

TERMS AND CONDITIONS

1. **PREAMBLE**

- 1.1. **IDENTITY GUARD** is the provider of the product and these terms and conditions set forth the terms and conditions applicable to the agreement between Identity Guard and you together with your use of the product. These terms and conditions can be viewed on our website at [_http://www.identityguard.co.za](http://www.identityguard.co.za)
- 1.2. In submitting your application for use of the product to us whether electronically or in hard copy you agree personally and in the event of you selecting the **FAMILY GUARD PRODUCT** on behalf of your spouse and your dependants to be bound by these terms and conditions.
- 1.3. In the event of you not agreeing to be bound to these terms and conditions you are to withdraw your application to Identity Guard and further you are not authorised to utilize either the product or any service provided by Identity Guard.

1.4. This preamble forms part of the agreement between you and Identity Guard and in the following definition section, should any definition contain terms placing an obligation upon either you or Identity Guard or both of us then such definition shall form a substantive part of this agreement

1.5. **You warrant that to your knowledge no identity theft has taken place prior to the submission by you of your application and payment of your first fees.** You specifically agree and accept that the product shall only be available to you in the event of any identity theft taking place AFTER the submission by you of your application form and payment of your first fee.

2. DEFINITIONS

2.1. **“DEPENDANTS”**: shall mean unmarried children from the moment of birth including natural children or step-children and adopted children of the member who are primarily dependent upon the member for maintenance and support and who are under the age of 19 (nineteen) or under the age of 25 (twenty-five) if enrolled as a full-time student at a recognised institute for tertiary learning.

2.2. **“CREDIT MONITORING”**: shall mean access by the member to at least 1 (one) credit bureau rendering service within the Republic of South Africa and which services shall include the member’s entitlement to view his/her full credit profile and to receive electronic short message service alerts via the member’s cellular phone regarding possible changes to such profile

2.3. **“ENROLMENT (“ENROLLED”)**: shall mean the submission of application and debit order forms by the member which application form shall be deemed to be

accepted by Identity Guard upon Identity Guard providing the member with a unique membership number and receipt by Identity Guard of the first fee.

- 2.4. **"FAMILY PACKAGE"**: shall mean the member, his spouse and a maximum of 3 (three) children ;
- 2.5. **"IDENTITY"**: shall mean your name or any part thereof as is contained in any official document and includes the unique number issued to you by the authority vested with same by way of Statute and / or Regulation in any Sovereign State and which number is contained in any official document;
- 2.6. **"IDENTITY GUARD"**: shall mean Identity Guard (Pty) Ltd, a company duly registered and incorporated in accordance with the Company Laws of the Republic of South Africa with registration number 2013 / 233732 / 07;
- 2.7. **"IDENTITY THEFT"**: shall mean any falsification of your signature or identity or use of any of any official document issued to you in circumstances not authorised by you;
- 2.8. **"MEMBER"**: shall mean that person who submits an application form to Identity Guard in order to become enrolled.
- 2.9. **"OFFICIAL DOCUMENT"**: shall mean any document and/or hardcopy issued, without alteration, by any authority vested with such power by way of Statute and/or Regulation to you and generally accepted as being proof of your identity including but not necessarily limited to, identity books / cards, passports, birth certificates, licenses and the like;

;

- 2.10. **“FEE:** shall mean that amount to be paid by you monthly, in advance, without set-off, deduction and free of bank charges, directly into Identity Guard’s bank account by electronic funds transfer or by debit order;
- 2.11. **“THE PRODUCT”** shall mean the restitution process to which you are entitled subject to these terms and conditions;
- 2.12. **“THE INVESTIGATOR”** shall mean that person appointed by Identity Guard to investigate and render the report;
- 2.13. **“THE INCIDENT”** shall mean each separate occasion upon which you are subject to identity theft
- 2.14. **“SERVICE”:** shall mean the product and unlimited access by the member of credit monitoring
- 2.15. **“SPOUSE”:** shall mean that person married to the member and recognized as being a spouse according to the laws of the Republic of South Africa;
- 2.16. **“YOU/YOUR”:** means the member and in the event of the Family Package having been selected by the member includes the spouse and dependants;
- 2.17. **“THE REPORT”** shall mean that report generated by the investigator consequent upon an incident and to which you and Identity Guard shall be bound
- 2.18. **“THE RESTITUTION PROCESS”:** means that procedure followed by Identity Guard once you have been subject to an incident of Identity theft and shall include, but not necessarily be limited to the appointment of the investigator,

laying of criminal charges, attempting to cause any adverse credit report about you created as a result of the Identity theft to be rescinded and generally the rendering of assistance to you to remove any consequence of Identity Theft suffered by you and in the event of a court judgement having been granted against you by default and as is more fully hereafter set out, cause such judgement to be rescinded

- 2.19. “ **PERIOD(S)**”: shall mean the period of a calendar month, reckoned as from the 1st of any particular month until the last day of such month as is envisaged in the Gregorian Calendar and “day” shall mean calendar days;
- 2.20. “**THE PRODUCT**”: shall mean the business of Identity Guard whereby various persons, including you, against payment of a fee, receive the restitution process.
3. Upon enrolment you shall be entitled to the benefit of the product and within 7(seven) days the service and thereafter on condition that the fee is paid timeously for each subsequent period.
4. Within periods and from time to time Identity Guard shall provide information to you so as to enable you to ascertain as to how Identity Theft occurs and advise as to what proactive measures should be taken by you to avoid identity theft.
5. Identity Guard reserves the right from time to time to amend these terms and conditions which shall amendment be of full force and effect from the period subsequent upon such amendment

6. THE RESTITUTION PROCESS

YOUR OBLIGATIONS

Upon you ascertaining that an incident has or might have taken place you are to do the following:

- 6.1 Contact our hotline at **0861 434 8273** or the applicable client hotline providing your membership number and insofar as is possible, details of the identity theft;
- 6.2 Provide Identity Guard with a Power of Attorney authorising Identity Guard to carry out the restitution process which shall include , but not be limited to, Identity Guard and/or the investigator being able to obtain such information as may be necessary to ascertain full details as to the incident whether from credit providers or otherwise and to instruct attorneys at their cost, to launch rescission of judgement proceedings as set out below
- 6.3 Lay a complaint with your local police station and provide Identity Guard with the case number (CAS No).
- 6.4 Render all reasonable assistance to the investigator , Identity Guard and its attorneys.
- 6.5 Continue paying the fee and not terminate your enrolment until the restitution process is complete.

It is very important that the member regularly utilises the credit monitoring and in the event of there being **ANY** third party enquiry reflected thereon about which the member has no knowledge forthwith implement the steps set out above

IDENTITY GUARD'S OBLIGATIONS.

- 6.6 Upon receipt of the information set out in paragraphs 5.1 to 5.3 inclusive Identity Guard shall appoint an investigator to provide the report;

6.7 On receipt of the report indicating that the incident has taken place continue with the restitution process;

6.8 In the event that the report is inconclusive as to whether the incident has taken place, provide you with a copy of same and invite you to provide further objective evidence for further investigation by the investigator. Such further evidence to be received by Identity Guard within 30 (Thirty) days of the date of the report failing which Identity Guard shall not proceed further with the restitution process and close its file.

6 CREDIT MONITORING

6.1 Identity Guard shall within 7 (seven) days after your enrolment cause the member to be provided with the relevant protocols to enable the member to communicate directly with the credit bureau through which the credit monitoring takes place and which bureau shall provide you with your password to enable the credit monitoring..

6.2 Other than in the event of identity theft, any adverse or problematic credit report is to be raised and dealt with by you directly with the credit bureau concerned

7. TERMINATION

7.1 You may, in writing, terminate your enrolment at any time prior to the 20th day of any calendar month, should you not do so your enrolment shall be automatically renewed on the same terms and conditions on receipt of the fee for the new month.

7.2 After an incident and prior to the completion of the restitution process you shall not terminate your enrolment.

7.3 In the event of the fee not being received by Identity Guard and you not having terminated the service as provided for in 7.1 above then you shall remain liable to

Identity Guard for the unpaid fee but shall not be entitled to utilise the service for the period to which such unpaid fee relates

8. LIMITATION OF LIABILITY AND OBLIGATIONS

8.1 The Member recognises and accepts that credit monitoring services are to a large extent beyond the control of Identity Guard and Identity Guard rely on the various credit bureau being able to properly and accurately access records.

8.2 Your only recourse against Identity Guard for failure to provide the restitution service in circumstances where it should so have done is a refund of that period's fee and you indemnify and hold harmless Identity Guard, its directors employees, officers, shareholders, agents (including attorneys) and third party contractors, including the investigator, for any claim howsoever and wheresoever arising consequent upon provision of the product or the services and any harm that might occur to any third party.

8.3 You acknowledge and agree that Identity Guard is neither an Insurer nor a Provider of Insurance products and that insofar as the restitution process is concerned no warranty or guarantee is given that the restitution process will result in a particular outcome or that its efforts will lead to a satisfactory result to you. The failure to provide the restitution service or the product or the service shall not found a claim against Identity Guard where such failure or delay is caused by conditions beyond Identity Guard's control including but not limited to:

- Labour disturbances;
- Strikes;
- War;
- Force Majeure;
- Riot;

- Civil Commotion;
- Natural Disasters; or
- Acts of God.

Or where rendering the service is prohibited by any Local Law, Regulation or By-Law.

7.4 Save for what is hereafter specifically set out **other than assisting you with the provision of the report Identity Guard shall not be liable for any costs, fees or charges incurred in any litigation whether civil or criminal, which might result from the identity theft.**

RESCISSION OF JUDGEMENT

In the event of a judgement being granted against you under the following specific circumstances:

a) by default of you having entered an appearance to defend

and

b) where the document (usually a summons) by which the court case was commenced against you, was neither served on you nor reasonably have come to your knowledge

and

c) where the possibility of identity theft was not reflected on any report included in the credit monitoring prior to the date upon which the court case commenced

and

d) where you have faithfully complied with these terms and conditions

and

e) where the provisions of clause 6.8 apply

THEN

Identity Guard shall instruct attorneys to launch an application for the rescission of the judgement referred to above and, on condition that such application is not opposed by any third party shall bear the costs incurred by such application

9. GOVERNING LAW

This agreement shall be construed and enforced in accordance with the Laws of the Republic of South Africa.