



# SEENA | LABOUR

## SEENA LABOUR DISPUTE GUARANTEE

### MISSION OF THE SEENA LABOUR DISPUTE GUARANTEE

The SEENA Labour Dispute Guarantee was established to protect the interests and cash flow of employers in the event of awards, judgements and settlement agreements subject to the following terms and conditions.

### TERMS AND CONDITIONS

1. The SEENA Labour Dispute Guarantee (SLDG) is automatically available to all paid-up SEENA clients and to any new SEENA clients, upon receipt of his/her joining fee and first monthly premium.
2. Benefits payable to clients by the SEENA Labour Dispute Guarantee are restricted to the amount of N\$ 100 000-00 (one hundred thousand) per annum for all SEENA Clients.
3. The guarantee will cover awards made by the Labour Commissioner and the Labour Court in respect of the following:
  - 3.1 Unfair dismissals;
  - 3.2 Unfair retrenchment action;
  - 3.3 Unfair dismissal following a strike;
  - 3.4 Unfair labour practices;
  - 3.5 Unfair discrimination;
  - 3.6 Settlement agreements which SEENA Labour is compelled to negotiate on behalf of a client relating to any of the above.

4. The SEENA Labour Dispute Guarantee will not be responsible for any award or judgements in the event of the following:
  - 4.1 An award or judgement where the dispute arose prior to the client becoming a client of SEENA and inception of this guarantee, namely 01 March 2008.
  - 4.2 Any award or judgement where a client acted unfairly due to his/her failure to obtain and act in accordance with the advice received from SEENA or failed to involve SEENA in the relevant procedure;
  - 4.3 Any award or judgement where such an award or judgement was made after the client's agreement was cancelled or where the client owes more than one monthly premium, or one annual premium if such a client pays his/her membership fee annually;
  - 4.4 Any award pertaining to unpaid remuneration in terms of any Collective Agreement or the Labour Act or other fees which are or were payable in terms of any Act.

### **EXCLUSIONS**

The guarantee will not cover:

- 5.1 The payment of retrenchment packages in case of retrenchments;
- 5.2 Any statutory payment such as accrued leave, Social Security and Income TAX;
- 5.3 Payment of any amount for an award made in favour of a domestic worker;
- 5.4 Disputes arising before an agreement existed between SEENA and the client;
- 5.5 Disputes where SEENA Labour was not consulted on the procedure or had not advised on the course of action to be followed;
- 5.6 A constructive dismissal where SEENA Labour was not consulted or advised the client on the appropriate cause of action to be followed or where the client's actions supports the allegation;
- 5.7 Any claim which is in any respect fraudulent or criminal in nature or where such conduct is found to exist or implied in any finding or judgement;
- 5.8 Any amount awarded to a person following the client's failure to act in terms of Compensation for Occupational Injuries and Diseases Act, Social Security and in terms of the Affirmative Action Act;
- 5.9 The payment of any award where the client failed to inform SEENA timeously of any pending dispute or an appearance date, or failed or refused to make him/herself or any other witness available or to co-operate or supply any documentation as requested, to enable SEENA to defend a matter adequately.

- 5.10 Any claim where the client negligently or intentionally failed to disclose information or evidence during any procedure conducted on their behalf by SEENA Labour, or any other entity or person appointed by them, where the information or evidence would have made a difference in the substantive or procedural outcome of that procedure, should that information or evidence been initially disclosed.
- 5.11 Any claim, where the client failed to provide evidence or provided contradictory evidence to that which was disclosed in the procedure previously conducted by SEENA Labour, or any other entity or person appointed by them, whether viva voce or documentary, in any Labour Commissioner dispute resolution Conciliation and Arbitration, Labour Court or Supreme Court matter, which resulted in an unfavourable outcome.

## 6. **OBLIGATIONS**

- 6.1 SEENA Labour, as the labour representative, must in all instances where an action as mentioned in paragraph 3 is envisaged or where a dispute could arise, be consulted timeously on the appropriate action to be taken or be requested to conduct the procedure, e.g. holding a disciplinary hearing or assisting with a retrenchment, strike action, etc.
- 6.2 The client must inform SEENA Labour of any referral of a dispute or of any subsequent notification of a date of conciliation or arbitration or any other pending dispute as soon as possible.
- 6.3 The client must take the utmost care to obtain and act in accordance with SEENA Labour's advice in all instances where a dispute could arise.
- 6.4 SEENA Labour must be informed immediately of any award made against a client and the relevant award must be obtained and provided to SEENA as soon as possible.
- 6.5 A client may not accept any responsibility on behalf of SEENA Labour or give any assurances on behalf of the latter.

## 7. **ADMINISTRATION AND DISCRETION**

- 7.1 The Managing Director of SEENA Legal Consult (Pty) Ltd may at his discretion, upon receipt of a written submission, award an amount higher than the amount specified in paragraph 2 in any matter that may benefit a SEENA Labour client, taking into account the provisions of paragraphs 3, 4 and 6.
- 7.2 Excessive legal expenses incurred by a SEENA Labour client in respect of any labour dispute may also be paid out of the guarantee, subject to the same conditions mentioned in paragraph 7.1.
- 7.3 No benefit in terms of this guarantee is transferable from one year to the next.

- 7.4 Even if a claim complies with all the terms and conditions as set out above, it will still be at the sole discretion of the Managing Director to authorise the payment of such a claim or not on good cause shown.
- 7.5 Whenever there is referred to "SEENA" in these terms and conditions it will include any other entity or person appointed by them to act on their behalf or on behalf of the Client.

### **WINDHOEK**

**Office:** 171 Nelson Mandela Avenue, Windhoek  
**Postal Address:** PO Box 9315 | Eros | Windhoek | Namibia  
**Tel:** (061) 309 260  
**Fax:** (061) 309 266  
**E-mail:** [windhoek@seenalegal.com](mailto:windhoek@seenalegal.com)

### **SWAKOPMUND**

**Office:** C/o Daniel Kamho & Smith Street | Apex Park | First Floor | Unit 19 Swakopmund  
**Postal Address:** PO Box 2022 | Swakopmund | Namibia  
**Tel:** (064) 416 100  
**Fax:** (064) 461 000  
**E-mail:** [swakop@seenalegal.com](mailto:swakop@seenalegal.com)

### **KEETMANSHOOP**

**Office:** C/o Pastorie Street & 7th Avenue | Keetmanshoop  
**Postal Address:** PO Box 2022, Swakopmund, Namibia  
**Tel:** (063) 225 931  
**Fax:** (063) 225 932  
**E-mail:** [keetmans@seenalegal.com](mailto:keetmans@seenalegal.com)

### **TSUMEB**

**Office:** 419 Ndilimani Cultural Troupe Street, Tsumeb  
**Postal Address:** PO Box 2022, Swakopmund, Namibia  
**Tel:** (067) 222 900  
**Fax:** (067) 222 500  
**E-mail:** [tsumeb@seenalegal.com](mailto:tsumeb@seenalegal.com)

### **OTJIWARONGO**

**Office:** 58 Hage Geingob Street, Otjiwarongo  
**Postal Address:** PO Box 2022, Swakopmund, Namibia  
**Tel:** (067) 304 915  
**Fax:** (067) 304 809  
**E-mail:** [otjiwarongo@seenalegal.com](mailto:otjiwarongo@seenalegal.com)

