

# RISK ALERT

JUNE 2023 NO 3/2023

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## RISK MANAGEMENT COLUMN

### CHANGES TO THE LPIIF POLICIES FROM 1 JULY 2023

**A**head of the start of the new insurance year on 1 July 2023 (remember that the insurance policy year runs from 1 July to 30 June), the Legal Practitioners Indemnity Insurance Fund NPC (LPIIF) gives notice to the legal profession that the changes set out below will be made to its policies in the new year.

#### The Professional Indemnity insurance policy

The following amendments will be made to the professional indemnity insurance policy:

1. An amendment of the Preamble by omitting sub-paragraphs (a) and (b) to avoid confusion with regards to the nature and extent of the professional indemnity cover provided.
2. An amendment of Definition V relating to bridging finance by adding "or any party to litigation for purposes related to that litigation".
3. The definition of "dishon-



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4. "est" in clause XI will be amended to state that the word will bear its ordinary meaning.
4. The definition of "Claim" (clause VI) will be amended to include an "oral" demand made to an insured by a client or third party.
5. Currently, the words "compensation" and "damages" are used interchangeably

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#### DISCLAIMER

Please note that the Risk Alert Bulletin is intended to provide general information to legal practitioners and its contents are not intended as legal advice.



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in the policy. The word “damages” will now be used throughout the policy. There will be a new definition of the word “Compensation” to cater for situations and areas in the policy where the word is used.

6 Clause 22 will be reworded to read as follows:

“The **Insured** must:

- a) notify the **Insurer** in writing as soon as practicable of any circumstance, act, error or omission that may give rise to a **Claim**; and
- b) notify the **Insurer** in writing as soon as practicable of any **Claim**, but by no later than one (1) week after receipt thereof, in such notification enclosing a copy of the written communication or legal document or, in the event of an oral **Claim**, conveying the detail of the oral demand.

In the event of non-compliance, the **Insurer** reserves the right to deduct from the indemnification amount or amounts to which the **Insured** would otherwise have been entitled, such amount or amounts as represent the **Insurer’s** assessment of the damage suffered by the **Insurer** as a result of the non-compliance, which amount or amounts might be comprised of increased costs (whether in the form of **Approved Costs** or **Defence Costs** or both), interest that would not otherwise have been payable, or increased liability, or any combination thereof.”

7 A slight amendment to the definition of “Cybercrime” in clause X to include reference to the Cybercrime Act 19 of 2020.

8 By adding a new Definition XX which seeks to define the insurer’s costs.

9 By removing in Definition XXII (Legal Services) the part that refers to work done or advice given on foreign law and made it an exclusion on its own.

10 By changing Definition XXVIII relating to Senior Practitioner in the dispute resolution clause 40 from being an attorney or trust account advocate to a traditional advocate in order to enhance objectivity and impartiality in the process of dispute resolution;

11 By removing, in Clause XXIX (Trading Debt), reference to “damages” in sub-clause (b), and adding “incurred by the insured”.

12 By adding in Clause 1 the words “...and subject to the provisions and exclusions thereof” to make the clause read better.

13 By removing 6(e) in Clause which relates to the liquidators and trustees in insolvent estates.

14 By combining old Clauses 13 and 15 together into the new 13.1 and 13.2 respectively.

15 By adding reference to Section 56(6)(a) of the Legal Practice Act to Clause 16(f), and also adding at the end of the clause “...provided that the insured’s doing so constituted the provision of legal services” to improve the clause.

16 By amending Clause 16(g) relat-

ing to punitive costs by adding at the end of the clause “...or where a costs order against the insured is unrelated to the insured’s being held liable for the payment of Compensation”.

17 By slightly amending Clause 16(i) relating to the Investment exclusion by omitting “...in respect of a conveyancing transaction” to avoid creating an incorrect impression that the exclusion applies only to conveyancing transactions.

18 By adding a new Clause 16(m) dealing with Liquidators and trustees in line with the amendment of Clause 6(e).

19 By slightly amending the new Clause 16(n) (which was Clause 16(m) in the previous year Master policy) to read as follows:

“arising out of or in connection with the receipt or payment of funds, whether into or from the **Legal Practice’s** trust account or otherwise, where:

(i) that receipt or payment of funds is unrelated to the successful completion of a direct instruction to the **Insured** to provide specific **Legal Services** other than the receipt or payment itself; or

(ii) the insured acts merely as a conduit for the transfer of funds from the **Legal Practice’s** trust or other account to the payee, and provides no **Legal Services** beyond acting as such conduit”.

20 By slightly amending new Clause 16(u), which was Clause 16(t) in the previous year), by

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excluding or omitting reference to the rules.

- 21 By adding a new exclusion Clause 16(v) relating to work done outside of RSA, which is effectively a formalisation of what was already excluded in old definition XX in relation to the definition of legal services.
- 22 A slightly amendment to Clause 19 dealing with “dishonesty” by changing the writing style from “..takes all...” to “...has taken all...”.
- 23 Clause 30 has changed positions to make the policy read better, and a new heading has been added before Clause 30 reading “The consequence of the insured breaching any terms of the policy”.
- 24 In Clause 31 - Insurer’s rights and duties, by omitting the sentence referring to the “exercise of the insurer’s discretion in terms of (a) will not be unreasonable”.
- 25 In Clause 32 - Agreement not to settle without insured’s prior consultation, by adding “...or Insurer’s Costs” in subparagraph (a).
- 26 By amending Clause 34 to add reference to “Approved Costs” and “Insurer’s Costs” to the clause.
- 27 By amending Clause 40 relating to the dispute resolution mechanism by including a new reference to a dispute arising from “the amount of indemnity”, and also added a new reference to the interruption of prescription during the period of having submitted written submission at the end of the clause.

The limits of indemnity (amount of cover) and excesses will remain un-



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changed. For information purposes, the limits of indemnity and excesses, respectively, are set out and below.

The annual aggregate limits of indemnity per firm:

Clause 20 reads as follows:

“20. Where the **Dishonest** conduct includes:

- a) the witnessing (or purported witnessing) of the signing or execution of a document without seeing the actual signing or execution; or
- b) the making of a representation (including, but not limited to, a representation by way of a certificate, acknowledgement or other document) which was known at the time it was made to be false.

The **Excess** payable by the **Innocent Insured** will be increased by an additional 20%.”

The new policies will become effective from 1 July 2023 and uploaded onto the website [www.lpiif.co.za](http://www.lpiif.co.za).

### The Executor Bond policy

One change will be made to the executor bond policy. The words “a legal practitioner” in clauses 1.1, 3.3.5, 3.11.2, 3.11.3, and 4.2 will be deleted and replaced with “an attorney”. This amendment is made to further clarify that bonds of security are only granted to practising attorneys seeking appointment as executors of deceased estates. Section 77(3) of the Legal Practice Act 28 of 2014(the Act) provides that the Board of the Legal Practitioners’ Fidelity Fund (Fidelity Fund) “may enter into deeds of suretyship to the satisfaction of the Master of the High Court having jurisdiction in order to provide security on behalf of an attorney in respect of work done by an attorney as-

- (a) executor in the estate of a deceased person” (emphasis added).

The change will thus further ensure that the wording of the executor bond policy is aligned with section 77 (3) of the Act. Since the introduction of this service in 1998, the LPIIF has always only granted bonds of security to practising attorneys who meet the requirements prescribed by the company.

The maximum value of bonds issued (R5 million per estate) and total exposure for a firm at any time (R20 million) will remain unchanged.

For your ease of reference, the executor bond policy, application form and resolution are attached as annexures to this document.



## THE 2023/2024 LPIIF MASTER POLICY

### PREAMBLE

The **Legal Practitioners' Fidelity Fund**, as permitted by the **Act**, has contracted with the **Insurer** to provide professional indemnity insurance to the **Insured** against liability which may arise out of the **Insured's** professional conduct as **Practitioner**.

### DEFINITIONS:

- I Act:** The Legal Practice Act 28 of 2014.
- II Annual Amount of Cover:** The total available amount of cover for the **Insurance Year** for the aggregate of payments made for all **Claims**, **Approved Costs** and **Claimants' Costs** in respect of any **Legal Practice** as set out in Schedule A.
- III Approved Costs:** Legal and other costs incurred by the **Insured** with the **Insurer's** prior written consent (which will be in the **Insurer's** sole discretion) in attempting to prevent a **Claim** or limit the amount of a potential **Claim**.
- IV Legal Practitioners' Fidelity Fund:** As referred to in Section 53 of the **Act**.
- V Bridging Finance:** The provision of short-term finance to a party to a **Conveyancing Transaction** before it has been registered in the Deeds Registry, or to a party to litigation for purposes related to that litigation.
- VI Claim:** A written or oral demand for payment of **Compensation** from the **Insured**, which arises out of the **Insured's** provision of **Legal Services**. For the purposes of this policy, a demand is any written or oral communication or any legal document that either makes a demand for, or intimates or implies an intention to demand, payment of **Compensation** from an **Insured**.
- VII Claimant's Costs:** The legal costs the **Insured** is obliged to pay to a claimant by order of a court, arbitrator, or by an agreement approved by the **Insurer**.
- VIII Compensation:** Loss for which the **Insured** is liable arising out of the **Insured's** provision of **Legal Services**. **Compensation** includes a liability for capital, interest and **Claimant's Costs**.
- IX Conveyancing Transaction:** A transaction which:
- involves the transfer of legal title to, or the registration of a real right in immovable property from, one or more legal entities or natural persons to another; and/or
  - involves the registration or cancellation of any mortgage bond or real right over immovable property; and/or
  - is required to be registered in any Deeds Registry
- in the Republic of South Africa, in terms of any relevant legislation.
- X Cybercrime:** Any offence that is facilitated by or involves the use, interception or interference with electronic communications, information systems, computer data storage mediums or computer systems, including but not limited to interception of or interference with data as described in the Cybercrimes Act 19 of 2020 or any successor thereto.
- XI Defence Costs:** The reasonable costs incurred by the **Insured**, with the **Insurer's** prior written consent, in investigating and/or defending a **Claim** against the **Insured** in question.
- XII Dishonest:** Shall bear its ordinary meaning.
- XIII Employee:** A person who is or was employed or engaged by the **Legal Practice** to assist in providing **Legal Services**. (This includes in-house legal consultants, associates, professional assistants, candidate legal practitioners, paralegals and clerical staff but does not include an independent contractor who is not a **Practitioner**).
- XIV Excess:** The first amount (or deductible) payable by the **Insured** in respect of each and every **Claim** (including **Claimant's Costs**) as set out in schedule B.
- XV Fidelity Fund Certificate:** A certificate provided for in terms of section 84 of the **Act**, read with Rules 3, 47, 48 and 49 of the South African Legal Practice Council Rules made under the authority of section 95(1) of the **Act**.
- XVI Innocent Principal:** Each current or former **Principal** who:
- may be liable for the debts and liabilities of the **Legal Practice**; and
  - did not personally commit or participate in committing the **Dishonest**, fraudulent or other criminal act, and had no knowledge or awareness of such act.
- XVII Insured:** The persons or entities referred to in clauses 5 and 6 of this policy.
- XVIII Insurer:** The Legal Practitioners Indemnity Insurance Fund NPC, Reg. No. 93/03588/08.
- XIX Insurance Year:** The period covered by the policy, which runs from 1 July of the first year to 30 June of the following year.
- XX Insurer's Costs:** Costs incurred by the **Insurer** in exercising its rights in accordance with clause 31 in dealing with or contesting a **Claim** or in attempting to prevent or limit the amount of a potential **Claim**.

- XXI Legal Practice:** The person or entity listed in clause 5 of this policy.
- XXII Legal Services:** Subject to the provisions and exclusions of this policy, work done or advice given in the ordinary course of carrying on the business of a **Legal Practice** in the Republic of South Africa in accordance with the provisions of section 33 of the **Act**.
- XXIII Practitioner:** Any attorney, advocate referred to in section 34(2)(b) of the **Act**, notary or conveyancer as defined in the **Act** who is the **Insured**.
- XXIV Prescription Alert:** The computerised back-up diary system that the **Insurer** makes available to the legal profession.
- XXV Principal:** An advocate referred in section 34(2)(b) of the **Act**, sole **Practitioner**, partner or director of a **Legal Practice**, or any person who is publicly held out to be a partner or director of a **Legal Practice**.
- XXVI Risk Management Questionnaire:** A self-assessment questionnaire which can be downloaded from or completed on the **Insurer's** website ([www.lpiif.co.za](http://www.lpiif.co.za)) and which must be completed annually by the advocate referred to in section 34(2)(b) of the **Act**, sole practitioner, senior partner, director or designated risk manager of the **Insured** as referred to in clause 5. The annual completion of the **Risk Management Questionnaire** is prescribed by this policy (see clause 23) and the South African Legal Practice Council Rules made under the **Act**.
- XXVII Road Accident Fund claim:** A claim for compensation for losses in respect of bodily injury or death caused by, arising from or in any way connected with the driving of a motor vehicle (as defined in the Road Accident Fund Act 56 of 1996 or any predecessor or successor of that Act) in the Republic of South Africa.
- XXVIII Senior Practitioner:** A senior counsel practising as an advocate in accordance with section 34(2)(a)(i) of the **Act**, with experience in professional indemnity insurance law.
- XXIX Trading Debt:** A debt incurred as a result of the undertaking of the **Insured's** business or trade (trading debts are not compensatory in nature, and this policy deals only with claims for **Compensation**). This exclusion includes (but is not limited to) the following:
- a refund of any fee or disbursement charged by the **Insured** to a client;
  - Compensation** or other forms of damages which are calculated by reference to any fee or disbursement charged by the **Insured** to a client or incurred by the **Insured**;
  - payment of costs relating to a dispute about fees or disbursements charged by the **Insured** to a client; and/or
  - any labour dispute or act of an administrative nature in the **Insured's** practice.

## WHAT COVER IS PROVIDED BY THIS POLICY?

1. On the basis set out in this policy and subject to

the provisions and exclusions thereof, the **Insurer** agrees to indemnify the **Insured** against professional legal liability to pay **compensation** to any third party:

- a) that arises out of the provision of **Legal Services** by the **Insured**; and
  - b) where the **Claim** is first made against the **Insured** during the current **Insurance Year**.
2. The **Insurer** agrees to indemnify the **Insured** for **Claimants' Costs** and **Defence Costs** on the basis set out in this policy.
  3. The **Insurer** agrees to indemnify the **Insured** for **Approved Costs** in connection with any **Claim** referred to in clause 1.
  4. As set out in clause 38, the **Insurer** will not indemnify the **Insured** in the current **Insurance Year**, if the circumstance giving rise to the **Claim** has previously been notified to the **Insurer** by the **Insured** in an earlier **Insurance Year**.

## WHO IS INSURED?

5. Provided that each **Principal** had a **Fidelity Fund Certificate** at the time of the circumstance, act, error or omission giving rise to the **Claim**, the **Insurer** insures all **Legal Practices** providing **Legal Services** in the form of either:
  - a) a sole **Practitioner**;
  - b) a partnership of **Practitioners**;
  - c) an incorporated **Legal Practice** as referred to in section 34(7) of the **Act**; or
  - d) an advocate referred to in section 34 (2)(b) of the **Act**. For purposes of this policy, an advocate referred to in section 34(2)(b) of the **Act** will be regarded as a sole practitioner.
6. The following are included in the cover provided to the **Legal Practice**, subject to the **Annual Amount of Cover** applicable to the **Legal Practice**:
  - a) a **Principal** of a **Legal Practice** providing **Legal Services**, provided that the **Principal** had a **Fidelity Fund Certificate** at the time of the circumstance, act, error or omission giving rise to the **Claim**;
  - b) a previous **Principal** of a **Legal Practice** providing **Legal Services**, provided that that **Principal** had a **Fidelity Fund Certificate** at the time of the circumstance, act, error or omission giving rise to the **Claim**;
  - c) an **Employee** of a **Legal Practice** providing **Legal Services** at the time of the circumstance, act, error or omission giving rise to the **Claim**;
  - d) the estates of the people referred to in clauses 6(a), 6(b) and 6(c).

## AMOUNT OF COVER

7. The **Annual Amount of Cover**, as set out in Schedule A, is calculated by reference to the number of **Principals** that made up the **Legal Practice** on the date of the circumstance, act, error or omission giving rise to the **Claim**.

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A change during the course of an insurance year in the composition of a **Legal Practice** which is a partnership will not constitute a new **Legal Practice** for purposes of this policy and would not entitle that **Legal Practice** to more than one limit of indemnity in respect of that **Insurance Year**.

8. Schedule A sets out the maximum **Annual Amount of Cover** that the **Insurer** provides per **Legal Practice**. This amount includes payment of **Compensation, Approved Costs** and **Claimants' Costs**.
9. Cover for **Approved Costs** is limited to 25% of the **Annual Amount of Cover** or such other amount that the **Insurer** may allow in its sole discretion.  
**Insured's excess payment**
10. The **Insured** must pay the **Excess** in respect of each **Claim**, directly to the claimant or the claimant's legal representatives, immediately it becomes due and payable. Where two or more **Claims** are made simultaneously, each **Claim** will attract its own **Excess** and, to the extent that one or more **Claims** arise from the same circumstance, act, error or omission, the **Insured** must pay the **Excess** in respect of each such **Claim**;
11. The **Excess** is calculated by reference to the number of **Principals** that made up the **Legal Practice** on the date of the circumstance, act, error or omission giving rise to the **Claim**, and the type of matter giving rise to the **Claim**, as set out in Schedule B.
12. The **Excess** set out in column A of Schedule B applies:
  - a) in the case of a **Claim** arising out of the prescription of a **Road Accident Fund claim**. This **Excess** increases by an additional 20% if **Prescription Alert** has not been used and complied with by the **Insured**, by timeous lodgement and service of summons in accordance with the reminders sent by **Prescription Alert**;
  - b) in the case of a **Claim** arising from a **Conveyancing Transaction**.
13.
  - 13.1 In the case of a **Claim** where clause 20 applies, the **excess** increases by an additional 20%.
  - 13.2 The **Excess** set out in column B of Schedule B applies to all other types of **Claims**.
14. No **Excess** applies to **Approved Costs** or **Defence Costs**.

## THE MAXIMUM ANNUAL AMOUNT OF COVER

15. Schedule A sets out the maximum **Annual Amount of Cover** that the **Insurer** provides per **Legal Practice**. This amount includes payment of **Compensation, Approved Costs** and **Claimants' Costs**.

## WHAT IS EXCLUDED FROM COVER?

16. This policy does not cover any liability for **Compensation**:
  - a) arising out of or in connection with the **Insured's Trading Debts** or those of any **Legal Practice** or

business managed by or carried on by the **Insured**;

- b) arising from or in connection with misappropriation or unauthorised borrowing by the **Insured** or **Employee** or agent of the **Insured** or of the **Insured's** predecessors in practice, of any money or other property belonging to a client or third party and/or as referred to in section 55 of the **Act**;
- c) which is insured or could more appropriately have been insured under any other valid and collectible insurance policy available to the **Insured**, covering a loss arising out of the normal course and conduct of the business, or where the risk has been guaranteed by a person or entity, either in general or in respect of a particular transaction, to the extent to which it is covered by the guarantee. This includes but is not limited to Misappropriation of Trust Funds, Personal Injury, Commercial and Cybercrime insurance policies;
- d) arising from or in terms of any judgment or order(s) obtained in the first instance other than in a court of competent jurisdiction within the Republic of South Africa;
- e) arising from or in connection with the provision of **Investment Advice** or the administration of any funds or taking of any deposits as contemplated in:
  - (i) the Banks Act 94 of 1990;
  - (ii) the Financial Advisory and Intermediary Services Act 37 of 2002;
  - (iii) the Agricultural Credit Act 28 of 1996;
  - (iv) any law administered by the Financial Sector Conduct Authority and/or the South African Reserve Bank and any regulations issued thereunder; or
  - (v) the Medical Schemes Act 131 of 1998 as amended or replaced.For purposes of this clause, **Investment Advice** means any recommendation, guidance or proposal of a financial nature furnished to any client or group of clients:
  - (a) in respect of the purchase of any financial product; or
  - (b) in respect of the investment in any financial product; or
  - (c) to engage any financial service provider;
- (f) arising where the **Insured** is instructed to invest money on behalf of any person, except for an instruction to invest the funds in an interest-bearing account in terms of sections 56(6)(a) or 86(4) of the **Act**, provided such investment is done pending the conclusion or implementation of a particular matter or transaction which is already in existence or about to come into existence at the time the investment is made. This exclusion does not apply (subject to the other provisions of this policy) to funds which the **Insured** is authorised to invest in his or her

capacity as executor, trustee, curator or in any similar representative capacity, provided that the **Insured's** doing so constituted the provision of **Legal Services**;

- (g) arising from or in connection with any fine or penalty, or punitive or exemplary damages awarded against the **Insured**, or from an order against the **Insured** to pay costs *de bonis propriis*, or where a costs order against the **Insured** is unrelated to the **Insured's** being held liable for the payment of **Compensation**;
- (h) arising out of or in connection with any work done on behalf of an entity defined in the Housing Act 107 of 1997 or its representative, with respect to the National Housing Programme provided for in the Housing Act;
- (i) directly or indirectly arising from, or in connection with, or as a consequence of, the provision of **Bridging Finance**. This exclusion does not apply where the **Bridging Finance** has been provided in connection with a **Conveyancing Transaction** for the payment of:
  - (i) transfer duty and costs or either thereof;
  - (ii) municipal or other rates and taxes relating to the immovable property which is to be transferred; or
  - (iii) levies payable to a body corporate or homeowners' association relating to the immovable property which is to be transferred;
- (j) arising out of or in connection with the **Insured** having given an unqualified undertaking legally binding his or her practice, in matters where the fulfilment of that undertaking is dependent on the act or omission of a third party;
- (k) arising out of or in connection with a breach of contract unless such breach is a breach of professional duty by the **Insured**;
- (l) arising out of or in connection with the **Insured** acting or having acted as a business rescue practitioner as defined in section 128(1)(d) of the Companies Act 71 of 2008;
- (m) arising out of or in connection with the **Insured** acting as a provisional liquidator or liquidator or a trustee of an insolvent estate, or as a curator *bonis*;
- (n) arising out of or in connection with the receipt or payment of funds, whether into or from the **Legal Practice's** trust account or otherwise, where:
  - (i) that receipt or payment of funds is unrelated to the successful completion of a direct instruction to the **Insured** to provide specific **Legal Services** other than the receipt or payment itself; or
  - (ii) the insured acts merely as a conduit for the transfer of funds from the **Legal Practice's** trust or other account to the payee, and provides no **Legal Services** beyond acting as such conduit;

- (o) arising out of a defamation **Claim** that is brought against the **Insured**;
- (p) arising out of **Cybercrime**. Losses arising out of **Cybercrime** include, payments made into an incorrect and/or fraudulent bank account where either the **Insured** or any other party has been induced to make the payment into the incorrect bank account and has failed to verify the authenticity of such bank account.

For purposes of this clause, "verify" means that the **Insured** must have a face-to-face meeting with the client and/or other intended recipient of the funds. The client (or other intended recipient of the funds, as the case may be) must provide the **Insured** with an original signed and duly commissioned affidavit confirming the instruction to change their banking details and attaching an original stamped document from the bank confirming ownership of the account;

- (q) arising out of a **Claim** against the **Insured** by an entity in which the **Insured** and/or related or interrelated persons\* has/have a material interest and/or hold/s a position of influence or control\*\*.

\* as defined in section 2(1) of the Companies Act 71 of 2008

\*\* as defined in section 2(2) of the Companies Act 71 of 2008

For the purposes of this paragraph, "material interest" means an interest of at least ten (10) percent in the entity;

- (r) arising out of or in connection with a **Claim** resulting from:
    - (i) War, invasion, act of foreign enemy, hostilities or warlike operations (whether war is declared or not) civil war, mutiny, insurrection, rebellion, revolution, military or usurped power;
    - (ii) Any action taken in controlling, preventing, suppressing or in any way relating to the excluded situations in (i) above including, but not limited to, confiscation, nationalisation, damage to or destruction of property by or under the control of any Government or Public or Local Authority;
    - (iii) Any act of terrorism regardless of any other cause contributing concurrently or in any other sequence to the loss.
- For the purpose of this exclusion, terrorism includes an act of violence or any act dangerous to human life, tangible or intangible property or infrastructure with the intention or effect to influence any Government or to put the public or any section of the public in fear;
- (s) arising out of or in connection with any **Claim** resulting from:
    - (i) ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion or use of nuclear fuel;

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- (ii) nuclear material, nuclear fission or fusion, nuclear radiation;
  - (iii) nuclear explosives or any nuclear weapon;
  - (iv) nuclear waste in whatever form;
- regardless of any other cause or event contributing concurrently or in any other sequence to the loss. For the purpose of this exclusion only, combustion includes any self-sustaining process of nuclear fission or fusion;
- (t) arising out of or resulting from the hazardous nature of asbestos in whatever form or quantity;
  - (u) arising out of or resulting from **Legal Services** carried out in violation of the **Act**; and/or
  - (v) arising out of or resulting from work done or advice given on the law applicable in jurisdictions other than the Republic of South Africa, unless provided by a person admitted to practice in the applicable jurisdiction.

## FRAUDULENT APPLICATIONS FOR INDEMNITY

17. The **Insurer** will reject a fraudulent application for indemnity.

## CLAIMS ARISING OUT OF DISHONESTY OR FRAUD

18. Any **Insured** will not be indemnified for a **Claim** that arises:
- a) directly or indirectly from any **Dishonest**, fraudulent or other criminal act or omission by that **Insured**;
  - b) directly or indirectly from any **Dishonest**, fraudulent or other criminal act or omission by another party where that **Insured** was knowingly connected with, or colluded with, or condoned, or acquiesced in, or was party to, that dishonesty, fraud or other criminal act or omission.

Subject to clauses 16, 19 and 20, this exclusion does not apply to an **Innocent Principal**.

19. In the event of a **Claim** to which clause 18 applies, the **Insurer** will have the discretion not to make any payment before the **Innocent Principal** has taken all reasonable action to:
- a) Institute criminal proceedings against the alleged **Dishonest** party and has presented proof thereof to the **Insurer**; and/or
  - b) sue for and obtain reimbursement from any such alleged **Dishonest** party or its, her or his estate or legal representatives.
- Any benefits due to the alleged **Dishonest** party held by the **Legal Practice** must be deducted from the **Legal Practice's** loss, to the extent allowed by law.
20. Where the **Dishonest** conduct includes:
- a) the witnessing (or purported witnessing) of the signing or execution of a document without seeing the actual signing or execution; or
  - b) the making of a representation (including, but not limited to, a representation by way of a certificate, acknowledgement or other document) which was known at the time it was made to be false;

The **Excess** payable by the **Innocent Insured** will be increased by an additional 20%.

21. If the **Insurer** makes a payment of any nature under the policy in connection with a **Claim** and it later emerges that it wholly or partly arose from a **Dishonest**, fraudulent or other criminal act or omission of the **Insured**, the **Insurer** will have the right to recover full repayment from that **Insured** and any party knowingly connected with that **Dishonest**, fraudulent or criminal act or omission.

## THE INSURED'S RIGHTS AND DUTIES

22. The **Insured** must:
- a) notify the **Insurer** in writing as soon as practicable of any circumstance, act, error or omission that may give rise to a **Claim**; and
  - b) notify the **Insurer** in writing as soon as practicable of any **Claim**, but by no later than one (1) week after receipt thereof, in such notification enclosing a copy of the written communication or legal document or, in the event of an oral **Claim**, conveying the detail of the oral demand.
23. Once the **Insured** has notified the **Insurer** in accordance with clause 22 above, the **Insurer** will require the **Insured** to provide a completed **Risk Management Questionnaire** and to complete a claim form providing all information reasonably required by the **Insurer** in respect of the **Claim**.
- The **Insured** will not be entitled to indemnity unless the claim form and **Risk Management Questionnaire** have been completed by the **Insured** to the **Insurer's** reasonable satisfaction and have been returned to the **Insurer**.
24. The **Insured**:
- 24.1 shall not cede or assign any rights in terms of this policy;
  - 24.2 agrees not to, without the **Insurer's** prior written consent:
    - a) admit or deny liability for a **Claim**;
    - b) settle a **Claim**;
    - c) incur any costs or expenses in connection with a **Claim** unless the sum of the **Claim** and **Claimant's Costs** falls within the **Insured's Excess**;
- failing which, the **Insurer** will be entitled to reject the **Claim**, but will have sole discretion to agree to provide indemnity, wholly or partly.
25. The **Insured** agrees to give the **Insurer** and any of its appointed agents:
- 25.1 all information and documents that may be reasonably required, at the **Insured's** own expense.
  - 25.2 assistance and cooperation, which includes, but not limited to, preparing, service and filing of notices and pleadings by the **Insured** as specifically instructed by the **Insurer** at the **Insurer's** expense, which expenses must be agreed to in writing.
26. The **Insured** also gives the **Insurer** or its appoint-



ed agents the right of reasonable access to the **Insured's** premises, staff and records for purposes of inspecting or reviewing them in the conduct of an investigation of any **Claim** where the **Insurer** believes such review or inspection is necessary.

27. Notwithstanding anything else contained in this policy, should the **Insured** fail or refuse to provide information, documents, assistance or cooperation in terms of this policy to the **Insurer** or its appointed agents and remain in breach for a period of ten (10) working days after receipt of written notice to remedy such breach (from the **Insurer** or its appointed agents), the **Insurer** has the right to:

- a) withdraw indemnity; and/or
- b) report the **Insured's** conduct to the regulator; and/or
- c) recover all payments and expenses incurred by it.

For the purposes of this paragraph, written notice will be sent to the address last provided to the **Insurer** by the **Insured** and will be deemed to have been received five (5) working days after electronic transmission or posting by registered mail.

28. By complying with the obligation to disclose all documents and information required by the **Insurer** and its legal representatives, the **Insured** does not waive any claim of legal professional privilege or confidentiality.

29. Written notification of any new **Claim** must be given to:

**Legal Practitioners Indemnity Insurance Fund**  
**NPC**  
**1256 Heuwel Avenue**  
**Centurion**  
**0127**  
**PO Box 12189**  
**Die Hoewes**  
**0163**  
**Docex 24**  
**Centurion**  
**Email: [claims@lpiif.co.za](mailto:claims@lpiif.co.za) Tel:+27(0)12 622 3900**

## THE CONSEQUENCE OF THE INSURED BREACHING ANY TERMS OF THIS POLICY

30. Where a breach of, or non-compliance with any term of this policy by the **Insured** has resulted in material prejudice to the handling or settlement of any **Claim** against the **Insured**, the **Insured** will reimburse the **Insurer** the difference between the sum payable by the **Insurer** in respect of that **Claim** and the sum which would in the sole opinion of the **Insurer** have been payable in the absence of such prejudice. It is a condition precedent of the **Insurer's** right to obtain reimbursement, that the **Insurer** has fully indemnified the **Insured** in terms of this policy.

## THE INSURER'S RIGHTS AND DUTIES

31. The **Insured** agrees that:

- a) The **Insurer** has full discretion in the conduct of the **Claim** against the **Insured** including, but not limited to, its investigation, defence, settlement or appeal in the name of the **Insured**; and
  - b) the **Insurer** has the right to appoint its own legal representative(s) or service providers to act in the conduct and the investigation of the **Claim**.
32. The **Insurer** agrees that it will not settle any **Claim** against any **Insured** without prior consultation with that **Insured**. However, if the **Insured** does not accept the **Insurer's** recommendation for settlement:
- a) the **Insurer** will not be obliged to cover further **Claimant's Costs**, **Defence Costs** or **Insurer's Costs** beyond the date of the **Insurer's** recommendation to the **Insured**; and
  - b) the **Insurer's** obligation to indemnify the **Insured** will be limited to the amount of its recommendation for settlement or the **Insured's** available **Annual Amount of Cover** (whichever is the lesser amount).
33. If the amount of any **Claim** exceeds the **Insured's** available **Annual Amount of Cover** the **Insurer** may, in its sole discretion, hold or pay over such amount or any lesser amount for which the **Claim** can be settled. The **Insurer** will thereafter be under no further liability in respect of such a **Claim**, except for the payment of **Approved Costs** or **Defence Costs** incurred prior to the date on which the **Insurer** notifies the **Insured** of its decision.
34. Where the **Insurer** indemnifies the **Insured** in relation to only part of any **Claim**, the **Insurer** will be responsible for only the portion of the **Approved Costs**, **Defence Costs** and **Insurer's Costs** that reflects an amount attributable to the matters so indemnified. The **Insurer** reserves the right to determine the proportion in its absolute discretion.
35. In the event of the **Insured's** material non-disclosure or misrepresentation in respect of the application for indemnity, the **Insurer** reserves the right to report the **Insured's** conduct to the regulator and to recover any amounts that it may have incurred as a result of the **Insured's** conduct.
36. If the **Insurer** makes payment under this policy, it will not require the **Insured's** consent to take over the **Insured's** right to recover (whether in the **Insurer's** name or the name of the **Insured**) any amounts paid by the **Insurer**.
37. All recoveries made in respect of any **Claim** under this policy will be applied (after deduction of the costs, fees and expenses incurred in obtaining such recovery) in the following order of priority:
- a) the **Insured** will first be reimbursed for the amount by which its liability in respect of such **Claim** exceeded the **Annual Amount of Cover** provided by this policy;
  - b) the **Insurer** will then be reimbursed for the amount of its liability under this policy in respect of such **Claim**;
  - c) any remaining amount will be applied toward

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the **Excess** paid by the **Insured** in respect of such **Claim**.

38. If the **Insured** gives notice during an **Insurance Year** of any circumstance, act, error or omission (or a related series of acts, errors or omissions) which may give rise to a **Claim** or **Claims**, then any **Claim** or **Claims** in respect of that/those circumstance/s, act/s, error/s or omission/s subsequently made against the **Insured**, will for the purposes of this policy be considered to fall within one **Insurance Year**, being the **Insurance Year** of the first notice.
39. This policy does not give third parties any rights against the **Insurer**.

## HOW THE PARTIES WILL RESOLVE DISPUTES

40. Subject to the provisions of this policy, any dispute or disagreement between the **Insured** and the **Insurer** as to any right to indemnity in terms of this policy, or as to the amount thereof or any other matter arising out of or in connection with this policy, must be dealt with in the following manner:
- written submissions by the **Insured** must be referred to the **Insurer's** internal complaints/dispute team at [disputes@lpif.co.za](mailto:disputes@lpif.co.za) or to the address set out in clause 29 of this policy within thirty (30) days of receipt of the written communication from the **Insurer** which has given rise to the dispute;
  - should the dispute not have been resolved within thirty (30) days from the date of receipt by the **Insurer** of the submission referred to in clause 40(a) above, then the parties must agree on an independent **Senior Practitioner** to whom the dispute can be referred for a determination. Failing such an agreement between the parties, the choice of the **Senior Practitioner** must be referred to the Chairperson of the Legal Practice Council, whose decision will be binding on the parties.
  - the parties must make written submissions to the **Senior Practitioner** referred to in clause 40(b) above.
  - the costs incurred in so referring the matter and making submissions, and the costs of the **Senior Practitioner**, will be borne by the unsuccessful party.
  - the determination of the **Senior Practitioner** will be binding upon the parties unless the unsuccessful party notifies the successful party in writing within thirty (30) days of the date of the delivery of the determination by the **Senior Practitioner** that such unsuccessful party does not accept the determination.

The procedures outlined in sub-clauses (a) to (c) must be completed, the **Senior Practitioner** must have made a determination communicated to the parties, and the unsuccessful party must have furnished timeous notification of non-acceptance of the determination, before any formal legal action may be taken by either of the parties other than an action for enforcement of the determination by the successful party in the absence of timeous notification in terms of clause 40(e) above.

The running of prescription in terms of the Prescription Act 69 of 1969 will be interrupted during the period between the date of the written submission as per clause 40(a) above and the expiry of thirty (30) days from the date of the communication of the **Senior Practitioner's** award to the parties, both dates included, and the **Insurer** undertakes accordingly.

## SCHEDULE A

Period of Insurance: 1 July 2023 to 30 June 2024 (both days inclusive)

No of Principals	Annual Amount of Cover for Insurance Year
1	R1 562 500
2	R1 562 500
3	R1 562 500
4	R1 562 500
5	R1 562 500
6	R1 562 500
7	R1 640 625
8	R1 875 000
9	R2 109 375
10	R2 343 750
11	R2 578 125
12	R2 812 500
13	R3 046 875
14 and above	R3 125 000

## SCHEDULE B

Period of Insurance: 1 July 2023 to 30 June 2024 (both days inclusive)

No of Principals	Column A Excess for prescribed RAF* and Conveyancing Claims**	Column B Excess for all other Claims**
1	R35 000	R20 000
2	R63 000	R36 000
3	R84 000	R48 000
4	R105 000	R60 000
5	R126 000	R72 000
6	R147 000	R84 000
7	R168 000	R96 000
8	R189 000	R108 000
9	R210 000	R120 000
10	R231 000	R132 000
11	R252 000	R144 000
12	R273 000	R156 000
13	R294 000	R168 000
14 and above	R315 000	R180 000

\*The applicable **Excess** will be increased by an additional 20% if **Prescription Alert** is not used and complied with.

\*\*The applicable **Excess** will be increased by an additional 20% if clause 20 of this policy applies.



## EXECUTOR BOND POLICY

### 1. GENERAL PROVISIONS

- 1.1 The Legal Practitioners Indemnity Insurance Fund NPC (hereinafter referred to as the LPIIF) will provide a bond only to the executor of a deceased estate, the administration of which is subject to the provisions of South African Law, and who is an attorney practising in South Africa with a valid Fidelity Fund Certificate.
- 1.2 The LPIIF will, in its sole discretion, assess the validity of and risk associated with the information supplied in the application, and any other relevant information at its disposal, which includes the manner in which the administration of previous estates in respect of which bonds have been issued, in deciding whether or not to issue a bond to an applicant.
  - 1.2.1 If the applicant disputes the LPIIF's rejection of the application, such dispute will be dealt with in the following order:
    - 1.2.2 written submissions by the applicant should be referred to the LPIIF Executive Committee at [disputes@lpiif.co.za](mailto:disputes@lpiif.co.za) or to the address set out in clause 6 of this document, within thirty (30) days of receipt of the communication from the LPIIF rejecting the application;
    - 1.2.3 should the dispute not have been resolved within thirty (30) days, then such dispute will be referred to the Sub-Committee appointed by the LPIIF's board of directors for a final determination.

### 2. EXCLUSIONS

Before completing the application, please note that a bond will **NOT** be issued where:

- 2.1 the applicant seeks to/ is to be appointed in any capacity other than as the executor, which includes an appointment as Master's Representative in terms of Section 18(3) of the Administration of Estates Act 66 of 1965;
- 2.2 it is found that the day to day administration of the estate will not be executed by the applicant, partners or co-directors or members of staff under the applicant's, partner's or co-director's supervision, within the applicant's offices;
- 2.3 it is found that the administration of the estate will be executed by any entity other than the legal firm of which the applicant is part;
- 2.4 the co-executor is not a practising attorney;
- 2.5 any claim involving dishonesty has been made against the applicant or any member of his or her firm. We reserve the right not to issue any bonds to the applicant or any firm in which the applicant is/ was a partner or director or member of staff at the time of the alleged dishonesty thereafter;
- 2.6 the applicant or his or her firm has not provided the LPIIF with all updates or the required information

- 2.7 the applicant has a direct or indirect interest in the estate for which the bond is requested other than executor fees;
- 2.8 the applicant is an unrehabilitated insolvent, suspended or interdicted from practice, or where proceedings have commenced to remove him or her from the roll of practicing attorneys;
- 2.9 the applicant has either been found guilty by a court or a professional regulatory body of an offence or an act involving an element of dishonesty, or by reason of a dishonest act or breach of a duty, been removed from a position of trust;
- 2.10 the applicant has breached the terms of the policy in respect of any matter where a bond has been issued by the LPIIF.

### 3. TERMS AND CONDITIONS

- 3.1 An applicant must complete the prescribed application form and provide the LPIIF with all the relevant supporting documents. A copy of the application form is attached as annexure "A".
- 3.2 In the case of an application for co-executorship, each applicant must sign and submit a separate application form and also sign the Undertaking (Form J262E). Each applicant will be jointly and severally responsible for adhering to all the terms and conditions contained in this application.
  - 3.3 The applicant undertakes:
    - 3.3.1 to finalise the administration of the estate for which the bond is requested, within twelve (12) months from date of issue. In the event that the administration takes longer than twelve (12) months, the executor shall provide written reasons for the delay and evidence thereof, not later than thirty (30) days before the expiry of the twelve (12) month period;
    - 3.3.2 to provide the LPIIF with information and access to records and correspondence relating to each estate for which the LPIIF has issued a bond, as if the LPIIF were in a similar position to the Master of the High Court (hereinafter referred to as the Master) or any beneficiary. In this regard:
      - 3.3.2.1 a copy of the letters of executorship must be provided to the LPIIF within thirty (30) days of being granted by the Master. Should the applicant fail to provide the letters of executorship to the LPIIF and remain in breach for a period of six (6) months after the initial thirty (30) days pe-

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- riod, the LPIIF will not issue any further bonds, and the bond issued under this application will be withdrawn.
- 3.3.2.2 a separate estate bank account must be opened as required in terms of Section 28 of the Administration of Estates Act 66 of 1965 and proof of such account must be submitted to the LPIIF within thirty (30) days of being appointed as executor. When completing the application for a Fidelity Fund Certificate, all funds and property held in respect of estates must be accounted for and a detailed list setting out the particulars thereof must be provided to the LPIIF;
  - 3.3.2.3 copies of the provisional and final liquidation and distribution accounts must be provided to the LPIIF, within six (6) months from the granting of the letter of executorship. Alternatively, proof of an application for and the granting of an extension or condonation by the Master must be provided. Failure to comply with this provision will result in an application to the Master to have the applicant removed as executor and/or the withdrawal of the bond.
  - 3.3.2.4 within 30 days after the final liquidation and distribution account having been approved, the executor must account to the Master, apply for the closure of the bond and provide proof of such account and application to the LPIIF within 30 days of doing so.
  - 3.3.2.5 the Master's filing slip or release must be provided to the LPIIF within 30 days of issue by the Master.
- 3.3.3 to ensure that all insurable assets in the estate are sufficiently and appropriately insured, within 24 hours of receipt of the letters of executorship, and to provide the LPIIF with proof of such insurance within 30 days of such appointment. The insurance must remain in place for the duration of the administration of the estate, failing which the applicant and his firm will be personally liable for any loss or damage that may result from the absence of such insurance;
- 3.3.4 to keep the LPIIF fully informed about the progress of the administration of the estate - in the same way as he or she would inform the Master or any beneficiary, of the progress of the administration;
- 3.3.5 to inform the LPIIF within 30 days of becoming aware of a change in his or her status as an attorney or of any application for removal or suspension as an attorney or executor or any similar office;
- 3.3.6 If an applicant or a firm reaches 75 % of the R20 million limit (that is, R15 million) as specified in clause 4 and clause 3.3.1 is applicable, the applicant or firm shall provide the LPIIF, within thirty (30) days from request, with a written plan evidencing how the reduction of the exposure in respect of active bonds older than twelve (12) months will be achieved. Failure to comply with this provision will result in no new bonds being issued.
- 3.4 Once a bond has been issued, the applicant will not seek to reduce its value, unless the Master is satisfied that the reduced security will sufficiently indemnify the beneficiaries and has given written confirmation of such reduction. A copy of such written confirmation must be provided to the LPIIF within thirty (30) days of it being provided.
- 3.5 The applicant consents to the LPIIF making enquiries about his or her credit record with any credit reference agency and any other party, for the purposes of risk management.
- 3.6 The applicant consents to the Legal Practice Council giving the LPIIF all information in respect of the applicant's disciplinary record and status of good standing or otherwise.
- 3.7 The applicant undertakes to give the LPIIF all information, documents, assistance and co-operation that may be reasonably required, at the applicant's own expense. If the applicant fails or refuses to provide assistance or co-operation to the LPIIF, and remains in breach for a period of thirty (30) days after receipt of written notice from the LPIIF to remedy such breach, the LPIIF reserves the right to:
- 3.7.1 report the applicant to the Legal Practice Council; and/or
  - 3.7.2 request the Master to remove him or her as the executor.
- 3.8. The applicant accepts personal liability for all and any acts and/or omissions, including negligence, misappropriation or maladministration committed or incurred whether personally or by any agent, consultant, employee or representative appointed or used by the applicant in the administration of an estate.
- 3.9 In the event of a claim arising out of a fraudulent act or misappropriation or maladministration, the LPIIF reserves the right to take action to:
- 3.9.1 institute civil and/or criminal proceedings against the applicant relating to any payments already made. A certificate of balance provided by the LPIIF in respect of the payment made in terms of the bond will be sufficient proof of the amount due and payable; and/or
  - 3.9.2 report the applicant to the Legal Practice Council.
- 3.10 The other partners or directors of the firm must sign a resolution acknowledging and agreeing to the provisions set out in that resolution. A copy of such

- resolution is attached as annexure “B”.
- 3.11 If there is any dispute between the LPIIF and the executor as to the validity of a claim by the Master, then such dispute will be dealt with in the following order:
- 3.11.1 written submissions by the executor should be referred to the LPIIF’s internal dispute team at [dispute@lpiif.co.za](mailto:dispute@lpiif.co.za) or to the address set out in clause 6 of this document, within thirty (30) days of receipt of the written communication from the LPIIF, which has given rise to the dispute;
- 3.11.2 should the dispute not have been resolved within thirty (30) days from the date of receipt by the LPIIF of the submission referred to in 3.11.1, then the parties must agree on an independent senior estates attorney with no less than 15 years standing in the legal profession, to which the dispute can be referred for a determination. Failing an agreement, the choice of such senior estates attorney will be referred to the chairperson of the Legal Practice Council (or his/her successor in title) having jurisdiction over the executor;
- 3.11.3 the parties must make written submissions which will be referred for a determination to the senior estates attorney referred to in 3.11.2. The costs incurred in so referring the matter will be borne by the unsuccessful party;
- 3.12 A copy of the executor’s current Fidelity Fund Certificate must be submitted annually within (thirty) 30 days of issue, but no later than the end of February each year.

## 4. LIMITS

- 4.1 The value of any bond is limited to **R5 million** per estate. The cumulative total of all bonds issued to any one firm will not exceed **R20 million** at any given time.
- 4.2 If an attorney is part of or holds himself or herself out to be part of more than one (1) firm simultaneously, such attorney shall be permitted to obtain bonds as an attorney only under one (1) firm at any given time.
- 4.3 In the case of co-executorship, each executor needs to meet the criteria as specified in this document. The limits will apply as mentioned in 4.1 and 4.2 above as if there were no co-executorship.
- 4.4 No new bonds will be issued where the applicant or the firm has failed to adhere to any of the provisions of this policy.

## 5. SOLE RECORD OF THE AGREEMENT

- 5.1 This document constitutes the sole record of the agreement between the LPIIF, the firm and the applicant in relation to the bond to which this document applies.
- 5.2 This document supersedes and replaces all prior commitments, undertakings or representations, (whether oral or written) between the parties in respect of this application.
- 5.3 No addition to, variation, novation or agreed

cancellation of any provision of this document shall be binding upon the LPIIF unless reduced to writing and signed by or on behalf of both parties, by authorised persons.

- 5.4 If there are any material changes to the information contained in this application, the applicant undertakes to inform the LPIIF in writing within fifteen (15) days of such change.

## 6. DOMICILIUM

The parties choose as their *domicilia citandi et executandi* for the service of notices given in terms of this agreement and all legal processes, the following addresses:

- 6.1 LPIIF: 1256 Heuwel Avenue  
Centurion  
0157  
Email: [courtbonds@lpiif.co.za](mailto:courtbonds@lpiif.co.za)
- 6.2 The Applicant: The address provided in the application form.
- 6.3 Notices or legal processes may be delivered by hand or sent by electronic mail to the above addresses. The date of receipt by the addressee will be the date of hand delivery or transmission.
- 6.4 Either party may change its *domicilium* by giving the other party written notice of such change.

## 7. DECLARATION

If the bond is granted, I agree:

- 7.1 to fully comply with the terms and conditions contained in clause 3;
- 7.2 that all estate funds will be invested strictly in terms of the Administration of Estates Act 66 of 1965, the Legal Practice Act 28 of 2014 and the rules and regulations as promulgated in respect thereof;
- 7.3 to furnish the LPIIF with the annual audit certificates completed by my or our external auditors, verifying the continued existence of the property or funds under my control as executor within thirty (30) days of such certificate being issued.

I hereby confirm that I have read, understand and agree to be bound by the terms and conditions contained in this document.

DATED AT ..... ON THIS .....

DAY OF ..... 20.....

.....  
WITNESS (Full names & signature)

.....  
WITNESS (Full names & signature)

.....  
APPLICANT (Full names & signature)

.....  
WITNESS (Full names & signature)



## APPLICATION FORM FOR EXECUTOR BOND

### 1. APPLICANT

1.1 Surname :

1.2 Full names :

1.3 Identity number :

1.4 Practitioner number :

1.5 Fidelity fund certificate number :

1.6 Residential address :

Code :

1.7 Cell number :

1.8 Work telephone number :

1.9 Work email address :

1.10 Are you a practising attorney?

YES  NO

1.11 When were you admitted as an attorney?

1.12 Have you previously been appointed as an executor, curator, liquidator or trustee?

YES  NO

(a) If, YES, please provide a list for the past 3 years :

-----  
-----  
-----  
-----

1.13 Have you ever been removed from office in respect of an appointment referred to in 1.12?	YES <input type="checkbox"/> NO <input type="checkbox"/>
(a) If YES, please provide details : ----- ----- ----- -----	
1.14 Has the Master ever disallowed your fees relating to an appointment referred to in 1.12?	YES <input type="checkbox"/> NO <input type="checkbox"/>
(a) If YES, please provide details : ----- ----- ----- -----	
1.15 Number of years' experience as an executor :  • If less than 2 years', provide proof of experience, education or mentorship.	-----years -----months
1.16 PLEASE ATTACH APPLICANT'S ABRIDGED CURRICULUM VITAE	
1.17 Are you being appointed as an agent or executor?	Agent <input type="checkbox"/> Executor <input type="checkbox"/>

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1.18 By whom are you nominated?	In terms of a will <input type="checkbox"/> Family <input type="checkbox"/> Master <input type="checkbox"/> Court Order <input type="checkbox"/> Other <input type="checkbox"/> Details _____
1.19 Are you the SOLE executor of this estate?  <ul style="list-style-type: none"><li>• If NO, the co- executor, who must be a practising attorney, should complete a separate application form.</li><li>• J262 E must be co-signed by both applicants.</li></ul>	YES <input type="checkbox"/> NO <input type="checkbox"/>
1.20 Are you / is your firm personally responsible for the day to day administration of the estate?	YES <input type="checkbox"/> NO <input type="checkbox"/>
1.21 Has a claim been made against you or the firm relating to a previous estate administrated by you or the firm?	YES <input type="checkbox"/> NO <input type="checkbox"/>
(a) If YES, please provide details :  -----  -----  -----  -----	
1.22 Do you have any direct or indirect interest in this estate other than executor fees?	YES <input type="checkbox"/> NO <input type="checkbox"/>



(a) If YES, please provide details :

-----  
-----  
-----  
-----

1.23 Have you made application for an executor bond with an institution other than the LPIIF in the past three years?

YES  NO

(a) If YES, state name of institution (s) and estate name(s) :

-----  
-----  
-----  
-----

1.24 Has any previous application for an executor bond with the LPIIF or other institution been declined?

YES  NO

(a) If YES, please provide details :

-----  
-----  
-----  
-----

1.25 Have you ever been declared insolvent or has your personal estate been placed under administration?

YES  NO

- If YES, please provide proof of rehabilitation or release from administration.

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<p>1.26 Have you (or the person who will be assisting with the estate within your firm) :</p> <p>1.26.1 ever been found guilty (by a court of law or professional regulatory body) of an offence involving an element of dishonesty?</p> <p>1.26.2 been struck off the roll of practising attorneys or suspended or interdicted from practice?</p> <p>1.26.3 any outstanding criminal cases or civil lawsuits or any regulatory disciplinary matters pending?</p>	<p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p>
<p>(a) If YES, please provide details :</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>	
<p>1.27 Is there any other material factor that you wish to bring to the LPIIF's attention?</p>	

## 2. FIRM

<p>2.1 Name of firm :</p>
<p>2.2 Firm number :</p>
<p>2.3 Number of partners/ directors :</p>

2.4 Physical address :

Code :

2.5 Postal address :

Code :

2.6 Telephone number :

2.7 Fax number :

2.8 Does your firm have misappropriation of trust monies insurance?

YES  NO

- If YES, please, state insurer and the limit of Indemnity.

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### 3. DECEASED

3.1 Surname :

3.2 Full names :

3.3 Identity number :

3.4 Date of birth :

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3.5 Date of death :	
<ul style="list-style-type: none"><li>• A copy of the death certificate must be attached to this application form.</li></ul>	
3.6 At which Master's office was the estate reported?	Province : _____ Division : _____
3.7 Master's reference / Estate number :	
3.8 Did the deceased die testate or intestate?  <ul style="list-style-type: none"><li>• If testate a copy of the will must be attached to this application form.</li></ul>	Testate <input type="checkbox"/> Intestate <input type="checkbox"/>
3.9 In terms of the inventory please advise the following :  <ul style="list-style-type: none"><li>• A copy of the inventory must be attached to this application.</li></ul>	Assets : R _____ Liabilities : R _____
3.10 Would appropriate insurance for the insurable assets in the estate be in place on your appointment?  <ul style="list-style-type: none"><li>• Please refer to clause 3.3.3 of the terms and conditions.</li></ul>	YES <input type="checkbox"/> NO <input type="checkbox"/>

## THE FOLLOWING DOCUMENTS ARE REQUIRED FOR A BOND TO BE ISSUED:

1. A covering letter on the applicant's official company letterhead;
2. Proof of practice or firm number;\*
3. Proof of practitioner or member number;

4. The original form J262E (Bond of Security) which must be completed and signed by the applicant, whose signature must be attested to by two witnesses;
5. Copy of the will (if applicable);
6. Copy of certified death certificate (a copy of the death notice, if there is no death certificate);
7. Copy of court order (if applicable);
8. Inventory or statement of assets & liabilities of the estate;
9. Copy of any directions from the Master as to the security required;
10. Proof of Master's estate reference number;
11. Nomination forms by the beneficiaries/person appointing the applicant as executor;
12. The executor's acceptance of trust as executor;
13. A certified copy of the executor's identity document;
14. The executor's current fidelity fund certificate;
15. If applicant is not a director/partner a letter on the firm's letterhead signed by one of the partners confirming that the appointee is employed by the firm and has been authorised to apply for bonds of security in the name of the firm and to administer the estate on behalf of the firm. This letter must be accompanied by the certified current fidelity fund certificate of the partner/ director;
16. Applicant's abridged curriculum vitae (CV);
17. A resolution as contemplated in clause 3.10 of the terms and conditions, where applicable.

- **The application documents may be emailed to confirm compliance and outstanding requirements, prior to the submission of the original documents. Original documents will still be required as the J262E must be submitted to the Master of the High Court in its original format.**
- The application forms and requirements are available on our website [www.lpiif.co.za](http://www.lpiif.co.za).

*\*This may be obtained from your Provincial Council / Regulator.*

Alternatively, you may contact:

- Ms Patricia Motsepe on 010 501 0711 - email [patricia.motsepe@lpiif.co.za](mailto:patricia.motsepe@lpiif.co.za)
- Mr Sifiso Khuboni on 010 501 0717 - email [Sifiso.khuboni@lpiif.co.za](mailto:Sifiso.khuboni@lpiif.co.za)

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I hereby declare that to the best of my knowledge and belief, the information provided in this application is true in every respect, and will form the basis of the agreement between myself and the LPIIF. If any information herein is not true and correct, or if any relevant information has not been disclosed, the LPIIF will be entitled to make use of all rights and remedies available to it in terms of the law.

DATED AT ..... ON THIS .... DAY OF ..... 20.....

.....

.....

WITNESS (Full names & signature)

APPLICANT (Full names & signature)

.....

WITNESS (Full names & signature)



**Legal Practitioners  
Indemnity Insurance  
Fund NPC**  
Est. 1993 by the Legal Practitioners Fidelity Fund

**RESOLUTION IN TERMS OF  
CLAUSE 3.10**

In the matter of: Estate Late

-----  
-----[the firm of attorneys]

herein represented by:

- 1. -----
- 2. -----
- 3. -----
- 4. -----
- 5. -----

***Full names of directors or partners signing. (Attach a list if necessary)***

who warrant/s that they or she or he are/is duly authorised to act on behalf of the firm and to bind it in terms of this resolution;

and who, by signing this document, undertake/s and agree/s unequivocally that the firm of attorneys together with each and every director or partner listed above, will be jointly and severally liable to the Legal Practitioners Indemnity Insurance Fund NPC (LPIIF) for the fulfilment of the terms and conditions set out in 1 and 2 below.

- 1. The firm and its directors or partners will provide full co-operation to the LPIIF in the event of any claim being made against the LPIIF in respect of any fraudulent act, misappropriation or maladministration committed by the firm, or its present or former director or partner or present or former employee, arising out of the administration of an estate in respect of which the LPIIF has issued an executor bond.
- 2. The firm and its directors or partners will provide full assistance to the LPIIF:
  - 1.1 to institute and prosecute to completion any criminal or civil proceedings brought against any person referred to in 1 above or any individual or entity connected to any fraudulent act, misappropriation or maladministration resulting in a claim for which the LPIIF may have to pay compensation;

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1.2 to report any attorney or candidate attorney to the relevant law society or regulator on the request of the LPIIF within thirty (30) days.

3. The directors or partners renounce the legal benefits of “order”, “excussion”, “division”, “cession of action”, “*non numeratae pecuniae*”, “*non causa debiti*”, “*errore calculi*”, “revision of accounts” and all or any exceptions which could or might be pleaded to any claim.

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Director / Partner 1 Signature

-----  
Director / Partner 2 Signature

-----  
Director / Partner 3 Signature

-----  
Director / Partner 4 Signature

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Director / Partner 5 Signature