



**barristers  
civil liability professional  
indemnity insurance  
policy**

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# Barristers Civil Liability Professional Indemnity Insurance Policy

## Section 1 How to read this Insurance Policy

- 1.1 Some of the words in this insurance **Policy** have special meanings. These meanings can be found in Section 10 of the **Policy** (“Words with special meanings”). If a word has a special meaning, it appears in the **Policy** in bold type and with a capital letter. These words may appear without bold type in endorsements in the **Policy** Schedule.

## Section 2 The Insurance Contract

- 2.1 **We** agree to provide the **Cover** described in this **Policy** upon full payment of the Gross Premium as stated in the **Policy** Schedule. If full payment of the Gross Premium as stated in the Schedule is not made, there is no **Cover**.
- 2.2 Before this **Policy** came into effect, **We** were provided with information by or on behalf of the **Insured** (and those referred to in Section 4.2 of this **Policy**) in the **Proposal**, and perhaps in other ways. **We** have relied on this information to decide whether to enter into this contract and on what terms. If any of that information is wrong or false, it may affect entitlement to **Cover** under this **Policy**.
- 2.3 This **Policy** is in force for the Period of Insurance stated in the Schedule.

## Section 3 The Cover We Provide

- 3.1 **The Cover We Provide**  
**We Cover** the **Insured** up to the **Policy Limit** (subject to Section 5) for any **Claims** for **Civil Liability** to any third party which is incurred by the **Insured** in the conduct of the **Professional Services** and which **Claims**:
- (a) are made against the **Insured** (or, those referred to in Section 4.2 of this **Policy**) while this **Policy** is in force; and
  - (b) **We** are told about in writing as soon as reasonably possible while this **Policy** is in force.
- 3.2 **The types of Claim We Cover**  
The **Civil Liability We** provide **Cover** for in this **Policy** includes (but is not limited to) the following types of **Civil Liability Claims** arising in the conduct of the **Professional Services**:
- (a) breach of duty (including a duty of confidentiality or a fiduciary duty).
  - (b) unintentional defamation.
  - (c) loss of or damage to **Documents** which were in the **Insured's** physical custody or control at the time of loss or damage.
  - (d) Unintentional infringement of **Intellectual Property**.
  - (e) unintentional breaches of the Misleading & Deceptive Conduct provisions of Div 2 Part 2 of the Australian Securities and Investments Commission Act 2001, the consumer protection provisions of the Competition and Consumer Act 2010 (Cth) or corresponding consumer protection provisions of New Zealand and Australian State Fair Trading legislation (but not for criminal liability in respect of any of these).
  - (f) breach of warranty of authority committed, by or on behalf of the **Insured**, in good faith and in the belief that appropriate authority was held.

### 3.3 Claim Investigation Costs

- (a) In respect of **Covered Claims**, subject to Sections 3.3 b) and 5.3, **We** also pay in addition to the **Policy Limit** (but only up to an amount equal to the **Policy Limit**) **Claim Investigation Costs**.
- (b) In respect of **Covered Claims**:
  - i) first brought in a court outside Australia or New Zealand; or
  - ii) brought in a court within Australia or New Zealand to enforce a judgment handed down in a court outside Australia or New Zealand; or
  - iii) where the proper law of a country other than Australia or New Zealand is applied to any of the issues in any **Claim** or loss **Covered** by this **Policy**, the **Policy Limit** is inclusive of **Claim Investigation Costs**.
- (c) **We** will pay such costs as and when they are incurred prior to final resolution of the **Claim**, however, **We** will only pay such costs, if either:
  - i) **We** incur them; or
  - ii) the **Policyholder** incurs them after first obtaining **Our** agreement in writing and the costs and expenses are reasonable and necessary.
- (d) **We** are not obliged to defend, or to continue to defend, any **Claim** (or **Covered Claim**) or pay, or continue to pay, any costs or expenses associated with such defence, once the **Policy Limit** has been exhausted.

### 3.4 Disciplinary Proceedings / Enquiries

For those disciplinary enquiries of which the **Insured** first becomes aware and of which **We** are told about in writing as soon as reasonably possible while this **Policy** is in force, **We** also **Cover** the **Insured** up to \$100,000, in aggregate, for legal costs and expenses (incurred with **Our** prior written approval and which in **Our** view are reasonable and necessary) for the representation of the **Insured** at any **Disciplinary Enquiry**. This **Cover** does not extend to paying the **Insured's** regular or overtime wages, salaries or fees, or those of the **Insured's Employees**.

### 3.5 Continuous Cover

**We Cover** the **Insured**, for any **Claim** otherwise **Covered** by this **Policy**, arising from a **Known Circumstance** (notwithstanding Section 6.1 of this **Policy**) if:

- (a) There has been no fraudulent non-disclosure or fraudulent misrepresentation in respect of such **Known Circumstance**; and
- (b) **We** were the professional liability insurer of the **Insured** when the **Insured** first knew (or a reasonable person in the **Insured's** professional position would have known) of such **Known Circumstance**; and
- (c) **We** continued without interruption to be the **Insured's** professional liability insurer up until this **Policy** came into effect; and
- (d) Had **We** been notified by the **Insured** of the **Known Circumstance** when the **Insured** first knew of it (or a reasonable person in the **Insured's** professional position would have known of it), the **Insured** would have been covered under the policy in force at that time but is not now entitled to be covered by that policy, and the **Insured** would (but for Section 6.1 of this **Policy**) otherwise be **Covered** under this **Policy**; and
- (e) The **Insured** agrees that it will not seek indemnity from **Us** in respect of the **Claim** or **Known Circumstance** under any other policy issued by **Us**.

If the **Insured** was entitled to have given notice under any other policy of insurance and thereby have an entitlement to indemnity, in whole or in part, then this Section 3.5 does not apply to provide **Cover** under this **Policy**.

**We** may reduce the amount **We** pay out under this provision by the amount of any prejudice **We** may suffer in consequence of any delayed notification to **Us**.

The **Policy Limit** of the **Cover** **We** provide under this provision is the lesser available under the terms of the policy in force at the earlier time referred to in paragraph (d) above, or under this **Policy**. The terms of this **Policy** otherwise apply.

## Section 4

### Who is Covered

#### 4.1 Insured

**We Cover** the **Insured** named in the Schedule (and as defined in Section 10 of the **Policy**) for **Claims** or losses and costs of the type and on the basis specified in Section 3, arising from the conduct of the **Professional Services** by or on behalf of the **Insured**.

The conduct of the **Professional Services** by or on behalf of the **Insured** includes, for the purpose of this **Policy**, acts, errors or omissions of agents or consultants of the **Insured** while undertaking work which is reasonably incidental to the conduct by the **Insured** of the **Professional Services** and for which the **Insured** is liable. Such agents and consultants, however, are not **Covered** by this **Policy**.

#### 4.2 Cover to Estates and Legal Representatives

If an **Insured**, or anyone entitled to **Cover** under this **Policy**, dies or becomes legally incompetent or insolvent, **We Cover** the estate, legal representative or assigns of the **Insured**, or the party entitled to **Cover**, to the same extent as **Cover** would otherwise be available to the **Insured**.

## Section 5

### Limits to the amount of cover

#### 5.1 The Policy Limit

Subject to this Section 5, the **Policy Limit** applies to any each and every **Claim Covered** by this **Policy**.

#### 5.2 Reinstatement of the Policy Limit

The **Policy Limit** is the maximum amount **We** will **Cover** the **Insured** for in respect of any one **Claim**, subject to the following limitations:

- (a) **We** do not provide **Cover** for an amount in the aggregate more than the **Specific Cover Limit** for losses under Section 3.4, Disciplinary Proceedings or Enquiries.
- (b) **We** do not provide **Cover** for an amount more than the **Policy Limit** in respect of any one **Claim**;
- (c) the **Cover** under this **Policy** shall not exceed the **Policy Limit** for any one **Claim** or series of **Claims** (including **Covered Claims**) arising from the one and the same act, error or omission;
- (d) if there is extra insurance in excess of the limit of this **Policy**, then **Cover** in excess of one **Policy Limit** is only available for so much of the liability (otherwise **Covered** by this **Policy**) which is not covered by the extra insurance;
- (e) where **Cover** is provided under this **Policy** for any **Claim** then **Claim Investigation Costs** are paid in respect of that **Claim** up to an amount equal to the **Policy Limit** in accordance with Section 3.3 of this **Policy**.

#### 5.3 Cover for Claim Investigation Costs if the Policy Limit is exceeded

If the amount that has to be paid to dispose of a **Claim** exceeds the **Policy Limit**, then **We** only pay for the same proportion of the **Claim Investigation Costs** as the **Policy Limit** bears to the amount to be paid to settle the **Claim**. But **We** never pay more than the **Policy Limit**.

#### 5.4 Limit if multiple persons insured

The **Policy Limit** does not increase if there is more than one person, firm or incorporated body insured under this **Policy**, or if more than one insured person causes or contributes to the **Claim**.

## 5.5 Specific Cover Limits

If the Schedule indicates any **Specific Cover Limits** for specific types of **Cover** under this **Policy**, then these **Specific Cover Limits** apply only to **Claims** under that **Specific Cover**. The **Policy Limit** itself still applies to all other **Claims** individually and to the total of all **Claims** added together (including **Claims** for which **Specific Cover Limits** apply, which are included within and not in addition to the **Policy Limit**).

## 5.6 GST Input Tax Credits

- (a) Where and to the extent that **We** are entitled to claim an Input Tax Credit for a payment made under the **Policy**, then any monetary limit in the **Policy** on **Our** obligation to make a payment of this kind, shall be deemed to be net of **Our** entitlement to the Input Tax Credit.
- (b) Where and to the extent that the **Insured** is entitled to claim an Input Tax Credit for a payment required to be made by the **Insured** as an **Excess**, then the monetary limit of the **Excess** shall be deemed to be net of the entitlement of the **Insured** to the Input Tax Credit.
- (c) Where payment is made under this **Policy** for the acquisition of goods, services or other supply, **We** will reduce the amount of the payment by the amount of any Input Tax Credit that, the **Insured** is or will be, entitled to under A New Tax System (Goods and Services Tax) Act 1999 in relation to that acquisition, whether or not that acquisition is made.
- (d) Where payment is made under this **Policy** as compensation instead of payment for the acquisition of goods, services or other supply, **We** will reduce the amount of the payment by the amount of any input tax credit that **You** would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

## Section 6 What is not Covered

**We** do not provide **Cover** for any of the following **Claims**, (or losses or liabilities) or any associated costs:

### 6.1 Known Claims and Known Circumstances

- (a) known **Claims** (or losses) as at the inception date of this **Policy**; or
- (b) **Claims** (or losses) arising from a **Known Circumstance**; or
- (c) **Claims** (or losses) directly or indirectly based upon, attributable to, or in consequence of any such **Known Circumstance** or known **Claims** (or losses); or
- (d) **Claims** (or losses) disclosed in the **Proposal** or arising from facts or circumstances disclosed in the **Proposal**; or
- (e) if the **Policy** is endorsed or amended mid term, for any **Claim** that arose from a **Known Circumstance** (as at the effective date of the amendment/ endorsement) to the extent that that **Claim** would not have been **Covered** by the **Policy** before such amendment/endorsement.

### 6.2 Foreign Courts Claims:

subject to the 'Jurisdictional Limits' specified in the Schedule:

- (a) first brought in or determined pursuant to the laws of, the United States of America or the Dominion of Canada, or their territories or protectorates; or
- (b) arising out of the enforcement of judgments, orders or awards obtained in or determined pursuant to the laws of the United States of America or the Dominion of Canada, or their territories or protectorates; or
- (c) to the extent the proper law of the United States of America or the Dominion of Canada, or their territories or protectorates is applied to any of the issues in any **Claim** or **Covered Claim**, **Covered** by this **Policy**.

### 6.3 Assumed duty or obligation

#### Claims:

- (a) alleging a liability under a contractual warranty, guarantee or undertaking (unless liability would have existed regardless of the contractual warranty, guarantee or undertaking); or
- (b) about circumstances where a right of contribution or indemnity has been given up by an **Insured**, but only to the extent of the prejudice suffered by **Us** in those circumstances; or
- (c) about circumstances where someone has done work or provided services under an arrangement or agreement with the **Insured** which limits any potential right for the **Insured** to receive contribution or indemnity from that person, but only to the extent of the prejudice suffered by **Us** in those circumstances; or
- (d) arising from any **Civil Liability** which the **Insured** agrees to accept outside that which is normal in the course of the conduct of the **Professional Services**; or
- (e) arising from any business not conducted for or on behalf of the **Insured** as a barrister.

### 6.4 Related parties

#### Claims:

- (a) against the **Insured** by or on behalf of:
  - (i) any person, firm or incorporated body **Covered** by this **Policy**; or
  - (ii) any company or trust which is operated or controlled by an **Insured** or an **Insured's Employees**, nominees or trustees, and in which an **Insured** has a direct or indirect financial interest.
- (b) By or on behalf of the **Insured** and / or any person entitled to be **Covered** under this **Policy**, against any person, firm and or incorporated body **Covered** by this **Policy**.

### 6.5 Refund of Professional Fees and Trading Debts

#### Claims:

- (a) for refund of professional fees or charges (by way of damages or otherwise); or
- (b) arising from a liability to pay trading debts.

### 6.6 Profit

Loss or expense incurred by or on behalf of the **Insured** (other than as **Covered** by Sections 3.3 and 3.4 of this **Policy**) which is not a liability to a third party.

### 6.7 Employers' Liability, Directors' & Officers' Liability, Occupier's Liability, Motor, Marine, etc

#### Claims:

- (a) Directly or indirectly based upon, attributable to or in consequence of the **Insured's** liability as an employer; or
- (b) arising out of or in respect of actual or alleged unlawful discrimination (or other unlawful act, error or omission) by any **Insured** against any **Employee** or employment applicant.
- (c) (if an **Insured** is either an incorporated body or a director or officer of an incorporated body) arising from any act, error or omission of a director or officer of that incorporated body while acting in that capacity; or
- (d) arising from occupation (or alleged occupation) of land or buildings by an **Insured**; or
- (e) arising from or in respect of an **Insured's** liability as an owner or operator of any aircraft, marine craft or motor vehicles of any kind.

### 6.8 Insolvency

**Claims** directly or indirectly arising out of or in any way connected to the **Insured's** insolvency, bankruptcy or liquidation.

### 6.9 Punitive & Exemplary Damages

**Claims** for punitive, aggravated or exemplary damages or for fines or penalties. In addition, this **Policy** does not provide **Cover** for any investigation or defence costs associated with such **Claims**.

- 6.10 Intentional Damage**  
**Claims** arising from acts, errors or omissions by the **Insured** with the intention of causing a third party loss, damage or injury, or with reckless disregard for the consequences.
- 6.11 Asbestos**  
**Claims** directly or indirectly arising out of, resulting from or in consequence of, or in any way involving, asbestos, or any materials containing asbestos in whatever form or quantity, except to the extent that such **Claims** are made in respect of financial or economic loss alleged to have been caused or contributed to by the **Insured** in the conduct of the **Professional Services**.
- 6.12 Radioactivity & Nuclear Hazards**  
**Claims** arising from:  
(a) ionising radiations or contamination by radioactivity from any nuclear material; or  
(b) the hazardous properties of any nuclear explosive, assembly or component.
- 6.13 War & Uprisings**  
**Claims** arising directly or indirectly from:  
(a) war, invasion, acts of foreign enemies, civil or military uprisings, hostilities (even if war is not declared), or government power being taken unlawfully; or  
(b) property being taken, damaged or destroyed by a government or public or local authority.
- 6.14 Terrorism**  
**Claims** directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with:  
(a) any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense; or  
(b) any action in controlling, preventing, suppressing, retaliating against, or responding to any act of **Terrorism**.
- 6.15 Fraud and Dishonesty**  
Directly or indirectly arising out of or in any way connected with the dishonest, fraudulent, criminal or malicious acts or omissions of the **Insured**.

## Section 7

### Investigation, defence and settlement of Claims

- 7.1 We must be told about Claims**  
The **Insured** must tell **Us** in writing about a **Claim** or loss as soon as possible and while this **Policy** is in force. If this is not done the **Insured's** right to **Cover** under this **Policy** may be affected.
- 7.2 Claims co-operation**  
Each **Insured** must:  
(a) diligently do, and allow to be done, everything reasonably practicable to avoid or lessen the **Insured's** liability in relation to a **Claim** (or **Covered Claim**) or loss otherwise **Covered** by this **Policy**;  
(b) immediately give **Us** all the help and information that **We** reasonably require to:  
(i) investigate and defend a **Claim** or loss; and  
(ii) work out **Our** liability under this **Policy**.
- 7.3 We can protect Our position**  
When **We** receive a notification of a **Claim**, or of a fact or circumstance which may give rise to a **Claim** which may be **Covered** under this **Policy**, then **We** can take whatever action **We** consider appropriate to protect **Our** position.
- This does not, however:  
(a) indicate that any **Insured** is entitled to be **Covered** under this **Policy**; or  
(b) jeopardise **Our** rights under the **Policy** or at law.

- 7.4 Disclosure of information to Us in respect of the Cover and the Claim (or Covered Claim)**  
 The solicitors instructed by **Us** to act on behalf of the **Insured** for any **Claim** (or **Covered Claim**) are at liberty to disclose to **Us** any information they receive in that capacity, wherever they obtain it from, including from the **Insured**. By claiming under this **Policy**, the **Insured** (and any person entitled to **Cover** under this **Policy**) authorises such solicitors to disclose this information to **Us** and waives all claim to legal professional privilege which might otherwise prevent those solicitors disclosing this information to **Us**.
- 7.5 We can manage the Claim (or Covered Claim) on the Insured's behalf**  
**We** can:
- (a) take over and defend or settle any **Claim** (or **Covered Claim**) in the **Insured's** name; and
  - (b) claim in the **Insured's** name, any right the **Insured** may have for contribution or indemnity.
- 7.6 An Insured must not admit liability for or settle any Claim (or Covered Claim)**  
 An **Insured** must not:
- (a) admit liability for, or settle any **Claim** (or **Covered Claim**); or
  - (b) incur any costs or expenses for a **Claim** (or **Covered Claim**);
- without first obtaining **Our** consent in writing (such consent shall not be unreasonably withheld or delayed). If **Our** prior consent is not obtained, the **Insured's** right to **Cover** under this **Policy** may be affected.
- 7.7 Insured's right to contest**  
 If an **Insured** elects not to consent to a settlement that **We** recommend and wants to contest or continue the legal proceedings, then **We** only **Cover** the **Insured** (subject to the **Policy Limit**) for:
- (a) the amount **We** could have settled the matter for; less
  - (b) the relevant **Excess** listed in the Schedule; plus
  - (c) the **Claim Investigation Costs** calculated to the date the **Insured** elected not to consent to the settlement.
- 7.8 Senior Counsel**
- (a) Unless a Senior Counsel, that **We** and the **Insured** both agree to instruct, advises that the **Claim** proceedings should be contested, then neither **We** nor the **Insured** can require the other to contest any legal proceedings about a **Claim** if the other does not agree to do so.
  - (b) In formulating his or her advice, Senior Counsel must be instructed to consider:
    - (i) the economics of the matter; and
    - (ii) the damages and costs likely to be recovered; and
    - (iii) the likely costs of defence; and
    - (iv) the **Insured's** prospects of successfully defending the **Claim**.
  - (c) The cost of Senior Counsel's opinion is to be taken as part of the **Claim Investigation Costs**.
  - (d) If Senior Counsel advises that the matter should be settled and if the terms of settlement which **We** recommend are within limits which are reasonable (in Senior Counsel's opinion and in the light of the matters he/she is required to consider), then:
    - (i) the **Insured** cannot (subject to Section 7.7, **Insured's** right to contest) object to the settlement; and
    - (ii) the **Insured** must immediately pay the relevant **Excess** or **Excesses** listed in the Schedule.
- 7.9 Payments to settle potential Claims**  
 Any money **We** pay to settle anything which might give rise to a **Claim**, is taken to be:
- (a) a payment to settle a **Claim**, and in addition,
  - (b) a payment for the purpose of calculating the total of all **Claims** under this **Policy**.

### 7.10 **Offsetting of costs & expenses the Insured owes Us against what We owe the Insured**

If **We** incur costs or expenses above **Our** liability under the **Policy** for **Claim Investigation Costs**, then the **Insured** must pay whatever amount is above that liability immediately **We** ask for it. **We** can offset that payment due from the **Insured** against (and deduct that amount from) any amount **We** must pay to or for the **Insured** under this **Policy**.

### 7.11 **The Excess**

- (a) **We** only **Cover** the **Insured** (up to the **Policy Limit**) for that part of the **Covered Claim** above the **Excess**.
- (b) There are different **Excesses** that may be applicable, depending on the type of **Covered Claim** involved:
  - (i) The **Insured** must pay the amount of **Excess** for Australia and New Zealand Jurisdictions specified in the Schedule if the **Covered Claim** arises under the jurisdiction of an Australian or New Zealand court. The **Insured** must also pay this **Excess** when **We** provide **Cover** for the **Claim Investigation Costs** of this **Covered Claim** if the Schedule states "Costs inclusive". There is no **Excess** for **Claim Investigation Costs** when **We** **Cover** an **Insured** for this **Covered Claim** if the Schedule states "Costs exclusive".
  - (ii) The **Insured** must pay the amount of **Excess** for other Jurisdictions specified in the Schedule if the **Covered Claim** arises under the jurisdiction of a court other than of Australia or New Zealand. The **Insured** must also pay this **Excess** when **We** provide **Cover** for **Claim Investigation Costs** for this **Covered Claim**.
  - (iii) The **Insured** must pay the amount of **Excess** for costs of Disciplinary Enquiries specified in the Schedule when **We** provide **Cover** for legal costs and expenses associated with a disciplinary proceeding or enquiry which **We** **Cover** under Section 3.4 of this **Policy**.
  - (iv) The **Insured** must pay only one **Excess** for all **Covered Claims** or losses **Covered** by this **Policy** arising from the same act, error or omission.
- (c) In the event of a **Claim**, **Covered Claim** or loss arising from separate acts, errors or omissions, then an **Excess** shall apply in respect of each such act, error or omission.
- (d) Where the **Excess** is indicated in the **Policy** Schedule as 'Costs inclusive', the amount of the **Excess** is exclusive (ie. net) of any GST payable in respect of legal or similar investigation or defence costs.

### 7.12 **Loss Prevention**

The **Insured** shall, as a condition to **Cover** under this **Policy**, take all reasonable steps to prevent any act, error, omission or circumstance which may cause or contribute to any **Claim** or loss which may be **Covered** under this **Policy**.

## Section 8 Other Matters

### 8.1 **Cancellation of Practising Certificate**

The **Insured** must tell **Us** immediately in writing if an **Insured's** Practising Certificate, is cancelled, suspended or terminated or has had conditions imposed during the Period of Insurance stated in the Schedule.

### 8.2 **Singular & Plural**

The singular includes the plural and the plural includes the singular, except if the context requires otherwise.

### 8.3 **Payment in Australian dollars in Australia**

All premiums and **Claims** must be paid in Australian dollars in Australia.

#### 8.4 Law of the Policy

This **Policy** is governed by the law of the Territory or State where the **Policy** was issued, which is stated in the Schedule. The courts of that place have jurisdiction in any dispute about or under this **Policy**.

#### 8.5 Territory covered by this Policy

**Cover** under this **Policy** is not restricted by where anything giving rise to the **Claim** occurred.

#### 8.6 Schedule must be included

This **Policy** is only legally enforceable if it includes a Schedule signed by one of **Our** officers.

#### 8.7 Run Off Cover

If the **Insured** ceases practice as a barrister for any reason including death and ceases to hold a practicing certificate issued by an Australian or New Zealand bar association during the Period of Insurance stated in the Schedule, then **We** agree:

1. to **Cover** the **Retired Insured** for any **Claim** arising from the **Insured's** practice as a barrister which **Claim** is first made and notified to **Us** during the period of seven (7) years from the expiry date of this **Policy**. Provided that:
  - (a) such **Cover** shall only apply in respect of any act, error or omission occurring prior to the date that the **Retired Insured** ceased practicing as a barrister;
  - (b) notification of ceasing practicing as a barrister has been provided to **Us** prior to the expiry of the Period of Insurance during which the **Insured** has ceased practicing as a barrister;
  - (c) any executor or administrator of the **Retired Insured's** estate shall be subject to the terms of this **Policy**;
  - (d) the **Policy Limit** under this Section 8.7, is limited to \$1,500,000 any one **Claim** and \$4,500,000 in the aggregate. The **Policy Excess** is deemed to be \$1,000 inclusive of **Claims Investigation Costs**.
  - (e) No **Cover** is provided under this Section 8.7 if the **Insured** returns to practising as a barrister and has an entitlement to indemnity in whole or in part under any other policy of insurance.
  - (f) This **Cover** is otherwise subject to all the terms, conditions, limitations and exclusions of this **Policy**.
2. **Retired Insured**  
**Retired Insured** means the person specified in the **Policy Schedule** who has ceased to practice as a barrister or as a legal practitioner during the Period of Insurance stated in the Schedule.

## Section 9 Cancelling the Policy

9.1 **We** will not cancel this **Policy** for any reason other than non-payment of the Premium.

9.2 **We** will not avoid the **Policy** for fraudulent non-disclosure or misrepresentation to **Us** prior to the inception of this **Policy**.

9.3 **We** will not reduce the amount **We** pay on behalf of the **Insured** in respect of a **Claim** (or costs and expenses otherwise **Covered** by this **Policy**) by reason of non-disclosure or misrepresentation by the **Insured** to **Us** prior to the inception of this **Policy**.

9.4 If the **Insured** has fraudulently failed to disclose and/or fraudulently misrepresented matters, **We** are entitled to seek reimbursement from the **Insured** of any amounts **We** may pay or incur in relation to this **Policy**. If any non-disclosure or misrepresentation was not fraudulent then **We** are entitled to seek reimbursement from the **Insured** of an amount so as to place **Us** in the same position as **We** would have been in had the non-disclosure not occurred or the misrepresentation not been made.

## Section 10

### Words with special meanings

Whenever the following words are used in this **Policy** in bold type and with a capital letter, they have the special meanings set out below. These words may appear without bold type in endorsements in the **Policy** Schedule.

#### 10.1 **Civil Liability** means

The damages, costs and expenses in respect of a **Claim** which:

- (a) includes the legal costs of the person making the **Claim**, for which an **Insured** becomes liable; and
- (b) settlement amounts and/or arbitration awards agreed to with **Our** prior written consent and pursuant to Section 7 of the **Policy**; but
- (c) do not include punitive, aggravated or exemplary damages or fines or penalties, or any criminal liabilities.

#### 10.2 **Claim**

The receipt by the **Insured** of:

- (a) Any originating process (in a legal proceeding or arbitration), cross claim or counter claim or third party or similar notice claiming compensation against and served on an **Insured**; or
- (b) any written demand from a third party claiming compensation against the **Insured**.

#### 10.3 **Claim Investigation Costs**

The legal costs and expenses of investigating, defending or settling any **Claim** (or anything which might result in a **Claim**), which would be **Covered** by this **Policy** at the time the legal costs and expenses arise. (Refer Section 3.3, **Claim Investigation Costs**).

#### 10.4 **Cover** (and '**Covered**')

Reference to '**Cover**' and '**Covered**' under this **Policy** shall mean indemnity and indemnity shall not include any component of profit.

#### 10.5 **Covered Claim**

The term **Covered Claim** means the **Claims**, liabilities, losses, costs or circumstances which may give rise to a **Claim**, which **We** may agree to **Cover** under this **Policy**.

#### 10.6 **Disciplinary Enquiry**

Any legal or quasi legal process which is conducted pursuant to an Act regulating the provision of the **Professional Services** and which enquires whether the **Insured** has breached any relevant professional code of conduct or standard.

#### 10.7 **Documents**

Documents of any nature including the electronically stored data, software or computer programs for or in respect of any computer system; but not including bearer bonds, coupons, bank notes, currency notes or negotiable instruments.

Loss or damage to **Documents** does not include loss or damage (including rearrangement) to such electronically stored data, software or computer programs arising from any computer virus or from any design or programming defect in any computer program or computer operating system.

#### 10.8 **Excess**

The part the **Insured** must pay of each **Covered Claim**. It is described in more detail in Section 7.11, the **Excess**.

#### 10.9 **Insured**

The barrister identified in the Schedule as the **Insured**.

#### 10.10 **Professional Services**

The business of provision by the **Insured** of the professional services as a barrister.

**10.11 Intellectual Property**

Copyright, Design, Patent, Trade Mark or Moral Right (under the Copyright Act 1968 Cth).

**10.12 Known Circumstance**

Any fact, situation or circumstance which:

- (a) an **Insured** knew before this **Policy** began or before this **Policy** was amended/endorsed; or
- (b) a reasonable person in the **Insured's** professional position would have thought, before this **Policy** began or before this **Policy** was amended/endorsed, might result in someone making an allegation against an **Insured** in respect of a liability, that might be **Covered** by this **Policy** or the amendment/endorsement to this **Policy**.

**10.13 Policy**

The insurance **Policy** made up of:

- (a) this **Policy** document
- (b) the Schedule to this **Policy**
- (c) the endorsements, if any, contained in the Schedule

**10.14 Policy Limit**

The limit stated in the Schedule as the 'Total Sum Insured'. See also Section 5 of this **Policy**.

**10.15 Proposal**

The written **Proposal** form (the date of which is stated in the Schedule) together with any supplementary material completed by or on behalf of the **Insured**, that was given to **Us**, and relied on by **Us** to effect this **Policy**.

**10.16 Specific Cover**

The **Cover** outlined in Section 3.4 of this **Policy**.

**10.17 Specific Cover Limit(s)**

The limit of **Our** insurance **Cover** for each of the matters specified in Section 3.4 of this **Policy**.

**10.18 Terrorism**

**Terrorism** includes any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- (a) involves violence against one or more persons; or
- (b) involves damage to property; or
- (c) endangers life other than that of the person committing the action; or
- (d) creates a risk to health or safety of the public or a section of the public; or
- (e) is designed to interfere with or to disrupt an electronic system.

**10.19 We or Us or Our**

CGU Professional Risks Insurance, CGU Insurance Limited ABN 27 004 478 371.

## Section 11

### How CGU protects your privacy

We use information provided by our customers to allow us to offer our products and services. This means we may need to collect your personal information, and sometimes sensitive information about you as well (for example, health information for travel insurance). We will collect this information directly from you where possible, but there may be occasions when we collect this information from someone else.

CGU will only use your information for the purposes for which it was collected, other related purposes and as permitted or required by law. You may choose not to give us your information, but this may affect our ability to provide you with insurance cover.

We may share this information with companies within our group, government and law enforcement bodies if required by law and others who provide services to us or on our behalf, some of which may be located outside of Australia.

For more details on how we collect, store, use and disclose your information, please read our Privacy Policy located at [www.cgu.com.au/privacy](http://www.cgu.com.au/privacy). Alternatively, contact us at [privacy@cgu.com.au](mailto:privacy@cgu.com.au) or 13 15 32 and we will send you a copy. We recommend that you obtain a copy of this policy and read it carefully.

By applying for, using or renewing any of our products or services, or providing us with your information, you agree to this information being collected, held, used and disclosed as set out in this policy.

Our Privacy Policy also contains information about how you can access and seek correction of your information, complain about a breach of the privacy law, and how we will deal with your complaint.

## General Insurance Code of Practice

CGU Insurance proudly supports the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.

### The objectives of the Code are:

- ◆ to commit us to high standards of service;
- ◆ to promote better, more informed relations between Us and You;
- ◆ to maintain and promote trust and confidence in the general insurance industry;
- ◆ to provide fair and effective mechanisms for the resolution of complaints and disputes between Us and You; and
- ◆ to promote continuous improvement of the general insurance industry through education and training.

We have adopted and support the Code and are committed to complying with it. Please contact Us if You would like more information about the Code

## Our Service Commitment

CGU Insurance is proud of its service standards and supports the General Insurance Code of Practice. In an unlikely event that you are not satisfied with the way in which we have dealt with you, as part of our commitment to customer service, we have an internal dispute resolution process in place to deal with any complaint you may have.

Please contact your nearest CGU Insurance office if you have a complaint, including if you are not satisfied with any of the following:

- ◆ one of our products;
- ◆ our service;
- ◆ the service of our authorised representatives, loss adjusters or investigators; or
- ◆ our decision on your claim.

Our staff will help you in any way they can. If they are unable to satisfy your concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to our Internal Dispute Resolution Department.

Further information about Our complaint and dispute resolution procedures is available by contacting Us.

**Intermediary Remuneration**

CGU Insurance Limited pays remuneration to insurance intermediaries when we issue, renew or vary a policy the intermediary has arranged or referred to us. The type and amount of remuneration varies and may include commission and other payments. If you require more information about remuneration we may pay your intermediary you should ask your intermediary.

**Interest on unallocated premium**

If we are unable to issue your insurance when we receive your application, we are required to hold your Premium in a trust account on your behalf until your insurance can be issued. We will retain any interest payable by our bank to meet, among other things, bank fees and other bank costs we incur in operating the account.