start from the issue date. See clause 18;

55.3 For all members who reinstate their policies on or after 1 July 2011, the benefit will also start from the issue date that the first premium is received by the Company for reinstatement of the policy.

56. The accidental death legal expenses benefit only covers the Applicant's death and does not extend to cover the death of any other Member.

57. The Applicant as referred to in the accidental death legal expenses benefit is the Applicant's name as contained on the Legal Expenses Insurance Application form.

58. Accidental death legal expenses will only be paid if the Applicant is a citizen of South Africa ("RSA") residing in the RSA, a permanent resident of the RSA or in possession of a lawful RSA work permit and the accidental death occurs within the borders of South Africa ("RSA").

59. The accidental death legal expenses benefit is the amount specified in your schedule of insurance or any greater amount communicated to members from time to time through the official Company newsletters or in any other written manner.

60. There is no first amount payable/excess for a claim for accidental death legal expenses benefits.

61. We will not be liable to make any payments (Legal Expenses cover or Accidental Death Legal Expenses cover) unless the premium due in terms of the Legal Expenses policy has been received and paid.

62. Matters not covered by accidental death legal expenses benefit cover are:

62.1 Death by suicide whether death is caused directly or indirectly by or arising from or resulting from or contributed to by or traceable to any attempted suicide;

62.2 Death by natural causes;

62.3 Where any claim for accidental death legal expenses benefit arise from, or is the result of any contravention of any criminal law, whether legislative or at common-law (including fraud), by the Applicant or any Member or next-of-kin, or by anyone acting on your behalf or by any person claiming any benefit under this policy, all benefits afforded in terms of this policy in respect of such claim, and premiums paid in respect of such policy shall be forfeited, and this policy may be voided or cancelled as from the date of the criminal offence, at the Company's discretion.

62.4 Where accidental death is caused as a result of strike, lock-out or riot, civil commotion, labour disturbances, public disorder or civil disobedience or any act or activity which is calculated to bring about any of the above;

62.5 Where accidental death is caused as a result of war, martial law, mutiny, military coup or usurped power, rebellion or revolution;

62.6 Where death is caused as a result of an unlawful protest, intimidation or threat of violence or force, to any public body;

62.7 Accidental death caused as a result of natural disasters like Floods, Earthquakes, Volcanoes, tsunami and landslides.

CLAIMS PROCEDURE (ACCIDENTAL DEATH LEGAL EXPENSES COVER)

63.1 In the event of a claim for accidental death legal expenses benefits in terms of this policy, the nominated beneficiary or appointed executor must contact the Company to obtain a claim form.

63.2 The nominated beneficiary or appointed executor shall at their own expenses submit full details in writing of the claim as soon as possible up to a maximum of 180 (one hundred and eighty) days from the date of the event giving rise to the claim. We shall not be liable to pay benefit if the full details of the claim are not received within the maximum period stipulated above.

63.3 On receipt of the claim form, the claimant (nominated beneficiary or executor of the applicant's estate) must complete all details and sign the claim form. In addition, the claimant must attach either the original or certified copies of the following documents:

63.3.1 A certified copy of the ID document of the deceased.

63.3.2 A certified copy of the death certificate

63.3.3 The BI-1663 Certificate-notification/register of death (you can obtain this from the undertaker)

63.3.4 Any other documents reasonably requested by the Company either on the claim form or subsequently thereto in relation to the claim.

63.4 Full instructions for the submission of the claim form and supporting documentation will be reflected on the claim form. Only the original or certified documents certified by a commissioner of oaths will be accepted.

63.5 We shall at all times have the right to inspect all documents relating to the claim and will communicate with the Applicant's nominated beneficiary or appointed executor regarding the progress of the claim or any problems regarding the supporting documentation.

63.6 Payment made by the Company of the benefits provided in the event of a valid claim in terms of this policy will be a full and effective discharge by the Company of its liability and obligations in terms of the policy.

NOMINATION OF BENEFICIARY

64.1 For the accidental death legal expenses benefit, you may nominate a person as the beneficiary in terms of the policy. The beneficiary is the person who will receive the benefit upon the accidental death of the applicant. If a beneficiary has not been nominated, the benefit will be paid out to the applicant's estate.

64.2 As this benefit is a cash benefit to assist the nominated beneficiary or estate of the Applicant to deal with the financial burden of the legal consequences of the sudden death, it is suggested that the beneficiary appointed will be the person responsible for taking care of the applicant's legal affairs on the applicant's death.

64.3 It is further suggested that a person over the age of 18 (eighteen) years be nominated as beneficiary, to ensure that the benefit is available immediately after the death of the Applicant. If the nominated beneficiary is under the age of 18 (eighteen) at the time of the applicant's death, the benefit will be paid to the beneficiary's legal guardian (provided that satisfactory proof of legal guardianship is submitted to the Company), or to the "guardian fund".

OTHER TERMS

65. This Policy does not acquire a surrender / cash value.

BASIS OF AGREEMENT

66. This Policy Agreement, any addendum, endorsement, the LegalWise Platinum Policy Schedule of Insurance, The Member's Application, The Member's LegalWise Platinum Policyholder Card, the Standard LegalWise Platinum Claim Form, the LegalWise Platinum Tariffs Schedule and the personalised letter given to The Member all form the basis of the agreement between The Member and Us and is The Member's insurance policy with Legal Expenses Insurance Southern Africa Limited which is the insurance company which provides the insurance in terms of this policy. Such Policy is The Member's sole agreement with Us and Legal Expenses Insurance Southern Africa Limited.

June 2013