



# **Business Legal Expense Cover**

Terms and Conditions

# Business Legal Expense Cover Policy

Congratulations on becoming an Budget Insurance Business Legal Expense Cover policyholder. This document contains important information about your cover, so please read it carefully.

Should you require more information or a detailed explanation of any of the terms and conditions contained herein, please contact us on the number provided on this brochure.

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# Definitions

The following words have the following meanings:

<b>“Insurer”:</b>	Budget Insurance Company Ltd, the underwriter of the insurance benefits set out herein (see your Legal Disclosure on your schedule for contact details).
<b>“LIPCO”:</b>	LIPCO Group (Pty) Ltd, an authorised financial services provider, acting as the Insurer’s underwriting manager (see your Legal Disclosure on your schedule for contact details).
<b>“Insured”:</b>	Refers to your business entity or appointed individual (sole proprietor) as stipulated in your policy schedule. Please note that all references to “you” in the policy book indicate the people/person responsible for owning/running the business, whether it is a company, close corporation, partnership or sole proprietorship.
<b>“Court”:</b>	Any court with jurisdiction within the borders of the Republic of South Africa.
<b>“Pre-existing matter”:</b>	A matter where the reason for applying for cover or assistance under this policy existed or originated before the start date (as indicated in your policy schedule) of this policy, or before the expiry of any waiting period. If, at the time when you applied for this policy, you or any of your nominated business representatives/directors/shareholders were aware of or should have been aware of the matter giving rise to an application for cover, it will be sufficient proof that it is a pre-existing matter.
<b>“Waiting period”:</b>	The period after the start date before you qualify for cover, provided that it is not a pre-existing matter.
<b>“Legal expense/s”:</b>	Legal fees and disbursement costs (i.e. ordinary and necessary expenses) charged by a legal practitioner to represent you in court and includes the drafting of all documentation to be used in legal proceedings (e.g. summonses).
<b>“Business representative”:</b>	Refers to the natural person named on your schedule as the business representative (i.e. the owner, partner, director or person having written authority to represent you) who will be LIPCO’s contact person for the duration of this policy. The business representative is the only person from whom LIPCO will accept any instructions in terms of this policy and to whom LIPCO will convey any information with regard to any matter arising in respect of this policy.
<b>“Business activities”:</b>	Refers to your main business operations conducted according to generally accepted business principles within the borders of the Republic of South Africa, which do not constitute illegal, unethical or harmful business practices.
<b>“Policy Schedule”:</b>	Refers to the attached schedule containing important information about you and this policy.

# General Terms and Conditions

## General Conditions

These general conditions, all of which are material and essential, apply to all sections of this policy.

- 1 You may from time to time be notified of endorsements (i.e. amendments or additions) to this policy regarding the premium and/or the terms and conditions. In the event of changes or premium increases, you will be informed in writing 31 days before.
- 2 You must observe and fulfil the terms and conditions contained herein or endorsed hereto, insofar as they relate to any of your obligations or compliance. The truth of the details and statements supplied, are conditions precedent (i.e. conditions which must take place) to any cover provided in terms hereof. You may be expected to sign an indemnity form if required and deemed necessary in the sole discretion of LIPCO.
- 3 If you request cover for a legal or labour matter while aware of its false nature and/or act contrary to legal advice, LIPCO may cancel your cover. You will be liable for all legal expenses incurred by us under such circumstances.
- 4 You will make available for inspection all books, statements, documents and/or records and give all information and explanations that are deemed reasonable and necessary by LIPCO to assist you hereunder.
- 5 All benefits contained herein are exclusively for you in your capacity as a lawful business and cannot be used for any business activities other than those mentioned on your policy schedule.
- 6 We and LIPCO will not be held liable for any advice or representations given by any of the legal practitioners contracted to represent you, as they are registered advocates/attorneys and are regulated by professional bodies.
- 7 Any legal expenses you incur without LIPCO's prior written approval will be for your own account.

## How do my payments work?

This policy gives you monthly cover and your premium is deducted in advance on the date stated on your schedule. If in the month following the activation of your policy (and onwards) we do not receive your premium on the due deduction date, you will be allowed a 15-day period of grace in which to pay your premium. If we still do not receive your premium after these 15 days, you will not have cover for that month until the premium is received.

## Premium Obligations

For your premium obligations, refer to the paragraph headed "Payment details" on your schedule. This will give you details regarding the premium payable, the manner of payment of premiums and the due date for payment of your premiums. Your policy will only commence upon receipt of the first premium.

Please take note that we agreed to collect the monthly payment for your policy by debit order. Your debit order will be deducted on the agreed upon date. We reserve the right to deduct the premium on an alternative date in an attempt to ensure cover. If your deduction date falls on a Sunday or public holiday, your debit order may be lodged for an earlier date. If payment is not received for three consecutive months, the policy will be cancelled immediately.

## Payment Stopped

If you have instructed the bank to stop your debit order payment, the policy will be cancelled immediately.

## Amendments

To amend or cancel your policy, call the Sales, Client Service and Claims number (on this brochure). Any amendment or cancellation you make will be effective from the date we agree on. Note that, if we wish to amend or cancel your policy, we will give you 31 days' written notice.

# What is covered?

## Labour cover

Subject to the conditions mentioned in the **Legal Expense Cover** section below, this section covers your legal expenses up to the amounts shown on your policy schedule when defending labour-related proceedings arising from a dispute with an employee regarding:

- 1 the provisions of a legally signed employment agreement entered into between the employee and yourself;
- 2 allegations that you contravened the provisions of any applicable labour-related legislation (e.g. the labour Relations Act or the Basic Conditions of Employment Act);
- 3 representation at arbitration hearings (CCMA/other similar forums), provided that permission to allow legal representation at the forum is first obtained from the relevant Commissioner;
- 4 representation for yourself in the Labour Court.

## Civil Matters

Subject to the conditions mentioned in the **Legal Expense Cover** section below, this section covers your legal expenses up to the amounts shown on your policy schedule for:

- 1 Instituting legal proceedings in civil matters based on a written and signed contract entered into between yourself and a third party where the amount claimed by you is more than R15 000 (fifteen thousand rand).
- 2 Defending civil proceedings against you in contractual as well as non-contractual (i.e. delictual or wrongful conduct) disputes where the cause for the dispute originated after expiry of the waiting period.

## Legal Expense Cover - Conditions of cover

Cover in terms of the **Labour Cover** and **Civil Matters** sections will be subject to the following conditions:

- 1 Premiums must have been paid up to date when the matter started and must remain paid up to date (i.e. not be in arrears) for the duration of legal proceedings.
- 2 A three (3) month waiting period applies to all benefits mentioned in the **Labour Cover** and **Civil Matters** sections.
- 3 Pre-existing matters will not be covered.
- 4 There must be a reasonable prospect of successfully pursuing or defending legal proceedings, taking into account:
  - a the opinion(s) of the LIPCO appointed legal advisors, and/or
  - b the advice of any additional legal practitioners appointed by LIPCO to assess the merits of the case.

Where you, in LIPCO's sole discretion, cannot provide LIPCO with sufficient evidence that a reasonable prospect to succeed exists, LIPCO may reject your claim.

- 5 The matter can be finalised in a South African court and all parties to the dispute will reside within the borders of the Republic of South Africa (i.e. no cross-border cover).
- 6 The annual monetary value of legal expenses cover under this policy will be limited to the amount shown on your policy schedule and will be in relation to all / any matters.
- 7 Matters not specifically mentioned under the **Labour Cover** and **Civil Matters** sections, will not be covered for court representation. Please refer to the **Exclusions** section for a list of specific exclusions.
- 8 This policy will only cover your legal expenses up to the limits given in your policy schedule. Any cost order awarded against you payable to the other party's legal costs, will not be covered. The cost of an expert witness or expert opinion/report will be for your own account.
- 9 Where you are covered for the collection of a contractual debt in a civil matter, such matter will only be covered up to the point of serving the first letter of execution on the debtor (i.e. after judgment was obtained in your favour and the debtor failed to pay). Enforcing the judgement after this will be for your own account.

## Your obligations

### It is your obligation to:

- 1 report any legal or labour dispute to LIPCO within thirty (30) days of becoming aware of it;
- 2 claim damages from any other existing insurance before claiming in terms of this policy;
- 3 provide LIPCO, at your own expense, with all documents, reports, statements and evidence required by LIPCO in its sole discretion, to support your case and determine the prospect of success;
- 4 refrain from providing LIPCO and/or any of its legal service providers with false, misleading or inaccurate information, or withholding important information about the case. If you do not adhere to this obligation, it may result in you losing cover under this section and becoming responsible for all legal expenses you incurred as a result of such false and/or incomplete information;
- 5 never directly instruct a legal practitioner without LIPCO's prior written consent as you will then be responsible for all legal fees incurred by such legal practitioner (i.e. no refunds). LIPCO will only pay legal practitioners who were instructed by LIPCO in writing and will only cover the legal expenses agreed to between LIPCO and such practitioner, based on LIPCO's tariff scale. If you want to use any other legal practitioner other than the one appointed by LIPCO, you will be responsible for any amount exceeding the amount approved by LIPCO;
- 6 act according to the advice provided to you by LIPCO's advisers, mediators and appointed legal practitioners;
- 7 inform LIPCO in writing when an offer to settle a legal/labour dispute is received or when you intend to settle a legal/labour dispute. Where the matter is covered under this section and litigation is pending (i.e. legal process started), you may not enter into or offer a settlement without LIPCO's prior written consent;
- 8 refund to LIPCO any amounts received as a result of a cost order awarded in your favour.

# Exclusions

The following matters will be specifically excluded from cover under this policy:

- 1 Where representation or assistance is required for matters outside the borders of the Republic of South Africa or where any party to a dispute resides or is domiciled outside the borders of the Republic of South Africa;
- 2 Disputes between you and LIPCO and/or us and/or any agent/employee/consultant instructed by LIPCO or by us to act on your behalf, including a dispute as to the merits and/or the amount of a claim;
- 3 Any cession, assignment or delegation, the result and/or purpose of which is to bring any matter within the ambit of cover;
- 4 Acts amounting to gross negligence and/or malice where the law was intentionally disregarded without considering the possible consequences;
- 5 Civil matters where the amount claimed is less than R15 000,00;
- 6 Motoring matters (civil and criminally-related matters involving driving a vehicle);
- 7 The recovery of any excess amount in respect of your insurance policies;
- 8 Legal expenses you incurred without LIPCO's prior written approval;
- 9 Civil claims based on oral agreements (i.e. no written and signed contract);
- 10 The institution of civil claims based on non-contractual disputes;
- 11 Representation in the Appeal and Constitutional Court;
- 12 Debt collection in the ordinary course of business other than provided for under the Legal Expense Cover section;
- 13 Any dispute between you and any subsidiary or associated holding/parent/sister company of your business as well as any dispute between shareholders/directors/partners;
- 14 Interdicts (i.e. court orders preventing someone to do something) and self-motivated court applications, including liquidation applications or any matter related to insolvency/judicial review/judicial management or similar applications;
- 15 Representation, legal assistance, legal advice and mediation not specifically covered;
- 16 Representation in criminal cases;
- 17 Representation of any natural persons (except for Category A Sole Proprietors / Independent Contractors where action is instituted against the Sole Proprietor / Independent Contractor as a result of a business related activity and subject to all other applicable terms and conditions);
- 18 Matters regarding any of the following:
  - a nuclear weapons or material, ionising radiation or contamination by radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel (combustion includes any self-sustaining process of nuclear fission);
  - b civil commotion, labour disturbances, riot, strike, lock-out or public disorder, or any act or activity which is calculated or directed to bring about any of the above;
  - c war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
  - d mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;
  - e any act or attempted act (whether on behalf of any organisation, body or person, or group of persons) calculated or directed to overthrow or influence any state or government, or any provincial, local or tribal authority with force, or by means of fear, terrorism or violence;
  - f any act or attempted act calculated or directed at bringing about loss or damage in order to further any political aim, objective or cause or to bring about any social or economic change, or in protest against any state or government, or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public, or any section thereof;

- g any fund that has been established in terms of the War Damage Insurance and Compensations Act, 1976 (No. 85 of 1976) or any similar Act applying in any of the Republics to which this policy applies;
- h insurrection, rebellion or revolution;
- i any fund that has been established in terms of the War Damage Insurance and Compensations Act, 1976 (No. 85 of 1976) or any similar Act applying in any of the Republics to which this policy applies;
- j the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in the points above.

# Additional Policy Benefits

In addition to the Legal Expense Cover, you will also be entitled to the following services rendered by LIPCO:

## Legal Advice

This entails a telephonic advice service by qualified and experienced legal advisors who will explain the legal implications and requirements related to the following aspects of its business to you:

- Contracts
- Labour disputes
- Debtors
- Applicable legislation and regulations
- Licensing
- Litigation (civil, criminal & labour processes)

## Legal Negotiation

This entails negotiation with third parties on your behalf in an aim to settle legal and labour disputes where to you are a party. Negotiations will be undertaken by qualified and experienced legal staff to resolve legal and labour matters amicably (i.e. in a way of mutual understanding between the parties in dispute).

### **Please note:**

- Negotiations will be limited to telephonic, fax, post and email correspondence within the borders of South Africa only (i.e. no cross-border negotiation).
- All negotiation services are rendered at/from LIPCO's office and excludes attendances to any other premises (e.g. insured's workplace).
- No negotiation assistance will be rendered in regards to pre-existing matters. i.e. where the problem originated before such date, you will only be entitled to advice.

## Contract Access

This service entails access to the following standard business contracts as well as assistance to understand and complete it:

- Purchase and Sales Agreements
- Lease and Rental Agreements
- Service Level Agreements
- Customer and Supplier Agreements
- Loan Agreements
- Acknowledgement of Debt Agreements
- Non-disclosure Agreements
- Suretyships
- Partnership Agreements
- Shareholder Agreements
- Agency Agreements
- Employment Agreements

## How to claim

If you want to claim under this policy or make use of the additional policy benefits, please call the **Sales, Client Service and Claims number** (on this brochure).

## Disputed Claims

After we inform you of our decision on a claim, we will allow you 90 days to make the appropriate representations to us about our decision. If you do not comply with this time limit, we will not reconsider the disputed claim. If we do receive representations, the decision will then be reviewed, and the outcome communicated to you.

If, after review, we do not indemnify you for a claim or any part of it and you wish to challenge our decision, you must serve legal process within six months calculated from the expiry of the 90-day period referred to above. If you do not comply with this time limit, you will be prevented from proceeding with legal process.

## Dispute Resolution

If you are dissatisfied with any service provided in terms of this policy, contact the Internal Dispute Resolution Department within 90 days on **0860 10 90 59** or via e-mail as per the e-mail address on your schedule. If you do not comply with this time limit, you will be prevented from proceeding with legal process.

If the dispute is not resolved to your satisfaction you will have an additional 180 days to either institute legal proceedings or to contact the Ombudsman for Short-Term Insurance at PO Box 32334, Braamfontein, 2017.

Note that the Ombudsman only considers a complaint made to him if he is satisfied that the complaint has tried unsuccessfully to resolve the dispute through approaches to our management or our internal complaints handling department.

# Sales, Client Service and Claims

## 0861 08 88 90

Mon – Fri 8h00-16h30  
or email [legal@lipco.co.za](mailto:legal@lipco.co.za)

A qualified advisor will capture your case information and advise you further.