

# Kgwebo Guard Insurance Policy Document



Underwritten By BIHL Insurance Company Limited  
Registration Number: CO.2006/5503

Terms and conditions apply.





Legal Guard  
**Policy**  
**Document**



# Part A

## Important Notes

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1. This policy and the schedule are the contract between BIHL Insurance Company Limited and you of which you will be bound. No variation, amendment, or alteration thereto shall be binding on the INSURER unless agreed to in writing by the INSURER or otherwise effected in accordance with this POLICY. Provided further that it is further recorded that any representations made contrary to the provisions hereof shall not be binding on the INSURER.
2. This policy provides cover for the insured SMME.
3. This is a very important document which must be kept in a safe place. Please study your policy, summary of cover and schedule carefully in order to understand the terms and conditions of cover. Please contact us on 3634700 for any enquiries.

# Part B

## Definitions

“BOTSWANA”	shall mean the Republic of Botswana
“EXTERNAL ATTORNEYS”	shall mean the Attorney or other appropriately qualified person, firm or company nominated to act for the INSURED.
“FORUM”	shall mean Court, being Court of Appeal, High Court, Industrial Court, Magistrates Court or Tribunal.
“INSURER”	BIHL Insurance Company Limited (Registration Number: CO.2006/5503) and/or Legal Guard being the trading name.
“INSURED”	shall mean the SMME who has paid his/her premium to the INSURER or in the event of the death of such person, his or her personal representatives and dependants.
“INSURED EVENT”	shall mean the incident or the start of a transaction or series of incidents that may lead to a claim being made under this policy. For the purposes of the LIMIT OF INDEMNITY, only one INSURED EVENT shall be deemed to have arisen from all causes of action, incidents or events that are related by cause or by time.
“LEGAL COSTS AND EXPENSES”	shall mean fees, costs and disbursements reasonably, properly and necessarily incurred by the EXTERNAL ATTORNEYS after prior written approval by the INSURER of such agreement will be in accordance with the provisions of this policy.

# Part B

## Definitions

"LIMIT OF INDEMNITY"	shall mean the amount specified in the Application Forms being the maximum sum payable by the INSURER (irrespective of any RECOUPMENT of costs) in respect of an INSURED EVENT.
"PERIOD OF INSURANCE"	shall mean the period specified in the schedule and is the period during which the SCHEDULE is valid and for which the premium has been paid on due date.
"PROCEEDINGS"	shall mean the pursuit or defense of civil, criminal, tribunal or arbitration proceedings instituted and based on an INSURED EVENT
"RECOUPMENT"	shall mean such portion of LEGAL COSTS AND EXPENSES of the INSURED made payable to the INSURED in terms of an order by a FORUM or in terms of a settlement during the course or at the close of PROCEEDINGS.
"SCHEDULE"	shall mean the Schedule issued to and in the name of the individual INSURED and issued with the Legal Guard Policy. Such SCHEDULE will be proof of cover in terms of this Policy.
"THIRD PARTY"	Shall mean the opposing side in PROCEEDINGS.
"REPUDIATION"	A rejection or denial by the insurer to cover a claim in terms of this policy.
"YOU/YOUR/YOURS"	means the organisation/institution named in the Schedule (Insured)

# Part B

## Definitions

"US/OUR/WE"	means Legal Guard (Insurer)
"RENEWAL PERIOD"	means a period of 12 consecutive months as shown in the Schedule.
"RENEWAL DATE"	means the first day of a period of 12 consecutive months as shown in the Schedule.
"CLAIM(S)"	means any request for compensation (indemnity), whether or not any amounts have been established for the claim(s).
"SMME"	means Small, Medium or Micro Enterprises as defined and stated in the Small Business Act Cap 53:10 as amended from time to time.
"LICENCE"	means a valid driver's licence in compliance with legislation of the specific country where the vehicle is used at the time of any loss or damage. A person who is learning to drive must comply with legislation concerning learner drivers
"CIVIL LEGAL ACTION"	means an institution and/or defence of legal action procedure by way of summons.

# Part C

## Your Cover

1. We will compensate you up to the limits shown in the Schedule for your legal costs and legal expenses in connection with any of the following events, subject to the terms and conditions of this policy:

1.2 CIVIL LEGAL ACTION

- An event that leads to a civil legal action brought by you or against you;
- Civil legal actions covered in this policy are disputes that a court of law must decide as concerning a civil claim by or against you, e.g. a dispute about "breach of contract" of an agreement of which you are a party to.

1.3 LABOUR MATTERS

- An event that leads to legal action by or against you in a labour court;
- Labour matters covered in this policy are disputes that arise out of an employment relationship between you as an employer and an employee, e.g. dispute about the fairness of the dismissal of your employee by you as an employer.

1.4 CONTRAVENTION OF STATUTORY AND REGULATORY MATTERS

- An event that leads to your defence of a charge laid against you for contravention of statutory or regulatory requirements of which you are subject to;
- This cover includes, amongst others, matters such as you defending a charge for contravention of the company laws under the Companies Act Cap 42:01.

1.5 GENERAL LEGAL ADVICE

We will, in addition to the covers stated above, arrange for advice to be given to you on legal matters relating to your conduct and your industry requirements.

# Part D

## Additional Services

If you are an SMME, we will provide to you the following services in addition to the covers stated under "Part A" above.

### 1. Legal Drafting of Commercial Contracts

#### 1.1 We will assist you in the drafting of your contracts.

The contract will be:

- uniquely tailored to each of your circumstances;
- backed by a team of experienced attorneys;
- fully completed and ready for signature on delivery to you;
- delivered with advice on how to sign and use it;
- stored and managed via an administrative console;

#### 1.2 Contracts that we will make available to you are the following

- a. Memorandum of incorporation
- b. Acknowledgement of debt
- c. Commercial lease
- d. Confidentiality agreement
- e. Deed of suretyship
- f. General employment agreement
- g. Independent contractors' agreement
- h. Loan agreement
- i. Payment/performance guarantee
- j. Restraint of trade
- k. Trust deed
- l. Sale of property
- m. Sale of shares
- n. Shareholders' Agreement
- o. Standard conditions of trade

The list of types of contracts that we will assist you with is not closed to the one stated above, we may, at our discretion add or take out contracts from this list.

# Part E

## Terms And Conditions

Cover under this policy is provided subject to the following terms and conditions.

### 1. Basis of this policy

This policy, the Schedule, our correspondence to you, your application for insurance and any statement, written or spoken, made by you, or on your behalf, forms the contract between us and you.

### 2. Cover provided by this policy

2.1 We will provide cover under this policy only if we have received your premium in terms of clause 4.

2.2 Our cover for legal costs and legal expenses is for the costs of legal services rendered.

### 3. Period of this policy

The period of this policy is initially, the annual period from the start date of this policy, as shown on the Schedule, up to the last day stated in the Schedule.

### 4. Issuing of policy

4.1 Inclusion in Terms and conditions: You have authorised us to issue a policy under your business name and to deduct premium from the bank account specified in the application for insurance. You agree that the issuing of the policy is based on your own assessment of your insurance needs and that you were provided with an opportunity to contact us for advice in relation to the application and/or the policy.

# Part E

## Terms And Conditions

### 5. Payment of premium

5.1 The premium must be paid in advance using an agreed payment method and on the date agreed between you and us as shown in the Schedule.

5.2 If you cannot pay the premium on the agreed date:

- because you have stopped the payment or you have ordered your paying agent to stop the payment, then this policy will cancel at midnight on the last day of the period of this policy for which we received the premium;
- for any reason other than the one stated above, then you have thirty days grace period in which to pay the premium. If you cannot pay the premium within the grace period, this policy will cancel at midnight on the last day of the period of this policy for which we received the premium.

### 6. Changes

We may make changes to this policy by giving you 30 days' written notice of the changes at your postal address as shown on the Schedule alternatively nominated method of service as may be agreed from time to time between the parties.

### 7. Cancellation

7.1 You may cancel this policy at any time and we will be entitled to retain a portion of your premium for the period your policy was in force.

7.2 We may cancel this policy by giving you 30 days' written notice of the cancellation at your postal address as shown on the Schedule. If we cancel this policy, you will be entitled to claim from us a pro rata portion of the premium, if any is left, for the balance of the remaining period of insurance from the date of cancellation.

# Part E

## Terms And Conditions

7.3 You may cancel this policy at any time, however, if we compensated you for claims for the maximum insured amount, we will not refund any premium for the remainder of the period of this policy. You will further not be entitled to cancel this policy within the renewal period and no further claims will be covered during the term of the said policy)

### 8. Claims

#### 8.1 CLAIM PROCEDURE

8.1.1 You must tell us as soon as possible of any event that may result in a claim, and advise us of any other policy which may cover the same event.

8.1.2 You must give us full details of the event within 30 days after it has occurred, as well as all documents which we may reasonably require.

8.1.3 You must immediately inform us in writing if you become aware of any possible prosecution, legal proceedings, or claim against you following an event.

8.1.4 You must immediately report to the police any criminal activity that may result in a claim.

8.1.5 You may not without our written consent: contract the legal services of any service provider, admit liability, offer, promise or pay legal costs and legal expenses to any service provider;

#### 8.2 OUR RIGHTS AFTER AN EVENT WHICH MAY LEAD TO A CLAIM

8.2.1 You must supply all information and assistance that we reasonably require.

8.2.2 We may, at any time, relinquish control of any defence, action, settlement or proceedings and pay you the full amount of our liability, or any lesser amount for which the claim can be settled. If we do so, we will be discharged from all further liability.

8.2.3 You must tell us if anyone or party offers to settle a claim and must not agree to any settlement without the written consent of us.

8.2.4 If you do not accept a reasonable offer to settle a claim, we may refuse to pay further costs and expenses.

# Part E

## Terms And Conditions

### 8.3 FRAUDULENT OR WILFUL ACTS

You will lose all rights to claim under this policy if:

- 8.3.1 a claim is fraudulent or if you or anyone acting on your behalf uses any fraudulent means to obtain any benefit under this policy; or
- 8.3.2 a claim occurs due to a deliberate, or wilful, or intentional act committed by you or with your involvement or anyone acting on your behalf; or
- 8.3.3 information or documents in support of a claim, whether created by you or on your behalf, is not true, is not complete or is fraudulent.

### 8.4 TIME LIMITS

- 8.4.1 If we reject your claim or dispute the amount of your claim, which decision was communicated to you in writing, you may within 90 days from the date of our communication make written representation to us;
- 8.4.2 If we still reject your claim or dispute the amount of your claim despite your written representation, you may institute legal proceedings against us within 6 months from the date we communicate to you the rejection of your written representation.
- 8.4.3 We are not liable after 12 months from the date of the event that gives rise to a claim, unless the claim is:
  - the subject of pending court action or any judicial process; or
  - for amounts for which you may become legally liable.

# Part E

## Terms And Conditions

### 8.5 CONTACT US WHEN YOU CLAIM

Please contact our emergency and claims line on 363 4700. Claims can also be reported directly on our web site: [www.legalguard.co.bw](http://www.legalguard.co.bw) or at our place of business.

### 9. Other insurance

If a claim is payable under this policy and under any other policy, we will only pay our proportional share of the claim.

### 10. Jurisdiction

This policy is subject to the jurisdiction of the courts of the Republic of Botswana. The laws of the Republic of Botswana will apply.

### 11. Basis of indemnity and limit of compensation

**11.1** Legal costs and legal expenses are based on our tariff rate. The rate is revised from time to time and you may ask for it at any time.

**11.2** Our cover for legal costs and legal expenses is limited to two claims at any one time during any period of this policy. This period is inclusive of the renewal period. At least one of the two claims must be finalised before any further claim from you will be considered.

**11.3** We will pay legal costs and legal expenses up to the amount shown in the Schedule in each renewal period for all claims collectively.

# Part E

## Terms And Conditions

### 12. Preferred attorney

- 12.1 Our compensation for legal costs and legal expenses is based on our tariff rate which is charged by our preferred attorneys.
- 12.2 Should you decide not to use one of our preferred attorneys, you will be personally liable for the difference between our tariff rate and the rate charged by an attorney appointed by you.
- 12.3 Once an attorney is appointed to represent you, you must deal directly with the attorney as we will no longer provide legal advice on the matter.

### 13. Bills of costs

You must send all bills of costs to us for approval. In instances whereupon you are liable to make part payment to the attorney, and such representation has been made to you, a default in any due payment will result in lapse of the claim.

### 14. Recovery

If any legal costs and legal expenses are recovered from another party, these must be paid to us.

### 15. Waiting periods

All events or claims are only covered after a waiting period has ended. The waiting period is shown in the Schedule and specified as three months from the date of inception of the policy.

### 16. Appeals

Appeals are not automatically covered in terms of this policy. We may, at our discretion, determine the merits of the case and decide to pay the legal costs and legal expenses occasioned in the appeal.

# Part E

## Terms And Conditions

### 17. Arbitration

Any claim arising out of arbitration or any judicial process incidental thereto either on referral by any legislative body or whatsoever will not be covered in terms of this policy.

### 18. Debt Collection

Any claim in relation to debt collection and/or any claim related thereto shall not be covered in terms of this policy. We will assist with the non-litigation aspect of such a claim.

### 19. Inter Territorial Cover

Any claim arising out of; or any action, settlement or proceedings instituted outside the territories of the Republic of Botswana shall not be covered in terms of this policy.

### 20. Personal Injury

Any claim in respect of damages for personal injury or loss of or damage to property shall not be covered in terms of this policy.

### 21. Rights against Us

Any claim, action, settlement or proceedings against us shall not be covered in terms of this policy.

### 22. Consent

22.1 You must obtain our written consent before you incur any legal costs and legal expenses, otherwise we shall reject your claim.

22.2 You must obtain our written permission before you terminate the services of an attorney representing you in order to appoint another attorney. We will grant permission to terminate the services of the attorney representing you, if we are satisfied with your reasons for such termination.

# Part E

## Terms And Conditions

### 23. Sharing of insurance information and your authorization to us

The sharing of information for underwriting and claims purposes is in the public interest and enables insurers to underwrite and assess risks fairly. This reduces the incidence of fraudulent claims and contributes to keeping insurance premiums as low as possible.

You therefore authorise us to share any underwriting and claims information for any insurance policy or claim made by you or on your behalf as we regard necessary; to store this information in a shared database and use it in the public interest; to give this information to any insurer or its agent; to verify and share any underwriting information with legally recognised sources or databases.

You also consent to us obtaining personal information pertaining to you and to your claim(s) and to the use and disclosure of such information in relation to your claim(s). You agree that the above is in yours and public interest and you waive your right to privacy as provided herein.

### 24. Misrepresentation

24.1 In the event that the information provided is not correct or is misleading or you have not given us all the details that affects the risk or you do not inform us of any changes after issuing this policy, this policy, any section or sub-section thereof may be cancelled or we may reassess your risk or we may reject any claim that occurred after the change in risk. For this General Term and Condition, the term "you" includes any person acting on your behalf.

### 25. A person who deals on your behalf

You give up your right to receive indemnification in terms of the cover amount stipulated in your policy schedule, if a person authorised by you who deals on your behalf does not comply with the terms and conditions of this policy.

### 26. Territory

We will provide cover under this policy only for legal costs and legal expenses you incur in Botswana.

# Part E

## Terms And Conditions

### 27. Limitation of Liability

The INSURER, and/or the EXTERNAL ATTORNEYS acting on behalf of the INSURED will not be liable for any damages (or consequential damages) including costs awarded arising out of any advice given in good faith or action taken or any other conduct whatsoever, notwithstanding any mistake, error of judgment or negligence on the part of the INSURER and/or the EXTERNAL ATTORNEYS: Provided that the EXTERNAL ATTORNEYS shall act diligently as the ATTORNEYS of the INSURED.

### 28. Benefits Inalienable

Benefits under this POLICY may not be ceded, assigned or pledged as security in any way.

# Part F

## Exclusions

1. We will not pay for legal costs and legal expenses caused by or result from or relate to any of the following:
  - 1.1 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.
  - 1.2 War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), or civil war.
  - 1.3 Mutiny, military rising 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, insurrection, rebellion or revolution.
  - 1.4 Any act (whether on behalf of an organisation, body, person or group of persons) that endangers the safety of the state or 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.
  - 1.5 Any act calculated or directed to bring about loss or damage 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.
  - 1.6 Any attempt to perform any act referred to in exclusions 1.4 or 1.5 above.
  - 1.7 The act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any event referred to in any of exclusions 1.1 to 1.6 above.
  - 1.8 Any act of terrorism. An act of terrorism means the use or threat of violence for political, religious, personal or ideological reasons. This may or may not include an act that is harmful to human life. It could be committed by any person or group of persons, acting alone, on behalf of or with any organization or government. It includes any act committed with the intention to influence any government or inspire fear in the public.

# Part F

## Exclusions

2. We will not pay for legal costs and legal expenses for an event in connection with:
  - 2.1 the use of a vehicle, watercraft or aircraft all powered by an engine, for racing;
  - 2.2 compensation that is in conflict with legislation;
  - 2.3 a civil legal action instituted by you against your attorney in his professional capacity;
  - 2.4 any action involving us or an Underwriting Manager under this policy;
  - 2.5 a vehicle involved in an accident and any of the following applies at the time of the accident:
    - 2.5.1 the vehicle is driven by any person with your express or implied permission and who is to your knowledge are under the influence of intoxicating liquor or drugs, or that person's blood or breath alcohol concentration is more than the legal limit;
    - 2.5.2 the vehicle is driven by a person with your express or implied permission and does not have a licence to drive your vehicle;
    - 2.5.3 the vehicle does not have a valid motor vehicle licence;
    - 2.5.4 the vehicle is not roadworthy;
  - 2.6 a traffic offence for which an admission of guilt has been issued;
  - 2.7 the recovery or payment of any excess for any insurance;
  - 2.8 any matter that happened before the start of the policy or during the waiting period;
  - 2.9 amounts due to your legal representatives that cannot be considered as legal costs and legal expenses under our tariff rate;
  - 2.10 application procedures and *ex-parte* applications you bring.

# Part F

## Exclusions

3. We will not pay for legal costs and legal expenses if:
  - 3.1 the legal action is continued or defended in a way that differs from the advice of the attorney or advocate who represents you;
  - 3.2 you do not give timely, proper instructions and complete information to your attorney or advocate;
  - 3.3 you have other insurance for legal costs and legal expenses and do not tell us, or you prejudice our rights to claim pro rata compensation, fair compensation, or both.
4. We will not pay for legal costs and legal expenses caused by or resulting from or relates to any of the following:
  - 4.1 Nuclear weapons material, ionising radiations or contamination by radioactivity from any nuclear fuel, or from any nuclear waste, or from the combustion of nuclear fuel which includes any self-sustaining process of nuclear fission.
  - 4.2 Nationalisation, confiscation, commandeering, requisition, wilful destruction, forfeiture, attachment, impounding, seizure or preservation or any similar actions or processes by any court order, customs officials, police, crime prevention units, or lawfully constituted authority or officials.
  - 4.3 Any liability which you have because of an agreement you have entered into, unless you would have been liable if the agreement did not exist.
  - 4.4 Consequential or indirect loss.  
If we state that a claim is not covered because of 1 to 4 above, you must prove the contrary.
5. We shall not pay for any legal cost awarded against you.
6. Matters with monetary value of less than P10 000.00 (Ten Thousand Pula) or any that fall within the jurisdiction of the Small Claims Court.

# Commercial Legal Expenses Insurance Policy

To find out more about **Code Green** call us on  
**+267 312 1986**, [enquiries@bihlic.co.bw](mailto:enquiries@bihlic.co.bw) or visit  
[www.legalguard.co.bw](http://www.legalguard.co.bw)

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Terms and conditions apply.



**Signature:**   
Kagiso Lesego-Sekwati (Dec 15, 2023 09:57 GMT+2)

**Email:** kagiso.mooko@fnbbotswana.co.bw

**Signature:** 

**Email:** bojotlhe.butale@fnbbotswana.co.bw

**Signature:**   
Govern Maseba (Dec 19, 2023 13:44 GMT+2)

**Email:** Govern.Maseba@fnbbotswana.co.bw

# APPROVE Kgwebo Guard - Policy wording FINAL

Final Audit Report

2023-12-19

Created:	2023-12-15
By:	Koketso Tainton (koketso.tlhaselotainton@fnbbotswana.co.bw)
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-  Document created by Koketso Tainton (koketso.tlhaselotainton@fnbbotswana.co.bw)  
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-  Koketso Tainton (koketso.tlhaselotainton@fnbbotswana.co.bw) added alternate signer Govern.Maseba@fnbbotswana.co.bw. The original signer mosadinkwe.mosinyi@fnbbotswana.co.bw can still sign.  
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 Agreement completed.  
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