



**New South Wales Barristers  
Approved Indemnity Insurance  
with Optional Public Liability Extension**

**Pursuing  
Better  
Together<sup>SM</sup>**

## New South Wales Barristers Approved Indemnity Insurance with Optional Public Liability Extension

### 1. INSURING CLAUSE

**1.1** The proposal, schedule, definitions, provisos, exclusions, conditions and endorsements to this **Policy** shall constitute one **Policy** and are to be read together. Any word or expression to which a specific meaning has been given in any part shall bear that meaning in every other part unless this **Policy** specifically provides otherwise. In this **Policy**, the singular includes the plural and vice versa. Headings wherever appearing in this **Policy** do not form part thereof but are used solely for the purpose of identification.

**1.2** The person named in the schedule herein (hereinafter called "the **Insured**") has made to the **Insurer** a written proposal and declaration, bearing the date stated in the schedule and containing particulars and statements which it is hereby agreed are the basis of this **Policy**.

#### **1.3 Legal Liability**

The **Insurer** agrees, subject to payment of the **Premium** and subject to the terms, conditions and limitations of this **Policy**, to indemnify the **Insured** up to an amount not exceeding the **Limit of Indemnity** against each and every **Loss** to the **Insured** whenever occurring and arising from:

##### **Claims**

**1.3.1** any **Claim** first made against the **Insured** during the **Period of Insurance** and reported to the **Insurer** during the **Period of Insurance**, in respect of any:

- a) **Civil Liability**  
civil liability incurred in connection with the **Practice**; or
- b) **Conduct of Employees**  
liability arising from the conduct of any **Employee** of the **Insured** in connection with the **Practice**;  
or
- c) **Fraud and dishonesty of Employee**  
dishonest, fraudulent, criminal or malicious act or omission of an **Employee** of the **Insured** in connection with the **Practice**; or

##### **Disciplinary Proceedings**

**1.3.2** any **Disciplinary Proceedings** first notified to the **Insured** during the **Period of Insurance** and reported to the **Insurer** during the **Period of Insurance**.

#### **1.4 Loss of Documents**

The **Insurer** agrees, subject to payment of the **Premium** and subject to the terms, conditions and limitations of this **Policy**, that if during the **Period of Insurance** the **Insured** shall discover and shall as soon as reasonably practicable thereafter give written notice thereof to the **Insurer** that any **Documents** have been destroyed or damaged or lost or mislaid and after diligent search cannot be found, this **Policy** shall indemnify the **Insured** up to the **Limit of Indemnity** for all **Contract Claims** for **Loss** in replacing and/or restoring such **Documents**.

PROVIDED always that:

- a) the amount of any **Contract Claim** for **Loss** shall be supported by bills and/or accounts which shall be subject to approval by a competent person to be nominated by the **Insurer** with the approval of the **Insured**. If the **Insured** and **Insurer** are unable to agree on such a competent person, a competent person will be appointed by the Chairman, President or Head of the Bar Association of the state or territory of Australia in which the **Insured** conducts his or her principal **Practice**.
- b) no liability shall attach hereto for any **Loss** brought about by wear, tear, vermin, mould or mildew or any other gradually operating cause,
- c) the **Insured** shall subrogate to the **Insurer** its right of prosecution against any other person or persons for the recovery thereof.

### 1.5 Costs Orders

The **Insurer** agrees, subject to payment of the **Premium** and subject to the terms, conditions and limitations of this **Policy**, to indemnify the **Insured** up to the **Limit of Indemnity** against **Loss** arising from **Costs Orders** first made against the **Insured** during the **Period of Insurance** and reported to the **Insurer** during the **Period of Insurance**.

### 1.6 Third Party Data Security Breach & Client Network Infection

The **Insurer** agrees, subject to payment of the **Premium** and subject to the terms, conditions and limitations of this **Policy** to indemnify the **Insured** for **Damages** and **Defence Costs** resulting from any **Claim** directly or indirectly arising out of or in connection with any **Data Security Breach** and any **Client Network Infection**, provided:

- a) the **Claim** is first made against the **Insured** during the **Period of Insurance** and reported to the **Insurer** in writing during the **Period of Insurance**;
- b) the **Insurer's** liability for all claims made under this Insuring Clause shall not exceed \$50,000 in the aggregate (including all costs and expenses incurred) and any sums paid by the **Insurer** are part of and not in addition to the **Limit of Indemnity**;
- c) the **Insurer** may engage, at its own expense, a computer forensics specialist or security specialist to investigate an alleged **Data Security Breach** or **Client Network Infection**, and the **Insured** shall cooperate fully with such specialist's investigation;
- d) the **Insured** has maintained:
  - i) anti-virus and malware prevention solutions on the **Insured's** computer systems and updated the protection at regular intervals;
  - ii) firewalls on their computer systems;
  - iii) and implemented ongoing patch management process to ensure timely patching of the **Insured's** computer systems;
- e) for the purpose of this Insuring Clause, the following definitions shall apply:

"**Client Network Infection**" means the actual or alleged transmittal from the **Insured's** computer system to the **Insured's** client's computer system in connection with the **Practice**, of a computer virus or other electronic infection which causes damage to that client's computer or computer network or disrupts that client's business.

"**Damages**" means **Loss**, judgments and settlements, but does not include fines, penalties, punitive or exemplary damages, or the return, withdrawal or reduction of professional fees or commissions, or any equitable relief, or any award of legal costs and expenses.

"**Data Security Breach**" means the actual or alleged breach, violation, unauthorised interception, unauthorised use, or misuse by any person of any security systems or procedures maintained by the **Insured** for storage of the **Insured's** client's confidential information in connection with the **Practice**.

"**Defence Costs**" means all reasonable costs, charges, fees and expenses (including but not limited to legal costs and expenses) incurred by or on behalf of the **Insured**, with the **Insurer's** written consent (such consent not to be unreasonably withheld), in defending any **Claim** covered under this Insuring Clause, but does not include the **Insured's** wages, salaries or fees.

- f) for the purpose of this Insuring Clause, in addition to the exclusions set out in section 5, or restrictions to the cover provided under this **Policy**, the **Insurer's** shall not be liable for any claim under this Insuring Clause directly or indirectly arising out of or in connection with:
  - i) any **Claim** arising from the actual or alleged intentional release or disclosure of confidential information by the **Insured** which is alleged to be in violation of any statute, regulation, ethical rule, court or arbitral order, or confidentiality agreement;

- ii) any **Claim** arising from the **Insured's** actual or alleged intentional transmittal of a computer virus or other electronic infection;
- iii) the costs of repairing, replacing, or modifying the **Insured's** data security system or clearing the **Insured's** computers or network of viruses and electronic infections, either preventatively or in response to a **Claim** against the **Insured**;
- iv) war, riot, civil commotion, insurrection, or usurpation of governmental power;
- v) any governmental authority seizing or gaining access to the **Insured's** computer or computer network;
- vi) any proceedings against the **Insured** before a governmental agency in connection with a **Data Security Breach** or **Client Network Infection**, including any audit or other investigation by such governmental agency;
- vii) any **Claim**, **Damages** or **Defence Costs** for which the **Insured** is entitled to an indemnity under any other part of this **Policy**.

## 1.7 Public Liability Optional Extension

**1.7.1** If cover for Public Liability is stated in the schedule as being "Included", the **Insurer** agrees, subject to payment of the **Premium** and subject to the terms, conditions and limitations of this **Policy**, including clause 1.7.3, to indemnify the **Insured** up to the **Public Liability Limit** stated in the schedule against all sums which the **Insured** shall become legally liable to pay by way of **Compensation** for:

- a) **Bodily Injury** as defined in Clause 3.2 a); or
- b) physical loss of or damage to property happening during the **Period of Insurance** and caused by an **Occurrence** in connection with the **Practice**.

### 1.7.2 Additional Benefits under clause 1.7 Public Liability Optional Extension

Subject to the provisions of clause 1.7.1, cover under section 1.7 includes:

- a) **Occupier's Liability**  
the **Insured's** legal liability to pay **Compensation** for **Bodily Injury** to, or physical loss of or damage to the property of, invitees happening during the **Period of Insurance** and caused by an **Occurrence** in connection with the **Practice**.
- b) **Site Visit**  
the **Insured's** legal liability to pay **Compensation** for **Bodily Injury** or physical loss of or damage to property happening at a site during a **Site Visit** by the **Insured** during the **Period of Insurance** and caused by an **Occurrence** in connection with the **Practice**.
- c) **Defence Costs**  
**Defence Costs** incurred by the **Insurer**, or with its prior written consent, in the defence or settlement of a **Claim** indemnified under this extension, subject to the **Public Liability Limit** not being exceeded and as part of that limit.

**1.7.3** PROVIDED THAT this Public Liability Optional Extension 1.7 shall not cover and the **Insurer** shall not be liable under this Public Liability Optional Extension for **Claims**, or liability, or **Defence Costs**, arising out of an **Occurrence** happening in connection with:-

- a) any actual or alleged breach of a professional duty in the conduct of the **Practice**;
- b) the **Insured's** products liability.

## 2. COSTS AND EXPENSES UNDER CLAUSES 1.3.1 and 1.3.2 and 1.5

- 2.1** Subject to Clause 4.1 of this **Policy**, the **Insurer** shall pay in addition to the **Limit of Indemnity** the reasonable costs and expenses incurred by or on behalf of the **Insured**, with the **Insurer's** written consent (such consent not to be unreasonably withheld):
- a) in the investigation, defence or settlement of any **Claim**, which is subject to indemnity under Insuring Clause 1.3.1
  - b) in the defence of any **Disciplinary Proceedings**, which are subject to indemnity under Insuring Clause 1.3.2,
  - c) in the defence of any **Costs Order**, which is subject to indemnity under Insuring Clause 1.5.
- 2.2** If payment greater than the **Limit of Indemnity** has to be made to resolve or otherwise dispose of a **Claim**, **Disciplinary Proceedings** or **Costs Order** against the **Insured**, the **Insurer's** liability in respect of costs and expenses under Clause 2.1 shall be such proportion of the total costs and expenses incurred as the amount payable by the **Insurer** as **Loss** under this **Policy** bears to the payment made to resolve or otherwise dispose of the **Claim**, **Disciplinary Proceedings** or **Costs Order**.

## 3. DEFINITIONS AND INTERPRETATION

### 3.1 Definitions

Subject to clause 3.2, the following words have the following meanings in this **Policy**:

- a) "**Bodily Injury**", for the purpose of exclusion clause 5.1(b), means death, disease, personal injury, physical injury, anguish, emotional distress or any other psychological, psychiatric or related physical condition contracted or suffered by a party to whom the **Insured** has a civil liability.
- b) "**Claim**" means:
  - (i) the receipt by the **Insured** of any verbal or written demand for compensation made by a third party against the **Insured**; or
  - (ii) any writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, or counterclaim served upon the **Insured**.
- c) "**Contract Claim**" means a written demand by or on behalf of the **Insured** to the **Insurer** for payment of **Loss** under Insuring Clause 1.4 of the **Policy**.
- d) "**Costs Order**" means any order against the **Insured** that the **Insured** pay the costs of any party in any proceeding in which the **Insured** has appeared or has been instructed to appear. The term **Costs Order** also includes any contempt orders against the **Insured** in any proceeding in which the **Insured** has appeared or been instructed to appear.
- e) "**Disciplinary Proceedings**" means:
  - (i) any investigation of the **Insured** by an authorised body which has the responsibility for the supervision of barristers or legal practitioners in relation to the **Insured's** conduct as a barrister or suitability to practice as a barrister;
  - (ii) any proceedings of a disciplinary nature against the **Insured** before a tribunal, court or authorised body which has jurisdiction to hear proceedings of that type against barristers.
- f) "**Documents**" means deeds, wills, agreements, maps, magazines, plans, records, books, letters, insurances, computer tapes, computer discs, forms and documents of any nature whatsoever (other than bearer bonds, coupons, bank-notes, currency notes and negotiable instruments) whether written, printed or capable of being reproduced by any other method (but excluding any computer or electronic data which is destroyed or damaged, lost or mislaid by manual, electronic or mechanical act, error or omission) PROVIDED THAT such items are:
  - (i) the property of (or entrusted to) the **Insured** or the **Insured's** predecessor in the business; and
  - (ii) now or hereafter (or are believed by the **Insured** to be) in the **Insured's** hands or in the hands of any other party or parties to or with whom such items have been entrusted, lodged or deposited by the **Insured** in the ordinary course of business.

- g) **"Employee"** means any Barrister's clerk, the services of whom are utilised by the **Insured**, as well as any person, company or trust or any employee of such person, company or trust, engaged by the **Insured** in the conduct of the **Insured's Practice**.
- h) **"Insurance Broker"** means Marsh Pty Limited.
- i) **"Insurer" / "Underwriters"** means Arch Underwriting at Lloyd's (Australia) Pty Ltd, acting on behalf of certain underwriters at Lloyd's.
- j) **"Insured"** means the barrister named in the schedule and the barrister's estate and / or personal legal representative(s).
- k) **"Limit of Indemnity"** means the Limit of Indemnity specified in the schedule and subject to the Insuring Clause shall not be increased by the inclusion of any Extension.
- l) **"Loss"** means those amounts that are necessary to dispose of a **Claim, Disciplinary Proceedings, Contract Claim** or **Costs Order** which is subject to indemnity under Insuring Clauses 1.3, 1.4, 1.5 or 1.6, including:
- (i) In connection with a **Claim** under Insuring Clause 1.3.1, **Loss** means the amount, whether determined by judgment, verdict, award or settlement, for which the **Insured** is legally liable to a third party and includes damages, interest and the claimant's costs and expenses.
  - (ii) In connection with **Disciplinary Proceedings** under Insuring Clause 1.3.2, **Loss** means any fines, penalties or damages, including the costs and expenses of the investigating body, ordered to be paid by the **Insured**.
  - (iii) In connection with a **Contract Claim** under Insuring Clause 1.4, **Loss** means the costs, damages, charges and expenses of whatsoever nature incurred by the **Insured** in replacing and/or restoring the destroyed, damaged, lost or mislaid **Documents**.
  - (iv) In connection with **Costs Orders** under Insuring Clause 1.5, **Loss** means the amount necessary to satisfy the **Costs Order(s)**.
  - (v) In connection with a **Claim** under Insuring Clause 1.6, **Loss** means the amount, whether determined by judgment, verdict, award or settlement, for which the **Insured** is legally liable to a third party and includes damages and interest.
- Loss** does not include costs and expenses under Clause 2.1.
- m) **"Period of Insurance"** means the period specified in the schedule.
- n) **"Policy"** means this policy including the schedule, any endorsements and the proposal form and underwriting information provided to the **Insurer**.
- o) **"Practice"** means the business of practising as a Barrister in any Australian state or territory in which the **Insured** is legally entitled to practise and extends to the acceptance of obligations as Arbitrator, Conciliator, Mediator, Expert in the Law, Attorney-under-Power and any other dispute resolution role and includes advice given or services performed by the **Insured**.
- p) **"Premium"** means the premium(s) specified in the schedule.
- q) **"Wrongful Act"** means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted by an **Insured** person individually or otherwise.
- r) **"Wrongful Employment Act"** means any **Wrongful Act** committed by the **Insured** in connection with the employment by the **Insured** of a person including but not limited to: wrongful dismissal; denial of natural justice relating to wrongful termination; discharge or termination of employment: breach of any oral or written employment contract or quasi-employment contract; employment discrimination laws (including workplace and sexual harassment); wrongful failure to employ or promote; wrongful discipline; wrongful deprivation of a career opportunity; negligent evaluation of that person's performance; invasion of that person's privacy; and employment-related defamation of that person (including by way of an advertisement).



### 3.2 Additional Definitions Applying to Clause 1.7 Public Liability Optional Extension

For the purpose only of the cover provided under clause 1.7 (Public Liability Optional Extension), the following words have the following meanings:

- a) "**Bodily Injury**" means bodily injury, sickness, disease, emotional distress, or any other mental, psychiatric, emotional or physical injury, or death of any person.
- b) "**Compensation**" means money paid or payable by way of compensatory damages pursuant to a judgement of any competent Court or Tribunal or by reason of any settlement negotiated with the **Insurer's** written consent.
- c) "**Defence Costs**" are all reasonable costs, charges, fees (including but not limited to legal fees and expert's fees) incurred in connection with the investigation, defence or settlement of any **Claim** or in investigating circumstances notified to the **Insurer**. **Defence Costs** do not include any wages, salaries or fees of the Insured or costs incurred by the **Insurer** solely for the purposes of making a decision as to the **Insured's** entitlement to indemnity under this **Policy**.
- d) "**Occurrence**" means an unexpected and unintended event (including continuous and repeated exposure to conditions) which results in **Bodily Injury** or physical loss of or damage to property. All exposure to substantially the same conditions shall be deemed to be one **Occurrence**.
- e) "**Public Liability Limit**" means the Public Liability Limit specified in the schedule if cover for Public Liability is stated in the schedule as being "Included".
- f) "**Site Visit**" means an attendance by the **Insured** at a building or place or location to perform professional services in connection with the **Practice**.

## 4. DEDUCTIBLE AND LIMITS OF INDEMNITY

### Deductible

**4.1** This **Policy** shall not indemnify the **Insured** in respect of the first amount of **Loss** in connection with **Disciplinary Proceedings**, and the first amount of liability under Clauses 1.6 and 1.7, which amounts are called the "Deductible" and are identified as such in the schedule. Unless otherwise specified in the schedule, the **Deductible** shall be:

**4.1.1** \$5,000 (Five Thousand Australian Dollars) in respect of:

- a) **Disciplinary Proceedings**; or
- b) costs and expenses under Clause 2.1 (net of any GST input tax credit entitlement) relating to **Disciplinary Proceedings**.

Provided that the **Deductible** shall apply first to costs and expenses under Clause 2.1 b) and then to **Loss**; and

**4.1.2** \$500 (Five hundred Australian dollars) in respect of liability under Clauses 1.6 and 1.7.

**4.2** The **Insurer's** liability

**4.2.1** for **Loss** for each **Claim**, **Disciplinary Proceedings**, **Contract Claim** or **Costs Order**, whether covered by one or more of Insuring Clauses 1.3 to 1.5 (inclusive), shall be the **Limit of Indemnity**.

**4.2.2** for all claims covered by Insuring Clause 1.6 shall not exceed \$50,000 in the aggregate (including all costs and expenses incurred) and any sums paid by the **Insurer** are part of and not in addition to the **Limit of Indemnity**;

**4.2.3** under Clause 1.7 shall be the **Public Liability Limit** if specified in the schedule as "Included".

## 5. EXCLUSIONS APPLYING TO ALL SECTIONS OF THIS POLICY

5.1 This **Policy** shall not indemnify the **Insured** for **Loss** or costs and expenses under Clause 2, in respect of any **Claim**, **Disciplinary Proceedings**, **Contract Claim** or **Costs Order**, or for **Damages** or **Defence Costs** under Clause 1.6, or for liability or **Defence Costs** under Clause 1.7, in respect of, arising from, relating to, brought about by, or in any way connected with, directly or indirectly:

a) **Director/Officer of Corporation**

the **Insured's** activities as a Director or officer of any body corporate other than a service, administration trustee or nominee company the sole business of which is conducted in connection with the **Insured's Practice**.

b) **Bodily Injury/Property Damage**

**Bodily Injury** or physical loss of or damage to property (including any consequential claim for apportionment, contribution or indemnity).

However, this exclusion will not apply:

- (i) to any instructions, brief or work undertaken by the **Insured** in connection with the **Practice** involving any **Bodily Injury** or physical loss of or damage to property; or
- (ii) to the extent that any physical loss of or damage to property is covered under Clause 1.4 Loss of Documents; or
- (iii) to the extent that any **Bodily Injury** or physical loss of or damage to property is covered under Clause 1.7 Public Liability Optional Extension (if purchased by the **Insured**).

c) **Trading Debts**

the payment of a trading debt incurred by the **Insured**.

d) **Nuclear / War etc.**

ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from combustion of nuclear fuel, the radio-active, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof, directly occasioned by pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds, or from war, invasion, acts of foreign enemies, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection, military or usurped power.

e) **Territorial Limitation**

acts or omissions of the **Insured** or an **Employee** of the **Insured** committed or omitted inside the United States of America or the Dominion of Canada or any protectorate or territory thereof at a time when the **Insured** was domiciled in the United States of America or the Dominion of Canada or any protectorate or territory thereof.

f) **Fines and Penalties**

any fines, penalties, exemplary or punitive damages, other than fines, penalties or other orders:

- (i) made by a tribunal, court or other body having jurisdiction to deal with **Disciplinary Proceedings**; or
- (ii) made by a tribunal or court in connection with contempt orders which are covered under Insuring Clause 1.5.

g) **Fraud and Dishonesty of Insured**

the dishonesty or fraudulent act or omission of the **Insured**.

h) **Personal Affairs**

- (i) any investigation or enquiry by the Australian Taxation Office or other government agency or law enforcement agency into the personal affairs of the **Insured**; or
- (ii) any **Disciplinary Proceeding** or **Claim** involving criminal conduct of the **Insured**, however this exclusion shall only apply to the extent that the subject conduct has been established by:



- a) a final and non-appealable determination or decision of an authorised body with the responsibility for the supervision of barristers or legal practitioners; or
- b) a final and non-appealable Judgment of a court or tribunal; or
- c) an express admission from the **Insured**

at which time, the **Insurer** will be entitled to recover any Loss paid to or on behalf of the **Insured**.

i) **Contractual and Assumed Liability**

any liability:

- (i) under a contractual term, warranty, guarantee or indemnity (unless liability would have existed regardless of the contractual term, warranty, guarantee or indemnity); or
- (ii) in circumstances where the **Insured** has conducted the **Practice** pursuant to any agreement by which the **Insured** has surrendered or waived any right of contribution or indemnity, to which the **Insured** would otherwise have been entitled at law.

j) **Wrongful Employment Acts**

any actual or alleged **Wrongful Employment Act**.

k) **Intentional or Reckless Conduct**

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.

**5.2** This **Policy** shall not indemnify the **Insured** for **Loss** or costs and expenses under Clause 2, or for **Damages** or **Defence Costs** under Insuring Clause 1.6, in respect of any:

**5.2.1 Prior Claims and Circumstances**

- (i) **Claim** made against the **Insured** prior to the commencement of the **Period of Insurance** nor in respect of any **Claim** or circumstance notified under any previous policy or **Policy**, nor in respect of any **Claim** or circumstance which might give rise to a **Claim** which was known to the **Insured** at the inception date of this insurance or which is stated on the proposal form, declaration or underwriting information being the basis of this insurance. This exclusion relates to the act, error or omission from which the **Claim** or circumstance known to the **Insured** arises irrespective of how or whether that **Claim** or circumstance is declared to the **Insurer** or not. For the purpose of this exclusion, the term "circumstance" means facts or circumstances, known to the **Insured**, which subsequently give rise to a **Claim**. Any reference to the term **Claim** in this exclusion also covers the terms **Disciplinary Proceedings, Contract Claim** and **Costs Order**.
- (ii) notwithstanding exclusion 5.2.1(i), in the absence of fraudulent non-disclosure and fraudulent misrepresentation and subject to clauses 5.2.1(ii) (b) and 5.2.1 (ii) (c) below where:
  - a) a **Claim** is made against the **Insured** by reason of an act, error or omission by or on behalf of the **Insured** which occurred prior to the **Period of Insurance**; and
  - b) the **Insurer** which for the purpose of this clause b) shall include Arch Underwriting at Lloyd's (Australia) Pty Ltd (acting on behalf of certain underwriters at Lloyd's), was the **Insured's** professional indemnity insurer at the time when the **Insured** first became aware of the circumstance which subsequently gave rise to the **Claim**; and
  - c) the **Insurer** which for the purpose of this clause c) shall include Arch Underwriting at Lloyd's (Australia) Pty Ltd (acting on behalf of certain underwriters at Lloyd's), continued without interruption as the **Insured's** professional indemnity insurer from the time when the **Insured** first became aware of the circumstance up until such time as the **Claim** is made against the **Insured** and notified to the **Insurer**, the **Insurer** agrees to indemnify the **Insured** against the **Claim** subject to and on the same terms and conditions (including the sum insured and excess) applicable to the policy or **Policy** under which the notification should have been given.

- (iii) the **Insurer** reserves the right to reduce its liability in respect of the **Claim** by the amount which fairly represents the extent to which the **Insurer's** interests are prejudiced as a result of the late notification or non-disclosure of the circumstance to the **Insurer**.
- (iv) where clause 5.2.1 (ii) applies, the **Insurer** agrees that it will not deny indemnity for the **Claim** as a consequence of any non-disclosure on the part of the **Insured** with respect to the **Claim** subject always to the reservation contained in clause 5.2.1 (iii).

**5.3** This **Policy** shall not indemnify the **Insured** for **Loss** or costs and expenses under Clause 2, or for **Damages** or **Defence Costs** under Clause 1.6, or for liability or **Defence Costs** under Clause 1.7, in respect of any:

a) **Related Party Claims**

**Claims** by, or liability to:

- (i) any **Family** member of an **Insured**;
- (ii) any entity, facility arrangement of any description which, at the date the liability arises or **Claim** is made against the **Insured** or at the time the events giving rise to the **Claim** occurred:
  - a) was managed or controlled wholly or in part by the **Insured** or any nominee(s) of the **Insured**, or any **Family** member of the **Insured**; and
  - b) in which the **Insured** or any **Family** member of the **Insured** had a direct or indirect **Financial Interest**.

For the purpose of the exclusion:

"**Family**" means the spouse (or other person who lives with the **Insured** as a domestic partner), parent, parent of the spouse, any sibling or any of the children of the **Insured** or spouse.

"**Financial Interest**" means any financial interest other than a financial interest of less than 10% of the issued capital in a company or less than 10% of the value of any other enterprise.

b) **Fee Disputes**

**Claim** or liability under Clauses 1.3, 1.4, 1.6 and 1.7 in respect of a dispute as to or refund of, or damages calculated by reference to, any fee or disbursement, including any associated costs of such **Claim**.

c) **Bankruptcy or Insolvency**

**Disciplinary Proceedings** in respect of, arising from, relating to, brought about by, or in any way connected with, directly or indirectly, the **Insured**:

- (i) being subject to a bankruptcy-related event as specified in the **Legal Profession Uniform Law (NSW)** or equivalent legislation within an applicable jurisdiction; or
- (ii) becoming bankrupt or insolvent, as defined under any other statute or any steps taken by or against the **Insured** as a precursor to bankruptcy or insolvency.

References to the **Legal Profession Uniform Law (NSW)** in clause (i) above includes legislation which repeals and replaces those laws and any rules and regulations made thereunder.

**5.4 Additional Exclusions Applying to Clause 1.7 Public Liability Optional Extension**

Without limiting the operation of any of the exclusions applying to all Sections of this **Policy**, the **Insurer** shall not be liable under Clause 1.7 Public Liability Optional Extension for **Claims**, liability or **Defence Costs** arising directly or indirectly from or in connection with:

a) **Vehicle**

the ownership, possession, operation, use or legal control by the **Insured** of any vehicle:

- (i) which is registered; or
- (ii) in respect of which insurance is required by virtue of any legislation relating to motor vehicles; or
- (ii) which is otherwise insured in respect of the same liability.

b) **Aircraft, Vehicle and Watercraft**

the ownership, possession, operation, use or legal control by or on behalf of the **Insured** of any vehicle, aircraft or aerial device or watercraft.

- c) **Boilers**  
the explosion of boilers or other vessels under pressure in respect of which a certificate is required to be issued under the terms of any statute or regulation thereunder.
- d) **Erection or Demolition**  
the erection of, demolition of, alteration of, or addition to, buildings by or on behalf of the **Insured**.
- e) **Faulty Workmanship**  
faulty workmanship of any kind.
- f) **Vibration**  
damage to any land or property arising directly or indirectly from vibration or from the removal or weakening of or interference with the support to land or buildings or any other property.
- g) **Property Ownership**  
ownership by the **Insured** of properties other than those at the **Insured's Practice**.
- h) **Goods, products or merchandise**  
any goods, products or merchandise (including containers thereof).
- i) **Claims and indemnity under Clauses 1.3 to 1.6**  
an **Occurrence** or circumstance, the **Insured's** liability, or loss, in respect of, or in connection with which:
  - (i) is indemnified, wholly or in part, by Clauses 1.3 to 1.6 of this **Policy** or would be so indemnified if the **Insured** sought indemnity under Clauses 1.3 to 1.6 of this **Policy**; or
  - (ii) would be indemnified, wholly or in part, under Clauses 1.3 to 1.6 of this **Policy** if:
    - a) a **Claim** were made against the **Insured** and notified to the **Insurer** during the **Period of Insurance**;  
or
    - b) the **Insured** gave notice to the **Insurer** of the facts relating to the **Occurrence** or circumstance or loss during the **Period of Insurance**; or
  - (iii) is indemnified by the **Insurer** or would be indemnified by the **Insurer**, wholly or in part, if the **Insured** sought indemnity under provisions equivalent or similar to Clauses 1.3 to 1.6 of any renewal of this **Policy** for a period subsequent to the **Period of Insurance**.
- j) **Completion or Rectification Work**  
completion or rectification work by or for the **Insured**.
- k) **Recall of products etc.**  
any recall, withdrawal, inspection, repair or replacement of the **Insured's** products including investigation or other associated costs and loss of use of the products.
- l) **Terrorism**  
any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.  
  
For the purpose of this exclusion 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 groups(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.

## 6. CONDITIONS

### 6.1 Underwriters' Obligations

Each subscribing underwriter's obligations under this **Policy** to which he or she subscribes is several and not joint and is limited solely to the extent of his or her individual subscription. No subscribing underwriter is responsible for the subscription of any co-subscribing underwriter who for any reason does not satisfy all or part of his or her obligations.

### 6.2 Limit of Indemnity

#### a) Clauses 1.3 to 1.5

The **Insurer's** total liability in respect of each **Loss** under Clauses 1.3 to 1.5 of this **Policy** shall not exceed the **Limit of Indemnity** specified in the schedule subject to Clause 2.

#### b) Clause 1.6

The **Insurer's** total liability for all **Claims** covered by Insuring Clause 1.6 shall not exceed \$50,000 in the aggregate (including all costs and expenses incurred) and any sums paid by the **Insurer** are part of and not in addition to the **Limit of Indemnity** specified in the schedule;

#### c) Clause 1.7 Public Liability Optional Extension

The **Insurer's** liability to indemnify the **Insured** under this **Policy** for all **Claims**, liability and **Defence Costs** indemnified under Clause 1.7 Public Liability Optional Extension if "Included", shall not exceed in respect of any one **Occurrence** the **Public Liability Sum Insured** stated in the schedule inclusive of **Defence Costs**.

### 6.3 Multiple Claims or Occurrences

Where more than one **Claim** or **Occurrence** or **Loss** arises out of the same act or omission or causally connected or interrelated acts or omissions, or the same originating cause, or where a series of **Occurrences** have a common source or cause, all of those **Claims** or **Occurrences** or **Losses** will together constitute one **Claim** or **Occurrence** or **Loss** for the purpose of this **Policy** and determining the **Deductible** and the **Insurer's** liability.

### 6.4 Alteration to Risk

The **Insured** must give notice to the **Insurer** in writing as soon as practicable of any material change to the risk. A material change to the risk includes without limitation activities that are materially different from those declared in the proposal form or that are outside the normal activities of, or a material change to, the **Practice**.

### 6.5 Admission of Liability / Settlement

The **Insured** shall not admit liability for, or settle, any **Claim**, **Disciplinary Proceedings**, **Costs Order** or liability under Clause 1.7 or incur any costs or expenses or **Defence Costs** in connection therewith, without the written consent of the **Insurer** (such consent not to be unreasonably withheld).

### 6.6 Conduct of Defence / Settlement by Insurer

Subject to Condition 6.7 of this **Policy** and provided always that the **Insured** remains liable for its **Deductible** under clause 4.1, the **Insurer** shall be entitled at any time to take over the conduct in the name of the **Insured**, the defence or settlement of any such **Claim**, **Disciplinary Proceedings**, **Costs Order** or liability under Clause 1.7.

### 6.7 Dispute over Contesting Proceedings

- a) The **Insured** or the **Insurer** shall not be required to contest any **Claim**, **Disciplinary Proceedings**, **Costs Order** or liability under Clause 1.7, unless a King's Counsel or Senior Counsel (to be mutually agreed upon by the **Insured** and the **Insurer** or failing agreement to be appointed by the Chairman, President or Head of the Bar Association of the state or territory of Australia in which the **Insured** conducts his or her principal **Practice**), shall advise that such proceedings should be contested.
- b) In formulating such advice, King's Counsel or Senior Counsel shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff (or other litigant in the case of **Costs Orders**), the likely costs and expenses under Clause 2 and **Defence Costs** and the prospects of the **Insured** successfully defending the **Claim**, **Disciplinary Proceedings**, **Costs Order** or liability under Clause 1.7.
- c) The cost of King's Counsel or Senior Counsel's opinion shall be regarded as part of costs and expenses under Clause 2 or **Defence Costs**.

## 6.8 Notification

The **Insured** shall immediately notify the **Insurance Broker** in writing of any **Claim, Disciplinary Proceedings, Contract Claim, or Costs Orders** during the **Period of Insurance**.

## 6.9 Non-Repudiation, Avoidance or Reduction of Liability

Subject to Condition 6.10 the **Insurer** will not:

- a) seek to avoid, repudiate or rescind this **Policy** upon any ground whatsoever, including non-disclosure or misrepresentation.
- b) exercise any rights under sub-section 28(3) of the Insurance Contracts Act unless the non-disclosure or misrepresentation is fraudulent.
- c) This Condition 6.9 does not apply to:
  - (i) **Claims** arising from civil liability or the conduct of any **Employee** where the civil liability was incurred or the conduct occurred, prior to the **Insured** obtaining a professional indemnity policy or **Policy**, which has been renewed or replaced with the **Insurer** or another **Insurer**, without gaps between the period(s) of insurance until the commencement date of this **Policy**;
  - (ii) Public Liability Optional Extension Clause 1.7.

## 6.10 Dishonesty and Fraud Against the Insurer

If the **Insured** dishonestly or fraudulently requests indemnity under any section of this **Policy** (including for matters about which there has been a fraudulent non-disclosure by the **Insured** to the **Insurer**), the **Insurer** may refuse such indemnity, but where only part of the request for indemnity is dishonest or fraudulent, the **Insurer** shall not refuse indemnity in respect of that part of the request which is not dishonest or fraudulent.

## 6.11 Reimbursement by Insured

Where the **Insured's** breach of or non-compliance with any condition of this **Policy** has resulted in substantial prejudice to the handling or settlement of any **Claim, Disciplinary Proceedings, Contract Claim, Costs Order** or liability under Clause 1.7 in respect of which the **Insured** is indemnified hereunder the **Insured** shall reimburse to the **Insurer** the difference between the sum payable by the **Insurer** in respect of that **Claim, Disciplinary Proceedings, Contract Claim, Costs Order** or liability under Clause 1.7 and the sum which would have been payable in the absence of such prejudice. Provided always that it shall be a condition precedent to the right of the **Insurer** to seek such reimbursement that the **Insurer** shall have fully indemnified the **Insured** in accordance with the terms hereof.

## 6.12 Non-Cancellation

- a) The **Insurer** agrees that it will not cancel this **Policy** for any reason other than non-payment of the **Premium**. Subject to the proviso that for the purpose of Clause 1.7 the **Insurer** shall be entitled to cancel coverage under that Clause pursuant to the provisions of the Insurance Contracts Act 1984.
- b) The **Insured** may not cancel this **Policy**

## 6.13 Governing Law

This **Policy** will be governed by and construed in accordance with the laws of the State of New South Wales.

## 6.14 Dispute Resolution

- a) Save as provided in Condition 6.7 hereof and provided that the parties have agreed to refer the dispute or disagreement to arbitration after the dispute or disagreement has arisen, any dispute or disagreement between the **Insured** and the **Insurer** arising out of or in connection with this **Policy** may, at the request of either of them, be referred to the sole arbitrament of a person to be appointed (failing agreement between them) by the Chairman, President or Head of the Bar Association of the state or territory of Australia in which the **Insured** conducts his or her principal **Practice** whose decision shall be final and binding upon both parties.

- b) Without prejudice to the provisions of part (a) of this Condition 6.14, the **Insurers** accepting this **Policy** agree that:
- (i) if a dispute arises under this **Policy**, this **Policy** will be subject to Australian law and practice and the **Insurers** will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
  - (ii) any summons notice or process to be served upon the **Insurers** may be served upon:  
*Lloyd's Underwriters' General Representative in Australia*  
*Suite 1603, Level 16*  
*1 Macquarie Place*  
*Sydney NSW 2000*  
who has authority to accept service on the **Insurers'** behalf;
  - (iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this **Policy**, notice should be given to:

*Arch Underwriting at Lloyd's (Australia) Pty Ltd*  
*Suite 11.02, Level 11,*  
*360 Collins Street, Melbourne VIC 3000*  
or by email at: [claims@archinsurance.com.au](mailto:claims@archinsurance.com.au)

#### 6.15 Subrogation

In respect of any **Claim, Disciplinary Proceedings, Contract Claim, Costs Order** or liability under Clause 1.7 covered by this **Policy**, the **Insurer** shall be subrogated to any rights of the **Insured** and shall be entitled to prosecute to the extent of the law for its own benefit and in the **Insured's** name any claim for indemnity or damages. The **Insured** must co-operate fully with the **Insurer** in any proceedings which the **Insurer** may take and the **Insurer** shall have full discretion in the conduct and settlement of those proceedings.

However, the **Insurer** shall not exercise this right against any **Employee** of the **Insured** unless the **Claim** has been brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the **Employee**.

#### 6.16 Cooperation

- a) The **Insured** shall use due diligence to do and concur in doing all things reasonably practicable to avoid or diminish any liability in respect of which the **Insurer** may be liable under this **Policy**.
- b) The **Insured** shall openly and honestly disclose to the **Insurer** all relevant information and shall provide such assistance and cooperation as the **Insurer** may require to enable the **Insurer** to investigate and/or defend any **Claim, Disciplinary Proceedings, Contract Claim, Costs Order** or liability under Clause 1.7 under this **Policy** or to enable the **Insurer** to determine its liability under this **Policy**. If requested to do so by the **Insurer**, the **Insured** shall provide the **Insurer** an estimate of costs from the **Insured's** legal advisor and shall update such estimate where a variation in the original estimate, is, or ought reasonably be, suspected. The **Insured's** duty to cooperate extends to the **Insurer's** investigation of circumstances notified by the **Insured** pursuant to section 40(3) of the Insurance Contracts Act.
- c) Compliance with this condition shall be at the **Insured's** own expense.

#### 6.17 Sanctions Suspension Clause

It is a condition of this **Policy**, and the **Insured** agrees, that the provision of any cover, the payment of any claim and the provision of any benefit hereunder shall be suspended, to the extent that the provision of such cover, payment of such claim or provision of such benefit by the **Insurer** would expose that **Insurer** to any sanction, prohibition or restriction under any:

- a) United Nations' resolution(s); or
- b) the trade or economic sanctions, laws or regulations of Australia, New Zealand, the European Union, United Kingdom or United States of America.

Such suspension shall continue until such time as the **Insurer** would no longer be exposed to any such sanction, prohibition or restriction.



#### Additional Condition Applying to Clause 1.7 Public Liability Optional Extension

##### 6.18 Dispute over Contesting Proceedings

For the purpose of Clause 1.7 Public Liability Optional Extension, if the **Insured** shall refuse to consent to or accept any proposed settlement or recommendation made by the **Insurer**, or continues any legal proceedings in connection therewith, then the **Insurer's** liability to indemnify the **Insured** shall be limited to the amount for which the **Claim** or liability could have been so settled plus the costs and expenses (including **Defence Costs**) incurred up to the date of such refusal minus the **Deductible**.

## 7. RUN OFF COVER

7.1 This Run Off cover applies where:

- a) The **Insured** has ceased **Practice** during or within one day after the expiry of the **Period of Insurance**, for any reason including death, and ceases to hold a practising certificate issued by an Australian Bar Association.  
or
- b) The **Insured** has ceased **Practice** during or within one day after the expiry of the **Period of Insurance** and become a "government lawyer" (as defined by section 6 of the Legal Profession (Uniform Law) (NSW)) who holds a practising certificate issued by an Australian Bar Association.

7.2 The **Insurer** agrees, for no additional premium, to indemnify the **Insured** for any **Claim** arising from the **Insured's Practice** which is first made and notified to the **Insurer** after the **Insured** has ceased **Practice** in accordance with Clause 7.1 a) or b) and during the period of seven (7) years from the date of the **Insured** ceasing **Practice** PROVIDED THAT:

- a) The **Claim** relates to acts, errors or omissions of the **Insured** or an **Employee** prior to the date on which the **Insured** ceased **Practice**.
- b) The **Insured** has notified the **Insurer** in writing, within 21 days after the expiry of the **Period of Insurance**, that the **Insured** has ceased **Practice**. The **Insured** must also give written notice to the **Insurer** if the **Insured's** practising certificate is cancelled, suspended or terminated, or has had conditions imposed during the **Period of Insurance**.
- c) The **Insured** shall, upon receiving the **Insurer's** written request, provide to the **Insurer** a declaration of every known **Claim, Disciplinary Proceedings, Contract Claim, or Costs Order**.
- d) Under this Run Off Cover, the **Limit of Indemnity** is limited to \$1,500,000 any one **Claim** and \$4,500,000 in the aggregate and the **Deductible** is deemed to be \$1,000 inclusive of costs for each **Claim**. PROVIDED that the **Insurer's** liability for all claims made under Insuring Clause 1.6 shall not exceed \$50,000 in the aggregate (including all costs and expenses incurred) and any sums paid by the **Insurer** are part of and not in addition to the aggregate **Limit of Indemnity** of \$4,500,000 under this Run Off Cover.
- e) This Run Off Cover is otherwise subject to all the terms, conditions, limitations and exclusions of this **Policy**.
- f) For the avoidance of any doubt, this Run Off Cover does not apply to Clause 1.7 should cover have been taken out under that Clause.

## IMPORTANT NOTICES UNDER THE INSURANCE CONTRACTS ACT 1984

### **“Claims made and notified” general information**

The information under this heading is provided for general information purposes only and does not:

- form part of the **Policy**
- impose any contractual obligations on any Insured or create contractual rights between us. Certain insuring clauses in this Policy Wording operate on a “Claims made and notified” basis, which means that they:
- cover claims made against the relevant Insured and notified to Underwriters in writing during the **Period of Insurance**.
- do not provide cover in relation to:
  - claims made against an Insured after the expiry of the **Period of Insurance**, even though the event giving rise to the claim may have occurred during the **Period of Insurance** (unless specified otherwise);
  - claims made against an Insured notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy;
  - claims made, threatened or intimated against an Insured prior to the commencement of the **Period of Insurance**;
  - facts or circumstances of which an Insured first became aware prior to the **Period of Insurance**, and which they knew, or ought reasonably to have known, had the potential to give rise to a claim under the policy;
  - claims arising out of circumstances noted on the proposal for the current **Period of Insurance** or on any previous proposal form;
  - claims arising from civil, administrative, criminal or regulatory proceeding, investigation, arbitration or adjudication that existed prior to, or was pending before, the commencement of the **Period of Insurance**.

If the Insured gives notice in writing to Underwriters of any facts that might give rise to a Claim against them as soon as reasonably practicable after they become aware of those facts, but before the expiry of the **Period of Insurance**, they may have rights under Section 40(3) of the Insurance Contracts Act 1984 (the Act) to be indemnified in respect of any claim subsequently made against them arising from those facts, notwithstanding that the Claim is made after the expiry of the **Period of Insurance**. Such rights arise under the Act only. The terms of the policy and the effect of the policy is that the Insured is not covered for claims made against them after the expiry of the **Period of Insurance**, unless specified otherwise.

### **Duty of Disclosure**

Before any person/s enter into an insurance policy with us, they have a duty under the Insurance Contracts Act 1984 to disclose to Underwriters every matter that they know, or could reasonably be expected to know, is relevant to our decision whether to accept the risk of the insurance and if so, on what terms.

They have the same duty to disclose those matters to Underwriters before they renew, extend, vary or reinstate the policy.

The duty applies until the policy is entered into, or where relevant, renewed, extended, varied or reinstated (Relevant Time). If anything changes between the time disclosures are made and the Relevant Time, the person/s need to tell Underwriters.

### ***What we do not need to know***

A person does not need to tell Underwriters about any matter that:

- diminishes our risk;
- is of common knowledge;
- we know or should know in our business as Underwriters;
- we tell the person we do not need to know.

### ***Who does the duty apply to?***

The duty of disclosure applies in relation to everyone who is insured under the policy.

### ***What happens if the duty of disclosure is not complied with?***

If the duty of disclosure is not complied with we may cancel the policy and/or reduce our liability under the contract in respect of a claim. If fraud is involved, we may treat the contract as if it never existed, and pay nothing.

### **Retroactive liability**

The Policy does not provide cover in relation to events that occur before the retroactive date stated in the Schedule.

### **Average provision and Allocation of loss between the Insured and Underwriters**

One of the Policy terms provides that if the Insured incurs loss covered by the Policy with other loss that is not covered by the Policy, or if a claim is made against the Insured and it is impossible to identify whether loss is attributable exclusively or primarily to a covered cause, or the claim against the Insured, as appropriate, then the Insured together with Underwriters shall use our best efforts to agree a fair and proper allocation of the loss between Underwriters and the Insured. Please refer to the Policy wording for full details. The Policy may also provide that, where the amount required to dispose of a claim exceeds the limit of the sum insured in the Policy, Underwriter shall be liable only for a part of the total costs and expenses which shall be the same proportion of the total expenses as the Policy limit bears to the total amount required to dispose of the claim.

### **Liability assumed under agreement**

Cover provided by this form of liability insurance does not cover liability which you have agreed to accept, unless you would have been so liable in the absence of such agreement.

### **Utmost good faith**

The Policy is based on the utmost good faith requiring Underwriters and the proposer/insured(s) (including third party beneficiaries after the policy is entered into) to act towards each other with the utmost good faith in respect of any matter relating to the policy. A failure to comply is a breach of the Insurance Contracts Act 1984.

### **Sanctions Suspension clause**

Please note Condition 6.17 Sanctions Suspension Clause of the Policy, which has the effect of suspending the provision of any cover, the payment of any claim and the provision of any benefit hereunder, to the extent that the provision of such cover, payment of such claim or provision of such benefit by the Insurer would expose the Insurer to any sanction, prohibition or restriction.

## **NOTICES**

We will send all notices in relation to the Policy to:

- the Insured's nominated insurance intermediary, until Underwriters receive written notice to the contrary from the Insured named in the Schedule;
- if there is no nominated intermediary, the Insured named in the Schedule, acting on behalf of the Insureds.

## **ABOUT THE POLICY**

Where Underwriters agree to enter into a policy, it is a contract between Underwriters and the Insured (see the definition of "Insured" for details of who is covered by this term). The policy is entered into subject to the payment or agreement to pay Underwriters the premium by the Insured, including government taxes and charges, and the policy terms and conditions (including limits and the deductible/s).

The policy is made up of this Policy Wording which sets out our standard terms, the Certificate of Insurance and Schedule which we issue to confirm the issue of the policy and which contain additional information specific to the Insured and the policy, any agreed endorsements and the Proposal. These are all important documents and should be carefully read together and kept in a safe place for future refer

## **GENERAL INSURANCE CODE OF PRACTICE**

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to [www.insurancecode.org.au](http://www.insurancecode.org.au)

## COMPLAINTS AND DISPUTES

If you have any concerns or wish to make a complaint in relation to this policy, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure. Please contact:

We will acknowledge receipt of your complaint and do our utmost to resolve the complaint to your satisfaction within 10 business days

If we cannot resolve your complaint to your satisfaction, we will escalate your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

*Lloyd's Australia Limited*  
Email: [ldraustralia@lloyds.com](mailto:ldraustralia@lloyds.com)  
Telephone: (02) 8298 0783  
Post: Suite 1603 Level 16, 1 Macquarie Place, Sydney NSW 2000

A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

Telephone: 1800 931 678  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Post: GPO Box 3 Melbourne VIC 3001  
Website: [www.afca.org.au](http://www.afca.org.au)

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

The Underwriters accepting this Policy agree that:

- (i) if a dispute arises under this Policy, this Policy will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- (ii) any summons notice or process to be served upon the Underwriters may be served upon:

*Lloyd's Underwriters' General Representative in Australia*  
Suite 1603, Level 16, 1 Macquarie Place  
Sydney NSW 2000

who has authority to accept service on the Underwriters' behalf;

- (iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this Policy will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this Policy notice should be given as soon as possible to:

*Arch Underwriting at Lloyd's (Australia) Pty Ltd*  
Suite 11.02, Level 11,  
360 Collins Street, Melbourne VIC 3000  
or by email at: [claims@archinsurance.com.au](mailto:claims@archinsurance.com.au)

## PRIVACY NOTICE

Unless the context otherwise provides, in this section 'we', 'our' or 'us' means Certain Underwriters at Lloyd's and Arch Underwriting at Lloyd's (Australia) Pty Ltd and their related entities.

Personal information is essentially any information or an opinion about an identified individual, or an individual who is reasonably identifiable. See the Privacy Act 1988 (Cth) (the Act) for full details of what constitutes personal information.

This privacy notice details how we collect, disclose and handle personal information.

### Why we collect your personal information

We collect personal information (including sensitive information) so we can:

- identify you and conduct necessary checks;
- determine what service or products we can provide to you e.g. offer our insurance products;
- issue, manage and administer services and products provided to you or others, including claims investigation, handling and settlement;
- improve our services and products, e.g. training and development of our representatives, product and service research and data analysis and business strategy development.

### What happens if you don't give us your personal information?

If you choose not to provide us with the information we have requested, we may not be able to provide you with our services or products or properly manage and administer services and products provided to you or others.

### How we collect your personal information

Collection can take place through websites (from data input directly or through cookies and other web analytic tools), email, by telephone or in writing.

We collect it directly from you unless you have consented to collection from someone other than you, it is unreasonable or impracticable for us to do so, or the law permits us to.

If you provide us with personal information about another person, you must only do so with their consent and agree to make them aware of this privacy notice.

### Who we disclose your personal information to

We share your personal information with third parties for the collection purposes noted above.

The third parties include: our related companies and our representatives who provide services for us, other insurers and reinsurers, our claim management partner(s), your agents, our legal, accounting and other professional advisers, data warehouses and consultants, investigators, loss assessors and adjusters, other parties we may be able to claim or recover against, and anyone either of us appoint to review and handle complaints or disputes and any other parties where permitted or required by law.

We may need to disclose information to persons located overseas who will most likely be located in the United Kingdom. Who they are may change from time to time. You can contact us for details or refer to our Privacy Policy available at our website [www.archinsurance.com.au](http://www.archinsurance.com.au)

In some cases we may not be able to take reasonable steps to ensure they do not breach the Privacy Act and they may not be subject to the same level of protection or obligations that are offered by the Act. By proceeding to acquire our services and products you agree that you cannot seek redress under the Act or against us (to the extent permitted by law) and may not be able to seek redress overseas.

### More information, access, correction or complaints

For more information about our privacy practices including how we collect, use or disclose information, how to access or seek correction to your information or how to complain in relation to a breach of the Australian Privacy Principles and how such a complaint will be handled, please refer to our Privacy Policy. It is available at our website [www.archinsurance.com.au](http://www.archinsurance.com.au) or by contacting us on (02) 8284 8400 EST 9am-5pm, Monday-Friday

**Privacy complaints:** We have established a Privacy Complaints Handling Procedure to deal with any complaints you may have about how we have collected, used or managed your personal information. If you would like to make a complaint, please contact:

The Privacy Officer,  
Arch Underwriting at Lloyd's (Australia) Pty Ltd,  
Level 10, 155 Clarence Street, Sydney NSW 2000

or email [complaints@archinsurance.com.au](mailto:complaints@archinsurance.com.au)

Your complaint will be taken seriously and investigated thoroughly.

If you are not satisfied with our final decision, you can direct your complaint to the Federal Privacy Commissioner either on 1300 363 992 (for the cost of a local call anywhere in Australia) or by mail to GPO Box 5218, Sydney NSW 2001.

**Your Choices:** By providing us with personal information, you and any person you provide personal information for, consent to this use and these disclosures unless you tell us otherwise. If you wish to withdraw your consent, including for things such as receiving information on products and offers by us, or persons we have an association with, please contact us.