

Schedule 1 The ARP Policy

Part 1

Contract of Assigned Risks Pool insurance

1 Insuring clauses

1.1 Civil liability

The Insurer will indemnify each Insured against civil liability to the extent that it arises from Private Legal Practice in connection with the Insured Firm's Practice, provided that a Claim in respect of such liability:

- (a) is first made against an Insured during the Period of Insurance; or
- (b) is made against an Insured during or after the Period of Insurance and arising from Circumstances first notified to the Insurer during the Period of Insurance.

1.2 Defence Costs

The Insurer will also indemnify the Insured against Defence Costs in relation to:

- (a) any Claim referred to in clause 1.1, 1.4 or 1.6; or
- (b) any Circumstances first notified to the Insurer during the Period of Insurance; or
- (c) any investigation, inquiry or disciplinary proceeding during or after the Period of Insurance arising from any Claim referred to in clause 1.1, 1.4 or 1.6 or from Circumstances first notified to the Insurer during the Period of Insurance.

1.3 The Insured

For the purposes of cover under clause 1.1, the Insured includes:

- (a) the Insured Firm; and
- (b) each service, administration, trustee or nominee company owned as at the date of occurrence of relevant Circumstances by the Insured Firm, and/or the Principals of the Insured Firm; and
- (c) each Principal, each former Principal and each person who becomes a Principal during the Period of Insurance of the Insured Firm or a company referred to in paragraph (b); and
- (d) each Employee, each former Employee and each person who becomes during the Period of Insurance an Employee of the Insured Firm or a company referred to in paragraph (b); and
- (e) the estate or legal personal representative of any deceased or legally incapacitated person referred to in paragraph (c) or (d).

1.4 Prior Practice

The Insurer will indemnify each Insured against civil liability to the extent that it arises from Private Legal Practice in connection with a Prior Practice, provided that a Claim in respect of such liability is first made against an Insured:

- (a) during the Period of Insurance; or

- (b) during or after the Period of Insurance and arising from Circumstances first notified to the Insurer during the Period of Insurance.

1.5 The Insured - Prior Practice

For the purposes of cover under clause 1.4, the Insured includes:

- (a) each Partnership or Recognised Body which, or Sole Practitioner who, carried on the Prior Practice; and
- (b) each service, administration, trustee or nominee company owned as at the date of occurrence of relevant Circumstances by the Partnership or Recognised Body which, or Sole Practitioner who, carried on the Prior Practice and/or the Principals of such Partnership or Recognised Body; and
- (c) each Principal and former Principal of each Partnership or Recognised Body referred to in paragraph (a) or company referred to in paragraph (b); and
- (d) each Employee and former Employee of the Partnership, Recognised Body or Sole Practitioner referred to in paragraph (a) or company referred to in paragraph (b); and
- (e) the estate or legal personal representative of any deceased or legally incapacitated Sole Practitioner referred to in paragraph (a) or person referred to in paragraph (c) or (d).

1.6 Successor Practice

The Insurer will indemnify each Insured against civil liability to the extent that it arises from Private Legal Practice in connection with a Successor Practice to the Insured Firm's Practice (where succession is as a result of one or more separate mergers, acquisitions, absorptions or other transitions), provided that a Claim in respect of such liability is first made against an Insured:

- (a) during the Period of Insurance; or
- (b) during or after the Period of Insurance and arising from Circumstances first notified to the Insurer during the Period of Insurance.

1.7 The Insured - Successor Practice

For the purposes of cover under clause 1.6, the Insured includes:

- (a) each Partnership or Recognised Body which, or Sole Practitioner who, carries on the Successor Practice during the Period of Insurance; and
- (b) each service, administration, trustee or nominee company owned as at the date of occurrence of relevant Circumstances by the Partnership or Recognised Body which, or Sole Practitioner who, carries on the Successor Practice and/or the Principals of such Partnership or Recognised Body; and
- (c) each Principal, each former Principal and each person who becomes during the Period of Insurance a Principal of any Partnership or Recognised Body referred to in paragraph (a) or company referred to in paragraph (b); and
- (d) each Employee, each former Employee and each person who becomes during the Period of Insurance an Employee of the Partnership, Recognised Body or Sole Practitioner referred to in paragraph (a) or company referred to in paragraph (b); and
- (e) the estate or legal personal representative of any deceased or legally incapacitated Sole Practitioner referred to in paragraph (a) or person referred to in paragraph (c) or (d).

1.8 Award by regulatory authority

The Insurer will indemnify each Insured against any amount paid or payable in accordance with the recommendation of the Legal Services Ombudsman, the Legal Complaints Service, the Office for Legal Complaints or any other regulatory authority to the same extent as it indemnifies the Insured against civil liability.

2 Limit of insurance cover

2.1 Any one Claim

The Sum Insured for any one Claim (exclusive of Defence Costs) is as set out in the Schedule.

2.2 No limit on Defence Costs

The Sum Insured does not apply to Defence Costs.

2.3 Proportionate limit on Defence Costs

Notwithstanding clause 2.2, liability for Defence Costs in relation to a Claim which exceeds the Sum Insured is limited to the proportion that the Sum Insured bears to the total amount paid or payable to dispose of the Claim.

2.4 One Claim

When considering what may be regarded as one Claim for the purposes of the limits contemplated by clauses 2.1 and 2.3:

- (a) all Claims against any one or more Insured arising from:
 - (i) one act or omission;
 - (ii) one series of related acts or omissions;
 - (iii) the same act or omission in a series of related matters or transactions;
 - (iv) similar acts or omissions in a series of related matters or transactions

and

- (b) all Claims against one or more Insured arising from one matter or transaction

will be regarded as one Claim.

2.5 Multiple underwriters

Where the insurance is underwritten jointly with any other insurer:

- (a) the Insurer shall be severally liable only for its respective proportion of liability as set out in the Schedule; and
- (b) in addition to the proportionate limit on Defence Costs in accordance with clause 2.3, the Insurer's liability for Defence Costs shall be further limited to the extent or proportion of the Insurer's liability (if any) in relation to the relevant Claim.

Where the insurance is written jointly with any other insurer on an excess of loss basis, and the Insurer is writing one of the excess layers, the provisions of Part 3 shall apply.

3 Excesses

3.1 The Excess

The Insured will bear the first amount of each and every Claim up to the amount of the Excess specified in the Schedule.

3.2 Excess does not reduce Sum Insured

The Excess does not reduce the Sum Insured.

3.3 Excess does not apply to Defence Costs

The Excess does not apply to Defence Costs.

3.4 Funding of the Excess

If an Insured fails to pay to a Claimant any amount which is within the Excess within 30 days of it becoming due for payment, the Claimant may give notice of the Insured's default to the Insurer, whereupon the Insurer is liable to remedy the default on the Insured's behalf. Any amount paid by the Insurer to remedy such a default erodes the Sum Insured.

3.5 One Claim

All Claims against any one or more Insured arising from the same act or omission or from one series of related acts or omissions will be regarded as one Claim for the purposes of the Excess.

4 Special conditions

4.1 No avoidance or repudiation

The Insurer is not entitled to avoid or repudiate this contract on any grounds whatsoever including, without limitation, non-disclosure or misrepresentation, whether fraudulent or not.

4.2 No adjustment or denial

The Insurer is not entitled to reduce or deny its liability under this contract on any grounds whatsoever including, without limitation, any breach of any term or condition of this contract, except to the extent that one of the exclusions contained in clause 6 applies.

4.3 No cancellation

This contract cannot be cancelled except (in the case of (a), (b) or (c) below) by the agreement of both the Insured Firm and the Insurer, and in any event only in circumstances where:

- (a) the Insured Firm's Practice is merged into a Successor Practice, provided that there is insurance complying with the Minimum Terms and Conditions in relation to that Successor Practice, in which case cancellation shall have effect no earlier than the date of such merger; or
- (b) replacement insurance complying with the Minimum Terms and Conditions commences, but only where, in the case of insurance not provided wholly or partly by the Assigned Risks Pool, the replacement insurance is not provided wholly or partly by the Assigned Risks Pool, in which case cancellation shall have effect no earlier than the date on which such replacement insurance commences; or
- (c) it subsequently transpires that the Insured Firm is not required under the Solicitors Indemnity Insurance Rules 2009 to effect a policy of Qualifying Insurance, in which case cancellation shall have effect from the later of (a) the start of the relevant Indemnity Period and (b) the date on which the Insured Firm ceased to be required to effect a policy of Qualifying Insurance, or such later date as the Insured Firm and the Insurer may agree; or

- (d) it subsequently transpires that the Insured Firm was not or has ceased to be an Eligible Firm, in which case cancellation shall have effect from the date on which it ceased to be an Eligible Firm.

Cancellation will not affect the rights and obligations of the Insurer and the Insured accrued under this contract prior to the date from which cancellation has effect.

4.4 No set-off

Any amount payable by the Insurer to indemnify an Insured against civil liability to a Claimant will be paid only to the Claimant, or at the Claimant's direction, and the Insurer is not entitled to set-off against any such amount any payment due to it by any Insured including, without limitation, any payment of premium or to reimburse the Insurer.

4.5 Other insurance

The liability of the Insurer under this contract is not reduced or excluded by reason of the existence or availability of any other insurance except as provided by clause **Error! Reference source not found.** This clause does not affect any right of the Insurer to claim contribution from any other insurer which is also liable to indemnify any Insured.

4.6 Successor Practice - 'double insurance'

If the Insured Firm's Practice is succeeded during the Period of Insurance and, as a result, a situation of 'double insurance' exists between two or more insurers of the Successor Practice, contribution between insurers is to be determined in accordance with the relative numbers of Principals of the owners of the constituent Practices immediately prior to succession.

4.7 Advancement of Defence Costs

The Insurer will meet Defence Costs as and when they are incurred, including Defence Costs incurred on behalf of an Insured who is alleged to have committed or condoned dishonesty or a fraudulent act or omission, provided that the Insurer is not liable for Defence Costs incurred on behalf of that Insured after the earlier of:

- (a) that Insured admitting to the Insurer the commission or condoning of such dishonesty, act or omission; or
- (b) a court or other judicial body finding that that Insured was in fact guilty of such dishonesty, act or omission.

4.8 Resolution of disputes

If there is a dispute as to whether a Practice is a Successor Practice for the purposes of clauses 1.4, 1.6 or 5.3, the Insured and the Insurer will take all reasonable steps (including, if appropriate, referring the dispute to arbitration) to resolve the dispute in conjunction with any related dispute between any other party which has insurance complying with the Minimum Terms and Conditions and that party's insurer.

4.9 Conduct of a Claim pending dispute resolution

Pending resolution of any coverage dispute and without prejudice to any issue in dispute, the Insurer will, if so directed by the Society, conduct any Claim, advance Defence Costs and, if appropriate, compromise and pay the Claim. If the Society is satisfied that:

- (a) the party requesting the direction has taken all reasonable steps to resolve the dispute with the Insurer; and
- (b) there is a reasonable prospect that the coverage dispute will be resolved or determined in the Insured's favour; and
- (c) it is fair and equitable in all the circumstances for such direction to be given;

it may in its absolute discretion make such a direction.

4.10 Minimum Terms and Conditions prevail

This contract is to be construed or rectified so as to comply with the requirements of the Minimum Terms and Conditions, and any provision of this contract which is inconsistent with the Minimum Terms and Conditions is to be severed or rectified to comply.

5 Run-off cover

5.1 Cessation of the Insured Firm's Practice

If the Insured Firm's Practice ceases during or on expiry of the Period of Insurance and the Insured Firm has not obtained succeeding insurance in compliance with the Minimum Terms and Conditions (a **Cessation**), this contract provides run-off cover in accordance with clause 5.2. For these purposes, the Insured Firm's Practice shall (without limitation) be regarded as ceasing if (and with effect from the date upon which) the Insured Firm becomes a Non-SRA Firm.

5.2 Scope of run-off cover

If run-off cover is provided under clause 5.1, the Insurer will indemnify each Insured in accordance with clauses 1.1 to 1.8 (but subject to the limits, exclusions and conditions of this contract) on the basis that the Period of Insurance extends for an additional six years (ending on the sixth anniversary of the date upon which, but for this requirement, it would have ended).

5.3 Succession

Run-off cover is not provided under clause 5.1 if there is a Successor Practice to the ceased Practice, provided that there is insurance complying with the Minimum Terms and Conditions in relation to that Successor Practice.

5.4 Suspended Practices

Where run-off cover has been activated in accordance with this clause 5, but where the Insured Firm's Practice restarts, the Insurer may (but shall not be obliged to) cancel such run-off cover, on such terms as may be agreed, provided that:

- (a) there is insurance complying with these minimum terms and conditions in relation to the Insured Firm in force on the date of cancellation;
- (b) the Qualifying Insurer providing such insurance confirms in writing to the Insured Firm and the Insurer (if different) that:
 - (i) it is providing insurance complying with these minimum terms and conditions in relation to that Insured Firm for the then current Indemnity Period; and
 - (ii) it is doing so on the basis that the Insured Firm's Practice is regarded as being a continuation of the Insured Firm's Practice prior to Cessation and that accordingly it is liable for Claims against the Insured Firm arising from incidents, occurrences, facts, matters, acts and/or omissions which occurred prior to Cessation.

6 Exclusions

The liability of the Insurer under this contract is not excluded or limited except to the extent that any Claim or related Defence Costs arise from the matters set out in this clause 6.

6.1 Prior cover

Any Claim in respect of which the Insured is entitled to be indemnified by the Solicitors Indemnity Fund (**SIF**) or under a professional indemnity insurance contract for a period earlier than the Period of Insurance, whether by reason of notification of Circumstances to SIF or under the earlier contract or otherwise.

6.2 Death or bodily injury

Any liability of any Insured for causing or contributing to death or bodily injury, except that this contract nonetheless covers liability for psychological injury or emotional distress which arises from a breach of duty in the performance of (or failure to perform) legal work.

6.3 Property damage

Any liability of any Insured for causing or contributing to damage to, or destruction or physical loss of, any property (other than property in the care, custody or control of any Insured in connection with the Insured Firm's Practice and not occupied or used in the course of the Insured Firm's Practice), except that this contract nonetheless covers liability for such damage, destruction or loss which arises from breach of duty in the performance of (or failure to perform) legal work.

6.4 Partnership disputes

Any actual or alleged breach of the Insured Firm's Partnership or shareholder agreement or arrangements, including any equivalent agreement or arrangement where the Insured Firm is a Limited Liability Partnership or a company without a share capital.

6.5 Employment breaches, discrimination, etc.

Wrongful dismissal, repudiation or breach of an employment contract or arrangement, termination of a training contract, harassment, discrimination or like conduct in relation to any Partnership or shareholder agreement or arrangement or the equivalent where the Insured Firm is a Limited Liability Partnership or a company without a share capital, or in relation to any employment or training agreement or arrangement.

6.6 Debts and trading liabilities

Any:

- (a) trading or personal debt of any Insured; or
- (b) breach by any Insured of the terms of any contract or arrangement for the supply to, or use by, any Insured of goods or services in the course of the Insured Firm's Practice; or
- (c) guarantee, indemnity or undertaking by any particular Insured in connection with the provision of finance, property, assistance or other benefit or advantage directly or indirectly to that Insured.

6.7 Fines, penalties, etc

Any:

- (a) fine or penalty; or
- (b) award of punitive, exemplary or like damages under the law of the United States of America or Canada, other than in respect of defamation; or
- (c) order or agreement to pay the costs of a complainant, regulator, investigator or prosecutor of any professional conduct complaint against, or investigation into the professional conduct of, any Insured.

6.8 Fraud or dishonesty

The Insurer is not liable to indemnify any Insured to the extent that any civil liability or related Defence Costs arise from dishonesty or a fraudulent act or omission committed or condoned by that Insured, except that:

- (a) this contract nonetheless covers each other Insured; and

- (b) no such dishonesty, act or omission will be imputed to a body corporate unless it was committed or condoned by, in the case of a company, all directors of that company or, in the case of a Limited Liability Partnership, all members of that Limited Liability Partnership.

6.9 Directors' or officers' liability

The Insurer is not liable to indemnify any natural person in their capacity as a director or officer of a body corporate (other than a Recognised Body or a service, administration, trustee or nominee company referred to in clause 1.3(b), 1.5(b) or 1.7(b)) except that:

- (a) this contract nonetheless covers any liability of that person which arises from a breach of duty in the performance of (or failure to perform) legal work; and
- (b) this contract nonetheless covers each other Insured against any vicarious or joint liability.

6.10 War and Terrorism, and Asbestos

- (a) Subject to 6.10(b) below, but otherwise notwithstanding any provision to the contrary within this insurance or any endorsement hereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
 - (i) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
 - (ii) any act of terrorism; or
 - (iii) asbestos, or any actual or alleged asbestos-related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos.

For the purpose of this clause an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This clause also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (i), (ii) and/or (iii) above.

If the Insurer alleges that by reason of this clause, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In the event any portion of this clause is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

- (b) Clause 6.10(a) above does not exclude or limit any liability of the Insurer to indemnify any Insured against civil liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) legal work or failure to discharge or fulfil any duty incidental to the Insured Firm's Practice or to the conduct of Private Legal Practice.

7 General conditions

7.1 Notice of claims and circumstances

The Insured will give notice in writing to the Insurer as soon as is reasonably practicable of any:

- (a) Claim first made against Insured during the Period of Insurance; or
- (b) Circumstances of which any Insured first became aware during the Period of Insurance.

7.2 Co-operation and assistance

Each Insured will give the Insurer and any investigators or solicitors appointed by the Insurer all information and documents they reasonably require, and full co-operation and assistance in the investigation, defence, settlement, avoidance or reduction of any actual or possible Claim or any related proceeding.

7.3 Conduct of any proceeding

The Insurer may at its option take over and conduct in the name of any Insured any proceeding arising out of or relating to any Claim in respect of which the Insurer is liable to indemnify any Insured under this contract.

7.4 No admission of liability

The Insured will not, without the prior consent in writing of the Insurer, admit liability for or settle any Claim in respect of which the Insurer is liable to indemnify any Insured under this contract. If the Insured Firm wishes a claim to be settled, but the Insurer does not, the Insurer will brief senior counsel (to be mutually selected or, in default of agreement, to be selected by the Society) to advise on whether or not the Claim against the Insured is likely to succeed. If counsel's advice is that the Claim is likely to succeed, the Insurer shall take such steps as are mutually agreed to settle the Claim on terms to be mutually agreed or, in default of agreement, such steps and such terms as counsel advises having due regard to the interests of both the Insured and the Insurer. Counsel's fee will in each case be payable by the party against whose contention counsel advised.

7.5 Subrogation

If any payment is made by the Insurer in respect of a Claim against any Insured, the Insurer will be subrogated to all rights of the Insured of indemnity, contribution or recovery to the extent of that payment. The Insured will not surrender any such right, or settle any such claim for indemnity, contribution or recovery, without the prior consent in writing of the Insurer.

7.6 Reimbursement

Each Insured who:

- (a) committed; or
- (b) condoned (whether knowingly or recklessly):
 - (i) non-disclosure or misrepresentation; or
 - (ii) any breach of the terms or conditions of this contract; or
 - (iii) dishonesty or any fraudulent act or omission

will reimburse the Insurer to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interests by such non-disclosure, misrepresentation, breach, dishonesty, act or omission, provided that no Insured shall be required to make any such reimbursement to the extent that any such breach of the terms or conditions of this contract was in order to comply with any applicable rules or codes laid down from time to time by the Society, or in the Society publication *Your Clients - Your Business*, as amended from time to time.

No non-disclosure, misrepresentation, breach, dishonesty, act or omission will be imputed to a body corporate unless it was committed or condoned by, in the case of a company, all directors of that company or, in the case of a Limited Liability Partnership, all members of that Limited Liability Partnership. Any right of reimbursement under this clause against any person referred to in clauses 1.3(d), 1.5(d) or 1.7(d) (or against the estate or legal personal representative of any such person if they die or become legally incapacitated) is limited to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interests by that person having committed or condoned (whether knowingly or recklessly) dishonesty or any fraudulent act or omission.

7.7 Reimbursement of Defence Costs

Each Insured will reimburse the Insurer for Defence Costs advanced on that Insured's behalf which the Insurer is not ultimately liable to pay.

7.8 Reimbursement of the Excess

Those persons who are at any time during the Period of Insurance Principals of the Insured Firm (including, for these purposes, every person held out as a partner of a Sole Practitioner) will reimburse the Insurer for any Excess paid by the Insurer on an Insured's behalf. The Sum Insured is reinstated to the extent of reimbursement of any amount which eroded it under clause 3.4.

7.9 Reimbursement of moneys paid pending dispute resolution

Each Insured will reimburse the Insurer following resolution of any coverage dispute for any amount paid by the Insurer on that Insured's behalf which, on the basis of the resolution of the dispute, the Insurer is not ultimately liable to pay.

7.10 Withholding assets or entitlements

The Insured Firm will account to the Insurer for any asset or entitlement of any person who committed or condoned any dishonesty or fraudulent act or omission, provided that the Insured Firm is legally entitled to withhold that asset or entitlement from that person.

7.11 Disclosure of information

The Insurer may bring to the attention of the Society any of the matters referred to in Rule 17.1 (a) to (f) of the Solicitors' Indemnity Insurance Rules 2009, and, in the case of any of the matters referred to in Rule 17.1 (f), to the Legal Complaints Service and/or the Office for Legal Complaints, in relation to the Insured Firm or any Insured, and is not required to notify the Insured Firm or any Insured of the fact that it has done so or intends to do so.

8 Definitions

8.1 General

In this contract unless the context otherwise requires:

- (a) the singular includes the plural, and vice versa; and
- (b) the male gender includes the female and neuter genders; and
- (c) a reference to a person includes a body corporate, partnerships, and other unincorporated associations or bodies of persons; and
- (d) a reference to any statute, statutory provision, code or regulation includes:
 - (i) any subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) made under it; and
 - (ii) any provision which it has superseded or re-enacted (with or without modification) or amended, and any provision superseding it or re-enacting it (with or without modification) or amending it either before, or at or after the date of this contract; and

- (e) references to the Society include the Solicitors Regulation Authority and the Legal Complaints Service, and any body or person which succeeds in whole or in part to the functions of the Society, the Solicitors Regulation Authority or the Legal Complaints Service, and any delegate of the Society, the Solicitors Regulation Authority, the Legal Complaints Service or any such body or person;
- (f) headings are for ease of reference only and shall not affect the interpretation of this contract; and
- (g) a reference to a director includes a member of a Limited Liability Partnership; and
- (h) words and expressions which begin with a capital letter this contract have the meaning set out in this clause 8; and
- (i) words and expressions in this contract are to be construed consistently with the same or similar words or expressions in the Solicitors' Indemnity Insurance Rules 2009.

8.2 Defined terms

In this contract:

Circumstances means an incident, occurrence, fact, matter, act or omission which may give rise to a Claim in respect of civil liability.

Claim means a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages. For these purposes, an obligation on an Insured Firm and/or any Insured to remedy a breach of the Solicitors' Accounts Rules 1998 (as amended from time to time), or any rules which replace the Solicitors' Accounts Rules 1998 in whole or in part, shall be treated as a Claim, and the obligation to remedy such breach shall be treated as a civil liability for the purposes of clause 1, whether or not any person makes a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages as a result of such breach, except where any such obligation may arise as a result of the insolvency of a bank (as defined in section 87 of the Solicitors Act 1974) or a building society (within the meaning of the Building Societies Act 1986) which holds client money in a client account of the Insured Firm or the failure of such bank or building society generally to repay monies on demand.

Claimant means a person or entity which has made or may make a Claim including a Claim for contribution or indemnity.

Defence Costs means legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the consent of the Insurer in:

- (a) defending any proceedings relating to a Claim; or
- (b) conducting any proceedings for indemnity, contribution or recovery relating to a Claim; or
- (c) investigating, reducing, avoiding or compromising any actual or potential Claim; or
- (d) acting for any Insured in connection with any investigation, inquiry or disciplinary proceeding.

Defence Costs do not include any internal or overhead expenses of the Insured Firm or the Insurer or the cost of any Insured's time.

Employee means any person other than a Principal:

- (a) employed or otherwise engaged in the Insured Firm's Practice (including under a contract for services) including, without limitation, as a solicitor, lawyer, trainee solicitor or lawyer, consultant, associate, locum tenens, agent, appointed person (as defined in the Solicitors' Indemnity Insurance Rules 2009), office or clerical staff member or otherwise;

- (b) seconded to work in the Insured Firm's Practice; or
- (c) seconded by the Insured Firm to work elsewhere.

Employee does not include any person who is engaged by the Insured Firm under a contract for services in respect of any work where that person is required, whether under the Solicitors' Indemnity Insurance Rules 2009 or under the rules of any other professional body, to take out or to be insured under separate professional indemnity insurance in respect of that work.

The **Excess** is the first amount of each and every Claim to be borne by the Insured in accordance with clause 3.1.

Insured means each person and entity named or described as a person to whom cover under this contract extends.

Insured Firm means the Firm (as defined for the purposes of the Solicitors Indemnity Insurance Rules 2009) which has entered into this contract.

Insured Firm's Practice means:

- (a) the legal Practice carried on by the Insured Firm as at the commencement of the Period of Insurance; and
- (b) the continuous legal Practice preceding and succeeding the Practice referred to in paragraph (a) (irrespective of changes in ownership of the Practice or in the composition of any Partnership which owns or owned the Practice).

Insurer means the underwriter(s) of this contract as specified in the Schedule, including, where applicable, such underwriter(s) acting through the manager for the time being of the Assigned Risks Pool.

Limited Liability Partnership means a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000.

Minimum Terms and Conditions means the minimum terms and conditions required by the Solicitors' Indemnity Insurance Rules 2009 for insurance commencing at inception of the Period of Insurance.

Partnership means an unincorporated Insured Firm in which persons are or are held out as partners and does not include an Insured Firm incorporated as a Limited Liability Partnership, and **Partner** means a person who is or is held out to be a partner in a Partnership.

Period of Insurance means the period for which this contract operates expiring at midnight on 30 September 2010.

Principal means:

- (a) where the Insured Firm is or was:
 - (i) a sole practitioner - that practitioner;
 - (ii) a Partnership - each Partner;
 - (iii) a company with a share capital - each director of that company and any solicitor, Registered European Lawyer or Registered Foreign Lawyer who:
 - (A) is held out as a director; or
 - (B) beneficially owns the whole or any part of a share in the company; or
 - (C) is the ultimate beneficial owner of the whole or any part of a share in the company.

- (iv) a company without a share capital – each director of that company and any solicitor, Registered European Lawyer or Registered Foreign Lawyer who:
 - (A) is held out as a director; or
 - (B) is a member of the company; or
 - (C) is the ultimate owner of the whole or any part of a body corporate or other legal person which is a member of the company;
 - (v) a Limited Liability Partnership – each member of that Limited Liability Partnership, and any solicitor, Registered European Lawyer or Registered Foreign Lawyer who is the ultimate owner of the whole or any part of a body corporate or other legal person which is member of the Limited Liability Partnership.
- (b) where a body corporate or other legal person is a Partner in the Insured Firm, all solicitors, Registered European Lawyers or Registered Foreign Lawyers who are within paragraph (a)(iii) of this definition (including sub paragraphs (A) and (C) thereof), paragraph (a)(iv) of this definition (including sub paragraphs (A) and (C) thereof), or paragraph a(v) of this definition.

Prior Practice means each Practice to which the Insured Firm's Practice is ultimately a Successor Practice by way of one or more mergers, acquisitions, absorptions or other transitions.

Private Legal Practice means the provision of services in private Practice as a solicitor or registered European lawyer including, without limitation:

- (a) providing such services in England, Wales or anywhere in the world, whether alone or with other lawyers in a Partnership permitted to practise in England and Wales by rule 12 of the Solicitors' Code of Conduct 2007; and
- (b) the provision of such services as a secondee of the Insured Firm; and
- (c) any Insured acting as a personal representative, trustee, attorney, notary, insolvency practitioner or in any other role in conjunction with a Practice; and
- (d) the provision of such services by any Employee; and
- (e) the provision of such services pro bono publico.

Private Legal Practice does not include:

- (i) practising as an Employee of an employer other than a solicitor, a registered European lawyer, a Partnership permitted to practise in England and Wales by rule 12 of the Solicitors' Code of Conduct 2007, or a Recognised Body; or
- (ii) discharging the functions of any of the following offices or appointments:
 - (A) judicial office;
 - (B) Under Sheriffs;
 - (C) members and clerks of such tribunals, committees, panels and boards as the Council may from time to time designate but including those subject to the Tribunals and Inquiries Act 1992, the Competition Commission, Legal Services Commission Review Panels and Parole Boards;
 - (D) Justices' Clerks; or
 - (E) Superintendent Registrars and Deputy Superintendent Registrars of Births, Marriages and Deaths and Registrars of Local Crematoria.

Recognised Body means a body for the time being recognised by the Solicitors Regulation Authority under Section 9 of the Administration of Justice Act 1985 and the SRA Recognised Bodies Regulations 2009.

Relevant Recognised Body means a Recognised Body other than:

- (a) an unlimited company, or an overseas company whose members' liability for the company's debts is not limited by its constitution or by the law of its country of incorporation; or
- (b) a nominee company only, holding assets for clients of another Practice; and
 - (i) it can act only as agent for the other Practice; and
 - (ii) all the individuals who are Principals of the Recognised Body are also Principals of the other Practice; and
 - (iii) any fee or other income arising out of the Recognised Body accrues to the benefit of the other Practice or
- (c) a partnership in which none of the partners is a limited company, a Limited Liability Partnership or a legal person whose members have limited liability.

Schedule means the Schedule attached to this contract.

Society means the Law Society of England and Wales.

Sole Practitioner means a solicitor or registered European lawyer who is a sole practitioner, and includes a Recognised Sole Practitioner.

Successor Practice means a Practice identified in this definition as 'B', where:

- (a) 'A' is the Practice to which B succeeds; and
- (b) 'A's owner' is the owner of A immediately prior to transition; and
- (c) 'B's owner' is the owner of B immediately following transition; and
- (d) 'transition' means merger, acquisition, absorption or other transition which results in A no longer being carried on as a discrete legal Practice.

B is a Successor Practice to A where:

- (i) B is or was held out, expressly or by implication, by B's owner as being the successor of A or as incorporating A, whether such holding out is contained in notepaper, business cards, form of electronic communications, publications, promotional material or otherwise, or is contained in any statement or declaration by B's owner to any regulatory or taxation authority; and/or
- (ii) (where A's owner was a Sole Practitioner and the transition occurred on or before 31 August 2000) - the Sole Practitioner is a Principal of B's owner; and/or
- (iii) (where A's owner was a Sole Practitioner and the transition occurred on or after 1 September 2000) - the Sole Practitioner is a Principal or Employee of B's owner; and/or
- (iv) (where A's owner was a Recognised Body) - that body is a Principal of B's owner; and/or
- (v) (where A's owner was a Partnership) - the majority of the Principals of A's owner have become Principals of B's owner; and/or
- (vi) (where A's owner was a Partnership and the majority of Principals of A's owner did not become Principals of the owner of another legal Practice as a result of the transition) - one or more of the Principals of A's owner have become Principals of B's owner and:

- (A) B is carried on under the same name as A or a name which substantially incorporates the name of A (or a substantial part of the name of A); and/or
- (B) B is carried on from the same premises as A; and/or
- (C) the owner of B acquired the goodwill and/or assets of A; and/or
- (D) the owner of B assumed the liabilities of A; and/or
- (E) the majority of staff employed by A's owner became employees of B's owner.

Notwithstanding the foregoing, B is not a Successor Practice to A under paragraph (ii), (iii), (iv), (v) or (vi) if another Practice is or was held out by the owner of that other Practice as the successor of A or as incorporating A, provided that there is insurance complying with these minimum terms and conditions in relation to that other Practice.

Sum Insured means the aggregate limit of liability of each Insurer under this contract.

9 Governing law

- 9.1 This insurance shall be governed by and interpreted in accordance with the laws of England and Wales.

Schedule

1 The Insured Firm

The Insured Firm is:

2 Parties

This contract is made between the Insurer, the Insured Firm, and each Principal of the Insured Firm (including, where the Insured Firm is a Sole Practitioner, any person held out as a Partner of that practitioner) and each such Principal is jointly and severally liable to the Insurer for all sums due to the Insurer under this contract in accordance with Rule 10.3 of the Solicitors Indemnity Insurance Rules 2009.

3 The Insurer

The Insurer is:

[The Lead Insurer is: _____]

4 Sum Insured

The Sum Insured for any one Claim (exclusive of Defence Costs) is [£2 million / £3 million].

5 [Limit of Indemnity hereunder]

[..... any one claim excess of (the **Underlying Limit**)]

[Proportionate share of liability (%)]

[.....]

6 The Excess

The Excess is:

7 Period of Insurance

The Period of Insurance is from:

to midnight on 30 September 2010.

Part 2

Contract of Assigned Risks Pool run-off insurance

If an Insured Firm is issued with an ARP Run-off Policy, run-off cover shall be provided through the ARP, which shall indemnify each Insured in accordance with clauses 1.1 to 1.8 of the ARP Policy set out in Part 1 of Schedule 1, (but subject to the limits, exclusions and conditions of the ARP Policy).

The period of cover provided by the ARP Run-off Policy shall be as determined under Rule **Error! Reference source not found.**

Part 3

Excess Indemnity

If cover is provided through the ARP jointly with other Qualifying Insurers on an excess of loss basis, and the ARP is writing one of the excess layers, the terms of the ARP Policy shall be as set out in Part 1 of Schedule 1, but subject to the following terms:

- 1 Clause 3 shall not apply in relation to the excess layer.
- 2 The following additional terms shall apply:

10 Additional provisions

- 10.1 The Insurer is liable for an amount representing the excess over the Underlying Limit on an Ultimate Net Loss basis. The Ultimate Net Loss shall mean the sum which is finally ascertained to be the sum which Insurers are liable for as a result of the loss insured but shall exclude Defence Costs.
- 10.2 All salvages, recoveries or payments recovered or received after a settlement under this Policy shall be applied as if recovered or received before the settlement and all necessary adjustments shall be made by the parties. This shall not prevent any such recovery being made before the Ultimate Net Loss is ascertained.
- 10.3 If a loss or liability arises to which the Insurer may be liable to contribute, no Defence Costs shall be incurred on behalf of it without its prior consent. Where a Claim is settled for a sum not exceeding the Underlying Limit no Defence Costs shall be payable by the Insurer.
- 10.4 The Lead Insurer shall not settle any Claim for a sum exceeding the Underlying Limit without the prior consent of the Insurer (such consent not to be unreasonably withheld or delayed)

