

DRAFT

Dated

The Law Society of England and Wales (1)
Capita Commercial Insurance Services Limited (2)
and
..... (3)

Qualifying Insurer's Agreement ~~2010~~2011
(Draft)

Details of the Insurer

Company name

Company /
syndicate number

Registered office

Telephone

Fax

Principal contact

Should contact be via broker only? If yes, place a X here

Commencement Date: 1 October ~~2010~~2011

Details for service of notice in accordance with clause 15

Address

Fax

Contact name

Details to appear in Law Society publications

Company/trading
name

Postal address

Contact names: Underwriting

Claims

Telephone

Fax*

E-mail address*

Website address*

* optional

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THIS AGREEMENT is made on

BETWEEN:

- (1) **THE LAW SOCIETY OF ENGLAND AND WALES**, as established by a Royal Charter in 1845 and currently located at 113 Chancery Lane, London WC2A 1PL (the **Law Society**);
- (2) **CAPITA COMMERCIAL INSURANCE SERVICES LIMITED** (a company registered in England and Wales under number 02845397), whose registered office is at The Registry, 34 Beckenham Road, Beckenham, Kent BR3 4TU (**Capita**); and
- (3) the company details of which are set out on page i (the **Insurer**).

WHEREAS

- (A) The Council of the Law Society has, in exercise of its powers under, inter alia, section 37 Solicitors Act 1974 made Rules (in this Agreement referred to as the Rules) concerning indemnity against civil liability incurred by, amongst others, solicitors in private practice in England and Wales.
- (B) Pursuant to the Rules, Firms are required to take out professional indemnity insurance on at least the Minimum Terms with an Authorised Insurer which has entered into a Qualifying Insurer's Agreement with the Law Society.
- (C) The purpose of this Agreement is to set out the terms and conditions on which the Insurer may provide professional indemnity insurance to Firms as required under the Rules and in particular the terms on which it may issue Policies, shall participate in the ARP, shall comply with the Claims Handling Guidelines, and related matters.

IT IS AGREED AS FOLLOWS

1 Definitions and interpretation

1.1 In this Agreement, unless the context requires otherwise:

Act means the Solicitors Act 1974

ARP means the arrangements described in Schedule 1 and in the Rules

ARP Firm means a Firm which is insured through the ARP under the terms of an ARP Policy

ARP Manager means the manager of the ARP, being Capita and/or such person as is appointed from time to time by the Law Society to carry out all or any particular functions of the manager of the ARP in accordance with paragraph 2.1 of Schedule 1, or the Law Society and any such person

ARP Policy means a contract of professional indemnity insurance issued by the ARP Manager on behalf of Qualifying Insurers to an ARP Firm, in the form set out in Schedule 2, or as may be prescribed by the Law Society from time to time, and includes an ARP Run-off Policy

ARP Run-off Policy means a contract of professional indemnity insurance issued by the ARP Manager on behalf of Qualifying Insurers to a Run-off Firm in the ARP, in the form described in Part 2 of Schedule 2

Authorised Insurer means:

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
- (b) a person who carries on an insurance market activity, within the meaning of section 316(3) of that Act;
- (c) an EEA Firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation

under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or

- (d) a person who does not fall within paragraph (a), (b) or (c) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member state other than the United Kingdom

where relevant class has the meaning set out in section 87(1B) of the Act and provided that this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act

business day means a day (other than a Saturday or Sunday) on which banks are open for the transaction of normal business in London

Claims Handling Guidelines means the guidelines referred to in clause 7.1 as they may be issued by the Law Society from time to time

Claims Report means a report issued in accordance with clause 6.5

Commencement Date means the first date on which Policies written by the Insurer may incept, being the date set out on page i

Firm has the meaning given in the Rules

Firm in Default has the meaning given in the Rules

Indemnity Period means the period of one year starting on 1 September 2000, 2001 or 2002, the period of 13 calendar months starting on 1 September 2003, the period of one year starting on 1 October in any subsequent calendar year, or such other period as may be set out in the Rules

Initial Participation means, in respect of any Qualifying Insurer, the amount, expressed as a percentage, resulting from the initial calculation made in accordance with paragraph 3.3 of Schedule 1

Insolvency Event means in relation to a Qualifying Insurer:

- (a) the appointment of a provisional liquidator, administrator, receiver or an administrative receiver; or
- (b) the approval of a voluntary arrangement under Part 1 of the Insolvency Act 1986 or the making of any other form of arrangement, composition or compounding with its creditors generally; or
- (c) the passing of a resolution for voluntary winding up where the winding up is or becomes a creditors' voluntary winding up under Part IV of the Insolvency Act 1986; or
- (d) the making of a winding up order by the court; or
- (e) the making of an order by the court reducing the value of one or more of the Insurer's contracts under section 377 of the Financial Services and Markets Act 2000; or
- (f) the occurrence of any event analogous to any of the foregoing Insolvency Events in any jurisdiction outside England and Wales

Liaison Committee means the committee referred to in clause 8.1

Minimum Terms means the minimum terms and conditions with which a Policy is required to comply, being the terms and conditions required from time to time under the Rules

Percentage Liability means, in respect of any Qualifying Insurer, the extent to which it is liable to make payments pursuant to the ARP during an Indemnity Period, expressed as a percentage, and calculated in accordance with paragraph 6.2 of Schedule 1

Percentage Participation means, in respect of any Qualifying Insurer, the extent to which it participates in the ARP during an Indemnity Period, expressed as a percentage, and calculated in accordance with paragraph 3.5 of Schedule 1

Policy means a contract of professional indemnity insurance made between the Insurer (whether alone or together with other Qualifying Insurers) and a Firm complying with the Minimum Terms in accordance with clause 2.3, including (where the context requires) an ARP Policy

Policy Period means the period of insurance in respect of which risks may attach under a Policy

Qualifying Insurer means any Authorised Insurer which has entered into an agreement with the Law Society to be a Qualifying Insurer which remains in force for the purpose of effecting new Policies

Records means all documents and records of the Insurer in whatever form relating to current and expired Policies issued by the Insurer or to which the Insurer has subscribed

Reporting Protocol and **Referral Protocol** each means the protocol of that name referred to in clause 6.1 as may be issued by the Law Society from time to time

Rules means the ~~Solicitors'~~[SRA](#) Indemnity Insurance Rules ~~2010~~[2011](#) as from time to time modified or amended, the current version of which is set out in Schedule 3

Run-off Date means the date referred to in clause 11.4

Run-off Firm means a Firm which has ceased to practise in circumstances where, in accordance with paragraph 5.1 of the Minimum Terms, run-off cover is not required to be provided by any Qualifying Insurer

Run-off Insurer means an Insurer which has ceased to be a Qualifying Insurer by virtue of clause 11.

1.2 In this Agreement, unless the context requires otherwise:

1.2.1 references to a clause or schedule are to a clause of, or a schedule to, this Agreement, references to this Agreement include its schedules and references to a part or paragraph are to a part or paragraph of a schedule to this Agreement;

1.2.2 references to this Agreement or any other document or to any specified provision of this Agreement or any other document are to this Agreement, that document or that provision as in force for the time being and as amended from time to time;

1.2.3 the singular includes the plural and *vice versa*, words importing a gender include every gender and references to persons include bodies corporate, partnerships and other unincorporated associations or bodies of persons;

1.2.4 the contents table and the headings to clauses schedules parts and paragraphs are inserted for reference only and shall be ignored in interpreting this Agreement;

1.2.5 a reference to any statute, statutory provision, code or regulation includes:

(a) any subordinate legislation (as defined by section 21(1) Interpretation Act 1978) made under it; and

(b) 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 the date of this Agreement, or after the date of this Agreement;

- 1.2.6 references to the Law Society and to the Council include the Solicitors Regulation Authority and the Legal Complaints Service, the Office for Legal Complaints (including the Legal Ombudsman) and any body or person which succeeds in whole or in part to the functions of the Law Society, the Council, the Solicitors Regulation Authority, the Legal Complaints Service or the Office for Legal Complaints (including the Legal Ombudsman), and any delegate of the Law Society, the Council, the Solicitors Regulation Authority, the Legal Complaints Service, the Office for Legal Complaints (including the Legal Ombudsman) or any such body or person.

2 Scope

- 2.1 The Insurer, having agreed to be bound in accordance with the terms of this Agreement, may issue Policies incepting at any time on or after the Commencement Date and before the Run-off Date to Firms on the terms set out in this Agreement.
- 2.2 The Insurer agrees to participate in the ARP in accordance with the terms of Schedule 1 and the Rules, to participate in the arrangements contemplated under Rule ~~45~~16 in accordance with the terms set out in Schedule 6, and to comply with the Binding Authority in (or substantially in) the form set out in Schedule 8.
- 2.3 Each Policy issued by the Insurer shall provide cover which complies at all times during the currency of the Policy (subject to clause 4.1) with the Minimum Terms in force on the later of the date on which :
- 2.3.1 the Policy incepts ~~or~~ :
- 2.3.2 any extension to the Policy Period takes effect; or
- 2.3.3 the Policy is renewed or replaced.
- 2.4 The Insurer shall issue (or procure the issuing of) a Certificate in the form set out in Part A or Part B of Schedule 5 (as the case may require) to each Firm in respect of each Policy issued (or renewed) to that Firm by the Insurer within 20 business days of the inception (or renewal) of the Policy.
- 2.5 Clause 2.3 shall not limit the right of the Insurer to issue any policy of insurance to a Firm in addition to (and without prejudice to the terms of) any Policy required under the Rules to be held by that Firm.
- 2.6 The Insurer may underwrite Policies jointly with one or more other insurers, provided that each insurer underwriting any such Policy is a Qualifying Insurer at the date on which the Policy incepts, and provided that the Policy is fully underwritten by Qualifying Insurers.

Where the Insurer underwrites any Policies jointly on an excess of loss basis, it may do so only in the layers set out below:

Indemnity Limit under Policy	Permitted primary layer(s) under Policy	Permitted excess layer(s) under Policy
£2 million	£1 million	£1 million excess of £1 million
£3 million	£1 million	£2 million excess of £1 million £1 million excess of £1 million
	£2 million	£1 million excess of £2 million

- 2.7 Where the Insurer is the Lead Insurer (as defined in the Minimum Terms) it shall act as such including, without limitation, being responsible for the conduct of claims, advancing defence costs and compromising and arranging for the payment of claims, and it shall be responsible for meeting

the reporting requirements set out in clause 6 in relation to the Policy. For the avoidance of doubt, the liability of the Insurer under any Policy shall not be increased by virtue only of the fact that it is acting as Lead Insurer.

- 2.8 The Insurer may not, under the terms on which it offers to issue any Policy or provides any quotation to a Firm, require that that Firm takes out any other policy (of whatever type or description) with the Insurer, or any other person.
- 2.9 In the event of an inconsistency between the Minimum Terms and the terms of any Policy, the Insurer shall not be entitled to construe the Policy in a way that does not give full effect to the Minimum Terms, and shall, if and to the extent required, amend the terms of any Policy so that such Policy does give full effect to the Minimum Terms.
- 2.10 Clause 2.9 shall be directly enforceable against the Insurer by any insured in his own right, where that insured is required under the Minimum Terms to be insured under a Policy with the Insurer, in accordance with the Contracts (Rights of Third Parties) Act 1999 in relation to that Policy.
- 2.11 Clause 2.10 shall be without limitation to the right of the Law Society and the Insurer at any time and from time to time to vary the terms of, or terminate, this Agreement without reference to any third party.

3 Warranties, representations and undertakings

- 3.1 The Insurer warrants and represents to the Law Society that, both as at the date of this Agreement and as a continuing warranty and representation for the duration of this Agreement:
- (a) it is an Authorised Insurer for the purposes of both effecting and carrying out contracts of insurance; and
 - (b) it shall effect and carry out Qualifying Insurance and shall otherwise conduct its operations and activities in relation thereto at all times in compliance with all applicable laws and regulations, including but not limited to applicable provisions of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Sex Discrimination Act 1986, the Disability Discrimination Act 1995 and the Equality Act 2006.
- 3.2 The Insurer undertakes that it shall notify the Law Society in writing immediately if, at any time after the date of this Agreement:
- 3.2.1 the warranty set out in clause 3.1 ceases to be true in any respect; or
 - 3.2.2 it is the subject of an Insolvency Event.

Agency arrangements

- 3.3 The Insurer undertakes to use its best endeavours to procure that any intermediary acting as its agent in any dealing with a Firm in relation to arranging or effecting a Policy discloses to the Firm, by means of a clear and prominent statement in writing, the fact that it is acting as agent for the Insurer, and whether it does so on an exclusive basis, whether or not it also acts as agent for the Firm.

4 Indemnity Period

~~4.1 Each Policy written by the Insurer shall (subject to clause 4.2) expire at the end of an Indemnity Period, irrespective of the date on which the Policy is written or incepted.~~

- 4.1 ~~4.2~~ The Insurer may issue a Policy which expires ~~at the end of any Indemnity Period subsequent to the Indemnity Period in which it incepted~~ more than twelve months after its inception (a **multi-year Policy**) provided that:
- 4.1.1 ~~4.2.1~~ the terms of the multi-year Policy permit any variation that may be required in order to reflect any change in the Minimum Terms or in the Rules (whether or not in return for an additional

premium), and the Insurer shall give effect to any such variation with effect from such date as the Law Society may require in accordance with clause 5;

~~4.2.2 the Insurer shall give effect to any such variation from the date on which the change in the Minimum Terms or in the Rules (as the case may be) comes into effect to the extent required to give effect to that change; and~~

4.1.2 ~~4.2.3~~ the Insurer remains a Qualifying Insurer in each of the subsequent Indemnity Periods covered (whether in whole or part) by the multi-year Policy and, as and when required to do so by the Law Society, enters into the standard form Qualifying Insurer's Agreement from time to time in respect of each subsequent Indemnity Period covered (whether in whole or part) by the multi-year Policy.

~~4.3 The Insurer may not issue a Policy with an expiry date earlier than the end of the Indemnity Period in which that Policy incept.~~

4.2 ~~4.4~~ The Insurer may issue a Policy with an inception date or deemed inception date up to but no more than 30 days prior to the date on which the contract of insurance is made with the Insurer. However, if the contract is made between 1 October ~~2010~~2011 and 30 October ~~2010~~2011 (both dates inclusive), the Insurer may issue a Policy with an inception date or deemed inception date prior to the date on which the contract is made but no earlier than 1 October ~~2010~~2011.

5 Variation

5.1 The Law Society may from time to time vary the terms of any of the Rules, the Minimum Terms or this Agreement, provided that, except in exceptional circumstances, in each case:

5.1.1 any such variation shall be effective from the start of the Indemnity Policy Period next following the one in which such variation is notified (or, if earlier, the date of any extension to the Policy Period or renewal or replacement of the Policy of Qualifying Insurance);

5.1.2 any such variation shall be notified in writing to each Qualifying Insurer and (if and to the extent that the Law Society considers it appropriate) to Firms, by no later than two months before the date on which it is to come into effect; and

5.1.3 in the case of any variation to this Agreement, the same variation is made to all agreements with Qualifying Insurers and Run-off Insurers.

5.2 The Law Society shall, so far as reasonably practicable, present any proposed variation to the Rules, the Minimum Terms or this Agreement to the Liaison Committee for consultation before giving notice of such variation.

6 Reporting

General reporting obligations

6.1 If, in the course of dealing with any Firm, the Insurer becomes aware of:

6.1.1 a material inaccuracy in a proposal form; or

6.1.2 any matter or circumstances that would entitle it to avoid or repudiate a Policy but for the provisions of clause 4.1 of the Minimum Terms (and/or the corresponding terms of the Policy);

other than, in either case, where the Insurer believes any relevant act or omission on the part of the Firm to have been innocent, or

if, in the course of dealing with any Firm, the Insurer suspects or becomes aware of dishonesty or fraud on the part of that Firm or any insured under that Firm's Policy and as a result:

6.1.3 reserves its position as regards any part of a claim made by that Firm; or

- 6.1.4 notifies that Firm that it will not, or intends not to, indemnify that Firm in full in respect of a claim made by that Firm; or
- 6.1.5 seeks, or reserves its right to seek, reimbursement of any amount paid out under any Policy from any insured,
- the Insurer shall notify the Law Society (or such person as the Law Society may notify to the Insurer from time to time) in writing:
- (a) as soon as reasonably practicable after it becomes aware of any of the matters referred to in clauses 6.1.1 to 6.1.2 inclusive; and
 - (b) within 5 business days from the date on which the Insurer takes any of the steps referred to in clauses 6.1.3 to 6.1.5 inclusive,
- setting out the nature of its awareness or suspicion (and any steps that it has taken as a result of that suspicion), and shall comply with the Reporting Protocol and Referral Protocol in providing the Law Society with such further information relating to the claim and the Firm concerned as the Law Society may reasonably require from time to time so as to enable the Law Society to investigate.
- 6.2 If any Firm fails to pay any sum due to the Insurer in respect of any Policy, and the Insurer has reasonable grounds for believing that such failure constitutes a wilful refusal to pay such sum, the Insurer ~~may~~shall notify the Law Society and the ARP Manager in writing of that fact.
- 6.3 The Insurer shall, within 10 business days of any such request being made in writing by the Law Society from time to time, provide to the Law Society confirmation in writing that:
- 6.3.1 a specified Firm has taken out a Policy issued by that Insurer;
 - 6.3.2 such Policy is in force or was in force on a particular date and the expiry date of the Policy; and
 - 6.3.3 such Policy complies with the Minimum Terms ~~either~~ in force on the date on which such Policy inception, the date that any extension to its Policy Period took effect or ~~was renewed~~, for the time being in force, as the case may require~~;~~.
- 6.4 The Insurer shall provide to the Law Society such information and data as the Law Society may reasonably require from time to time to enable the Law Society to verify that the Insurer is complying with its obligations under this Agreement, including but not limited to its warranty and undertaking to comply with all applicable laws and regulations, including but not limited to applicable provisions of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Sex Discrimination Act 1986, the Disability Discrimination Act 1995 and the Equality Act 2006. The provisions of clause 16 shall apply in respect of any information provided in accordance with this clause 6.4.

Claims Reports

- 6.5 The Insurer shall provide a report (a **Claims Report**) to any Firm to which it has issued a Policy, either in the current or in any previous Indemnity Period, within five working days from receiving a request to do so, setting out (as applicable), as at the date specified in the Claims Report:
- 6.5.1 a summary of each claim (or series of related claims) of which the Insurer is aware made against the Firm under each Policy;
 - 6.5.2 the amount reserved by the Insurer against each claim (or series of related claims);
 - 6.5.3 the basis on which each such amount is calculated (for example, whether the figure represents a loss actually incurred, an estimate of probable maximum loss, or any other basis of reserving);
 - 6.5.4 whether or not each such amount includes defence costs;
 - 6.5.5 whether each such amount includes or is in excess of the amount of any deductible that may apply in relation to such claim (or series of related claims), and the amount of any such deductible; and

6.5.6 any amounts paid out in relation to each claim, in each case indicating whether such sums include any deductible due from but not paid by the Firm.

6.6 In providing Claims Reports, the Insurer shall use its reasonable endeavours to provide all of the information set out in clause 6.5, but shall not be required to provide any part of that information to the extent that doing so would not be reasonably practicable having regard to the manner in which claims information is stored on the computer systems of the Insurer.

Reports on insured Firms

6.7 The Insurer shall provide reports (**Insured Firms Reports**) to the Law Society: ~~by~~

6.7.1 no later than 10 October 2011;

6.7.2 after 10 October 2011 and no later than 31 October ~~2010~~2011; and

6.7.3 after 1 December 2011 and no later than 15 December ~~2010~~2011,

listing each insured Firm which has obtained Qualifying Insurance from the Insurer ~~for~~ incepting in the current Indemnity Period and each Firm whose Policy of Qualifying Insurance with the Insurer has expired in the current Indemnity Period and not been renewed.

6.8 The Insurer shall ~~provide~~prepare further Insured Firms Reports ~~to the Law Society as at~~ by no later than 31 March ~~2011, 2012~~, 30 June ~~2011, 2012~~ and 30 September ~~2011, 2012~~ (each a Further Report Date) of any Firms which have obtained Qualifying Insurance from the Insurer ~~for~~which incepted in the current Indemnity Period and each Firm whose Policy of Qualifying Insurance with the Insurer has expired in the current Indemnity Period and not been renewed and, in each case, which were not included on any previous Insured Firms Report issued by the Insurer for the current Indemnity Period. The Insurer shall provide the further Insured Firms Report to the Law Society within 10 business days of the Further Report Date to which it relates.

6.9 The form and content of each Insured Firms Report shall be as set out in Schedule 7. If there are no insured Firms required to be included by the Insurer on any Insured Firms Report, the Insurer shall instead provide a statement to that effect.

Run-off Reports

6.10 The Insurer shall provide a report (a **Run-off Report**) to the Law Society and/or Solicitors Indemnity Fund Limited within five working days from being requested to do so, setting out, as at the date specified in the Run-off Report:

6.10.1 the name of each Firm in respect of which run-off cover is being provided by the Insurer under a Policy issued either in the current or in any previous Indemnity Period;

6.10.2 the date on which the Insurer believes that such run-off cover was triggered; and

6.10.3 such other information in relation to such Firms as the Law Society and/or Solicitors Indemnity Fund Limited may reasonably require from time to time.

Successor insurance election

6.11 Where an Insured Firm makes an election pursuant to clause 5.3 of the Minimum Terms, the Insurer shall give notice to the Society in writing of that election not later than seven days after the Insured Firm informs the Insurer of the election and that election has become effective.

7 Claims handling and enforcement

7.1 The Insurer shall act at all times in all respects in accordance with any Claims Handling Guidelines, and in particular (but without limitation), the Insurer shall:

- 7.1.1 pay claims without avoidable delay after liability under the Policy has been established and the amount payable by the Insurer has been agreed; and
- 7.1.2 act at all times with the utmost good faith in the course of its dealings both with the solicitors' profession generally and with Firms which are its policyholders.
- 7.2 The Insurer shall not treat any Policy as void, repudiated, terminated or otherwise ineffective by reason of any act or omission on the part of any Firm or any person acting for or on behalf of that Firm if and to the extent that doing so would result in that Firm not having cover in accordance with the Minimum Terms.
- 7.3 Clause 7.2 shall be without prejudice to any rights of reimbursement which the Insurer may have under the terms of any Policy against that Firm or any insured by reason of any such act or omission.

8 Liaison committee

- 8.1 The Law Society shall establish a committee to include, without limitation, representatives from Qualifying Insurers, the Law Society, and the ARP Manager (the Liaison Committee).
- 8.2 The purpose of the Liaison Committee shall include:
 - 8.2.1 reviewing the arrangements relating to the provision of compulsory professional indemnity insurance to members of the solicitors' profession generally; and
 - 8.2.2 considering proposed amendments to such arrangements, including proposed variations to the Rules, the Minimum Terms or the standard form Qualifying Insurer's Agreement.
- 8.3 The terms of reference relating to the Liaison Committee shall be as determined by the Law Society from time to time.

9 Right of inspection

- 9.1 The Insurer shall maintain Records in respect of each Policy until final settlement of all claims made and capable of being made under and the expiry of all relevant periods of limitation in respect of that Policy, or for such longer period as the Law Society may, in the case of any specified Policy, reasonably require.
- 9.2 The Law Society (and its agents and advisers from time to time) shall be entitled to have access to any Records of the Insurer at all times on reasonable notice during normal business hours.

10 Co-operation

- 10.1 The Insurer shall at all times co-operate with the Law Society, and with any person or body of persons carrying out any functions on behalf of the Law Society, so as to enable the Law Society to discharge its regulatory functions.
- 10.2 The Insurer authorises the Law Society to publish, whether on any of its websites or otherwise, in such manner and form as it may determine, details of the Insurer, as set out on page i or as the Insurer may advise the Law Society from time to time.

11 Term

- 11.1 The Law Society may by giving notice in writing to the Insurer at any time terminate forthwith the right granted to the Insurer under clause 2.1 if:
 - 11.1.1 the Insurer is in fundamental breach of its obligations under this Agreement; or
 - 11.1.2 either of the events referred to in clause 3.2 occurs; or

-
- 11.1.3 the Insurer is in material breach of its obligations under this Agreement; and
- (a) (where such breach is capable of being remedied), the Insurer has failed to remedy such breach within such reasonable time as the Law Society has specified; or
 - (b) the Insurer has previously been in material breach of its obligations under this Agreement on at least one occasion during the previous six months or on more than one occasion within the previous two years.
- 11.2 The Law Society may by giving not less than 3 months' notice in writing to the other at any time terminate the right granted to the Insurer under clause 2.1. The Insurer may surrender such right in the same manner and on the same notice.
- 11.3 The effect of any notice given under clause 11.1 or 11.2 shall be that:
- 11.3.1 (in the case where notice has been given under clause 11.1) the right granted to the Insurer under clause 2.1 shall terminate on:
- (a) the date of that notice; or
 - (b) the date on which either of the events referred to in clause 3.2 occurs (where applicable);
- whichever is the earlier; or
- 11.3.2 (in the case where notice has been given under clause 11.2) the right granted to the Insurer under clause 2.1 shall terminate on the date of the end of the first Indemnity Period ending not less than three months after the date on which notice under clause 11.2 is given.
- 11.4 The date on which the right granted to the Insurer under clause 2.1 terminates in accordance with clause 11.3 shall be referred to as the **Run-off Date**.
- 11.5 With effect from the Run-off Date, the Insurer shall cease to be a Qualifying Insurer and accordingly the Insurer shall not write any Policy which incepts or renews after the Run-off Date, or hold itself out as being a Qualifying Insurer after the Run-off Date.
- 11.6 Clauses 11.1 and 11.3 shall each be without prejudice to the rights of either party under this Agreement either before or after the Run-off Date in respect of any act or omission of any other party under this Agreement, which shall otherwise remain in full force and effect.
- 11.7 This Agreement shall terminate upon the final settlement of all claims made and capable of being made under and the expiry of all relevant periods of limitation in respect of all of the Policies written by the Insurer under this Agreement, but without prejudice to the rights of any party under this Agreement as at that date.

12 Disputes as to insurer

- 12.1 In the event of any dispute arising as to whether a claim is or would be properly payable by the Insurer (whether alone or together with any other Qualifying Insurer or Qualifying Insurers) rather than by any other Qualifying Insurer or Qualifying Insurers, the Solicitors' Indemnity Fund, or the Solicitors' Compensation Fund:
- 12.1.1 the Insurer shall seek to agree as soon as practicable with each of the other parties which party to the dispute shall conduct any claim, advance defence costs and, if appropriate, compromise and pay any such claim, whether on the basis that the party to whom the claim was first notified should do so or otherwise; or
- 12.1.2 where the parties to a dispute cannot agree in accordance with clause 12.1.1 who should handle a claim, the ARP Manager shall conduct the claim, advance defence costs and, if appropriate, compromise and pay any such claim in the normal course on behalf of each relevant Qualifying Insurer (including where applicable the Insurer in its own right or by virtue of its participation in the ARP).

In either case the dispute shall be referred to arbitration in accordance with clause 13, and the Insurer irrevocably consents to any such dispute being arbitrated in a single arbitration with each of the other parties to the dispute participating.

- 12.2 For the purposes of clause 12.1, the Law Society may require the Insurer to provide such information as the Law Society may reasonably require from the Insurer from time to time in relation to any such claim. The Law Society may by notice to the Insurer and, where applicable, the ARP Manager, direct that the ARP Manager shall conduct any such claim, in accordance with the requirements of clause 12.1.
- 12.3 In respect of any claim which is handled by the ARP Manager in accordance with clause 12.1.2, if it is subsequently found, whether as a consequence of arbitration of the dispute or otherwise, that the relevant claim is or would be properly payable by the Insurer (whether alone or together with any other Qualifying Insurer or Qualifying Insurers), then:
- 12.3.1 the Insurer shall promptly reimburse to the ARP Manager all of the costs and expenses howsoever incurred by the ARP Manager in the conduct of the claim (including where applicable, but without limitation, the amount of any claim paid and associated claimant's costs), together with interest thereon at a rate equal to the base rate from time to time of Barclays Bank plc plus three per cent; and
- 12.3.2 the Insurer shall take over the conduct of the claim in place of the ARP Manager if it has not already been settled.

13 Other disputes and dispute resolution

- 13.1 Any dispute or claim arising out of or in connection with this Agreement, including any question regarding its validity or termination, shall be determined by a sole arbitrator, to be appointed by agreement between the parties to the arbitration, or failing such agreement within 21 days of a written nomination being made by one of the parties to the arbitration, by the President of the Chartered Institute of Arbitrators. In the case of any dispute referred to arbitration under clause 12.1, the sole arbitrator shall be a Queen's Counsel with experience of disputes arising out of professional indemnity policies.
- 13.2 In the event of the arbitrator becoming unable or unwilling to act as such, any replacement shall be appointed in a like manner to that stipulated in clause 13.1.
- 13.3 The arbitration shall be held in London and the language of the arbitration shall be the English language. The seat of the arbitration shall be in England. It is further expressly agreed that the right to appeal to the High Court or to apply to such court for the determination of a preliminary point of law is excluded.
- 13.4 Within 30 days of the constitution of the tribunal, the claimant shall deliver to the respondent, and to the tribunal, a statement of case containing particulars of the dispute or claim and written submissions in support thereof together with any documents relied upon.
- 13.5 Within 30 days of receiving the claimant's statement of case the respondent shall deliver to the claimant and to the tribunal a statement of case in answer, together with any counterclaim, written submissions in support thereof and any documents relied upon.
- 13.6 Within 30 days of receipt by the claimant by any statement of counterclaim, the claimant may deliver to the respondent, and to the tribunal, a reply to the counterclaim, together with any additional documents relied upon.
- 13.7 As soon as practical after its constitution, and in any event no later than 30 days after receiving the respondent's statement of case or the claimant's reply to the respondent's counterclaim, as the case may be, the tribunal shall convene a meeting with the parties to the arbitration or their representatives to determine the issues to be decided and the procedure to be followed in the arbitration.

- 13.8 The procedure to be followed in the arbitration shall be as agreed by the parties to the arbitration or, in default of agreement, as determined by the tribunal. However, the following procedural matters shall in any event be taken as agreed:
- 13.8.1 the tribunal may in its discretion hold a hearing and make an award in relation to any preliminary issue at the request of any party to the arbitration, and shall do so at the joint request of all of the parties to the arbitration;
- 13.8.2 the tribunal shall hold a hearing, or hearings, relating to substantive issues unless the parties to the arbitration agree otherwise in writing;
- 13.8.3 the tribunal shall issue its final award within 60 days of the last hearing of the substantive issues in dispute between the parties to the arbitration.
- 13.9 In the event of the failure by any party to the arbitration to appear or to present its case within the prescribed time at any stage of the proceedings, or in the event of default by any party to the arbitration in respect of any procedural order made by the tribunal, the tribunal shall have power to proceed with the arbitration and make its award, after giving notice to each party to the arbitration.

14 Assignment

- 14.1 Neither this Agreement, nor any interest in it, shall be assignable by the Insurer in whole or in part at any time and the Insurer undertakes that it will not assign the whole or any part of any interest in the Agreement at any time to any person.
- 14.2 No Policy or any interest in any Policy shall be assignable or transferable by the Insurer except with the prior consent in writing of the Law Society and the Insurer undertakes that it will not assign or transfer the whole or any part of any interest in any Policy at any time to any person.

15 Notices

- 15.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by first-class post pre-paid or by fax, to each of:
- 15.1.1 the Insurer, at the address or fax number set out in and for the attention of the person named on page i;
- 15.1.2 the Solicitors Regulation Authority, at Ipsley Court, Berrington Close, Redditch, Worcestershire B98 0TD
- | | |
|------------|---------------------------------------|
| Fax number | 020 7320 5897 |
| Attention | Executive Director of Regulation; and |
- 15.1.3 (if appropriate) to the ARP Manager, at 40 Dukes Place, London EC3A 7NH
- | | |
|------------|-----------------|
| Fax number | 0870 162 4509 |
| Attention | Tracey Garrett; |
- or to such other address, number or addressee as each party may by notice advise from time to time to each of the other parties, but without prejudice to the effectiveness of any notice already given in accordance with this clause 15.
- 15.2 Any notice given in accordance with clause 15.1 shall be deemed to be given:
- 15.2.1 if delivered personally, when left at the relevant address referred to in clause 15.1;
- 15.2.2 if sent by mail, two business days after it was posted;
- 15.2.3 if sent by fax, on completion of its transmission

provided that if, under the above provisions, any such notice would otherwise be deemed to be given before 9 am or after 5 pm on a business day, or at any time on any other day, such notice shall be deemed to be given at 9 am on the next business day.

- 15.3 In proving the giving of a notice under this clause 15, it shall be conclusive evidence to prove that it was left at the appropriate address or the envelope containing it was properly addressed and posted or the fax was sent in full to the relevant number (as the case may be).

16 Confidentiality

- 16.1 Except as provided in this Agreement, each party shall treat as confidential all information relating to persons insured by the Insurer, where such information would enable that person to be identified, provided that, where the Insurer reports to the Law Society any matter referred to in Rule 17.1 of the Rules:
- 16.1.1 the Law Society shall keep all such information confidential;
- 16.1.2 the Law Society shall not (except where and to the extent required by law or in the proper performance by the Law Society of its regulatory functions) at any time reveal any such information to any person other than a duly authorised employee of the Law Society or any of its subsidiaries; and
- 16.1.3 any privilege attaching to such information shall not be regarded as having been waived whether by virtue of such information having been provided to the Law Society or otherwise.
- 16.2 The provisions of clause 16.1 shall not prevent the Law Society making use of any information referred to in that clause for the purpose of bringing disciplinary proceedings against any person.

17 Counterparts

- 17.1 This Agreement may be entered into in the form of two counterparts each executed by one of the parties but, taken together, executed by both and, provided that the parties so enter into the Agreement, the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original, but, taken together, they shall constitute one instrument.

18 Entire agreement

- 18.1 This Agreement (together with any documents referred to in it) sets out the entire agreement and understanding between the parties in connection with the matters described in it. The Insurer acknowledges that it has not entered into this Agreement in reliance on any warranties, conditions, representations, covenants, undertakings, indemnities or other statements (whether implied or otherwise) whatever on the part of the Law Society, the ARP Manager, or any person acting for or on its behalf.

19 Third party rights

- 19.1 Except as provided by clause 2.10 and by paragraph 2.1 of Schedule 1, no third party shall have any rights under or in connection with this Agreement by virtue of the Contract (Rights of Third Parties) Act 1999 or otherwise.

20 Applicable law

- 20.1 This Agreement shall be governed by and construed in accordance with English law.

IN WITNESS of which this Agreement has been entered into the day and year first above written.

Schedule 1
The Assigned Risks Pool

An Assigned Risks Pool (**ARP**) shall be established and operated and the ARP Manager shall carry out its functions in accordance with the following paragraphs of this Schedule 1 and the Rules.

1 Participation

- 1.1 The Insurer shall participate in the ARP throughout each Indemnity Period in accordance with the terms of this Agreement, for so long as it remains a Qualifying Insurer.

2 ARP Manager

- 2.1 The ARP shall be managed and administered by the ARP Manager. The Law Society may carry out such of the functions of the ARP Manager as it is permitted to by law, and may appoint one or more third parties to carry out some or all of the functions of the ARP Manager as set out in this Agreement or in the Rules on its behalf. Any third party so appointed may directly enforce any rights granted by or under this Agreement to the ARP Manager in accordance with the Contracts (Rights of Third Parties) Act 1999 for the purpose of giving full effect to such appointment. The consent of any such third party shall not be required in respect of any variation or termination of this Agreement.
- 2.2 The Insurer agrees that the ARP Manager may issue an ARP Policy incepting during the relevant Indemnity Period to a Firm where:
- 2.2.1 the Firm has applied to be insured through the ARP; or
- 2.2.2 the Firm is a Firm in Default; and
- 2.2.3 (in either case) the Firm is eligible or is to be regarded under the Rules as being eligible to be so insured; or
- 2.2.4 the Law Society has granted a waiver in accordance with the Rules from the requirement to meet some or all of those criteria.
- 2.3 The Insurer irrevocably appoints the ARP Manager as its agent to:
- 2.3.1 set the premium payable by each ARP Firm in accordance with the Rules;
- 2.3.2 bind the Insurer to the terms of the ARP Policies issued to each ARP Firm in accordance with its Percentage Participation;
- 2.3.3 calculate and adjust (in accordance with paragraphs 3.9 and 9.4) the Insurer's Initial Participation, Percentage Participation and Percentage Liability;
- 2.3.4 issue ARP Policies and related documentation to ARP Firms on behalf of all Qualifying Insurers participating in the ARP, including the Insurer;
- 2.3.5 if agreed in writing by the Insurer and subject to the terms of any agreement made with HM Revenue and Customs for this purpose, collect and account to HM Revenue and Customs for Insurance Premium Tax;
- 2.3.6 receive notice of, negotiate, settle and pay claims on behalf of all Qualifying Insurers participating in the ARP, including the Insurer;
- 2.3.7 recover unpaid premiums and other sums owed by ARP Firms;
- 2.3.8 recover sums owed by Qualifying Insurers;
- 2.3.9 provide data to the Law Society relating to ARP Policies and ARP Firms; and

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- 2.3.10 do all things incidental to any of the above and generally to do all such other things as may be necessary or expedient from time to time to facilitate the operation of the ARP.
- 2.4 The Insurer further irrevocably appoints the ARP Manager as its agent to:
- 2.4.1 conduct any claim, advance defence costs and, if appropriate, compromise and pay any such claim in the normal course on behalf of each relevant Qualifying Insurer (including where applicable the Insurer in its own right or by virtue of its participation in the ARP), in accordance with clause 12.1.2; and
- 2.4.2 to commence, be a party to and be bound by the decision of an arbitration in accordance with clauses 12 and 13.
- 2.5 Where a Firm in Default makes an application to the ARP Manager to enter the ARP, the ARP Manager shall:
- 2.5.1 establish whether that Firm in Default is eligible or regarded under the Rules as being eligible to be insured through the ARP under the Rules or by virtue of any waiver of any provision of the Rules by the Law Society and, if so, issue one or more ARP Policies to that Firm in Default in accordance with the Rules or such waiver (as the case may be); and
- 2.5.2 (except where any such waiver has been granted) notify the Law Society, within 1 business day after the issuing of such ARP Policy/ies, of the identity of the Firm in Default, the fact that it has been or appears to have been carrying on business as a Firm in Default, and whether it has issued the Firm in Default with one or more ARP Policies.
- 2.6 Any ARP Policy issued in accordance with paragraph 2.5.1 shall be treated as incepting on the first day of the Indemnity Period to which it relates or, if later, the first day on which the Firm became a Firm in Default under the Rules, provided that an ARP Run-off Policy shall be treated as incepting on the date on which the Firm became a Run-off Firm.
- 2.7 Where the ARP Manager becomes aware of a Firm which is or appears to be a Firm in Default, but where:
- 2.7.1 the Firm has not made an application to enter the ARP in accordance with the Rules; or
- 2.7.2 the Firm has made an application to enter the ARP but is not eligible or regarded as being eligible under the Rules to enter the ARP (including by virtue of any waiver made under the Rules); or
- 2.7.3 the Firm has made an application to enter the ARP as a Run-off Firm and, in respect of any Indemnity Period immediately prior to the date on which the Firm ceased to practise, either paragraph 2.7.1 or 2.7.2 applies,
- the arrangements referred to in paragraph 2.8 shall apply.
- 2.8 The ARP Manager shall (and is hereby authorised to) agree on behalf of all Qualifying Insurers arrangements with the Law Society for the purpose of providing professional indemnity insurance in respect of Firms which do not obtain a policy as required under the Rules. These arrangements shall include provisions to ensure that:
- 2.8.1 insurance through one or more policies issued by the ARP Manager on behalf of all Qualifying Insurers is provided in respect of such Firms;
- 2.8.2 such insurance is in compliance with the Minimum Terms, subject to any variation that the ARP Manager and the Law Society may agree; and
- 2.8.3 premiums and other sums due under the terms of each such policy are recoverable from the relevant Firm.

3 Basis of participation in the ARP

- 3.1 The Insurer shall provide to the ARP Manager ~~within 10 business days following the start of~~ by no later than 30 October in each Indemnity Period a declaration in the form set out in Part 1 of Schedule 4, providing a figure for the Relevant Premium Income of the Insurer ~~on a best estimate basis for all Policies of Qualifying Insurance underwritten by the Insurer incepting on 1 October of that Indemnity Period (the Reference Indemnity Period).~~
- 3.2 In the event that the Insurer fails to provide a figure within the time limit in accordance with paragraph 3.1, the ARP Manager may in its absolute discretion make its own estimate of the relevant figure for the purposes of this paragraph 3.
- 3.3 The ARP Manager shall calculate in accordance with paragraph 3.7 the Initial Participation of the Insurer on the basis of the information provided in accordance with paragraph 3.1 or estimated in accordance with paragraph 3.2 and shall notify each Qualifying Insurer of its Initial Participation by no later than 20 business days after the start of the relevant Indemnity Period.
- 3.4 The Insurer shall provide a declaration of its Relevant Premium Income for all Policies of Qualifying Insurance underwritten by the Insurer incepting during the Reference Indemnity Period to the ARP Manager ~~by no later than 28 February in each Indemnity Period~~ in the form set out in Part 2 of Schedule 4. The Insurer shall provide the declaration on or after 1 October but by no later than 31 October in the Indemnity Period next following the Reference Indemnity Period. for the purpose of determining its Percentage Participation in the ARP for that Reference Indemnity Period.
- 3.5 The ARP Manager shall calculate in accordance with paragraph 3.7 the Percentage Participation of the Insurer on the basis of the information provided in accordance with paragraph 3.4 and shall notify:
- 3.5.1 each Qualifying Insurer of its Percentage Participation; and
- 3.5.2 each ARP Firm of the Percentage Participations of each of the Qualifying Insurers to the extent that they exceed 0 per cent
- by no later than 10 business days following 31 October in the Indemnity Period immediately following the Reference Indemnity Period, being the last date ~~in the relevant Indemnity Period~~ on which the ARP Manager receives ~~the last of~~ the declarations required under paragraph 3.4 (the **Notification Date**) from any Qualifying Insurer.
- 3.6 The Percentage Participation notified on the Notification Date shall be applicable in respect of all ARP Policies incepting in the ~~relevant~~ Reference Indemnity Period and under any arrangements made pursuant to paragraph 2.7 in respect of that period both up to that date and thereafter, except to the extent that it may be adjusted from time to time in accordance with paragraph 9.
- 3.7 Each calculation made under this paragraph 3 shall be made in accordance with the formula:

$$\frac{A}{B} \times 100, \text{ where}$$

A = the Relevant Premium Income as declared by the Insurer in accordance with paragraph 3.1 or 3.4 or as estimated by the ARP Manager in accordance with paragraph 3.2 (as the case may require);

B = the total Relevant Premium Income declared by all Qualifying Insurers for that Indemnity Period;

Relevant Premium Income means the Premium Payable to a Qualifying Insurer in respect of Policies (excluding ARP Policies) incepting in the ~~period 1 October 2010 to 31 January 2014;~~ Reference Indemnity Period, to the extent that such premium relates to cover required in accordance with the Minimum Terms ~~for that Indemnity Period,~~ as calculated in accordance with generally recognised professional indemnity underwriting methodologies save that any premium attributable to the extension of the Policy Period for a Policy shall

constitute Premium Payable for the Indemnity Period in which such extension takes effect;
and

Premium Payable means the premium due from each Firm to a Qualifying Insurer (excluding any amount in respect of Insurance Premium Tax) in respect of the whole period of cover under a Policy, whether or not actually received by that Insurer, less (only) any amount due to any intermediary acting as agent of that Firm for the purpose of obtaining professional indemnity insurance.

Provided that the ARP Manager may, at its absolute discretion, round the percentage resulting from the above formula, up or down to not less than three decimal points.

- 3.8 Without prejudice to paragraph 9.4 the Insurer warrants and represents to the ARP Manager for itself (and as trustee for all Qualifying Insurers participating in the ARP in any relevant Indemnity Period) that:
- 3.8.1 ~~the estimated Relevant Premium Income declared pursuant to paragraph 3.1 is its best estimate of its Relevant Premium Income for the relevant Indemnity Period; and~~ to the best of the knowledge information and belief of the Insurer the Relevant Premium Income declared pursuant to:
- (a) paragraph 3.1 does not materially understate, as at the date of such declaration, the Relevant Premium Income for all Policies of Qualifying Insurance underwritten by the Insurer incepting on 1 October of the Reference Indemnity Period; and
 - (b) ~~3.8.2 to the best of the knowledge information and belief of the Insurer the Relevant Premium Income declared pursuant to~~ paragraph 3.4 does not materially understate the Relevant Premium Income for the ~~relevant~~Reference Indemnity Period as at the date of such declaration; and
- 3.8.2 ~~3.8.3~~ it has taken all reasonable steps to verify the accuracy of the declarations of its Relevant Premium Income made pursuant to paragraphs 3.1 and 3.4 and that such declarations have been made in good faith.
- 3.9 In the event that the ARP Manager can establish that the Insurer is in breach of the provisions of paragraph 3.8 and that in consequence the Percentage Liability of the Insurer has been materially understated (that is to say understated by more than 0.1 per cent) then the Percentage Liability of the Insurer (but not the Percentage Participation) shall be adjusted to the level it would have been, but for any such breach, and the Percentage Liability of all other Qualifying Insurers shall be adjusted accordingly.

4 Quarterly reporting

- 4.1 The ARP Manager shall at intervals of not less than 3 months following the Notification Date in respect of each Indemnity Period provide a bordereau to each insurer participating in the ARP in that Indemnity Period setting out premiums received and claims made or notified in respect of that Indemnity Period, and the administration and management costs and expenses incurred by the ARP Manager relating to that Indemnity Period.
- 4.2 The obligation of the ARP Manager under paragraph 4.1 shall continue until 3 months after the end of the Indemnity Period in question or, if later, for so long as any claims made on ARP Policies incepting in that Indemnity Period or under any arrangements made pursuant to paragraph 2.7 in respect of that period remain outstanding.

5 Share of premium

- 5.1 The Insurer shall be entitled to share in all premiums received by the ARP Manager in respect of all ARP Policies incepting in the relevant Indemnity Period or under any arrangements made pursuant to paragraph 2.8 in respect of that period in accordance with its Percentage Participation from time to time, subject to:

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- 5.1.1 deduction of administration and management charges (including any applicable Value Added Tax) by the ARP Manager;
- 5.1.2 (where the Insurer has agreed that these may be paid on its behalf by the ARP Manager under paragraph 2.3.5 or where the obligation to pay such amounts falls on the ARP Manager as a matter of law) deduction of any amounts payable by the ARP Manager to HM Revenue and Customs by way of Insurance Premium Tax;
- 5.1.3 any set-off against the liability of the Insurer from time to time under paragraph 6;
- 5.1.4 any set-off against the liability of the Insurer from time to time in respect of claims arising on ARP Policies or in respect of any arrangements made pursuant to paragraph 2.8 incepting in any previous Indemnity Period;
- 5.1.5 any adjustment required under paragraph 6.5;
- 5.1.6 any adjustment to the Insurer's Percentage Liability in accordance with paragraph 3.9;
- 5.1.7 any adjustment to the Insurer's Initial Participation Percentage Participation or Percentage Liability in accordance with paragraph 9;
- 5.1.8 the addition of any income earned (net of any taxation in respect of that income) on premiums received by the ARP Manager; and
- 5.1.9 deduction of any sum due pursuant to paragraph 8.1,

such share after taking into account each of the above adjustments being referred to in this Agreement as the **ARP Amount**.
- 5.2 If, on the date 3 months following the end of the relevant Indemnity Period, the ARP Amount in respect of any Indemnity Period is greater than zero, the ARP Manager shall pay such sum to the Insurer within 20 business days thereafter, but without prejudice to its rights under to make any subsequent demands under paragraph 6.
- 5.3 The ARP Manager shall keep all premiums received in respect of ARP Policies or under any arrangements made pursuant to paragraph 2.8 in a separate account in relation to each Indemnity Period and held by the ARP Manager on trust for the Qualifying Insurers which participate in the ARP at any time during the relevant Indemnity Period.
- 5.4 The ARP Manager shall execute a Deed of Trust in the form attached to this Schedule 1, setting out the terms on which it shall hold sums as agent and trustee of each Qualifying Insurer

6 Share of liability

- 6.1 The Insurer shall be liable to make payments under each ARP Policy incepting in the relevant Indemnity Period or under any arrangements made pursuant to paragraph 2.8 in accordance with its Percentage Liability.
- 6.2 The Percentage Liability of the Insurer in respect of each ARP Policy or under any arrangements made pursuant to paragraph 2.8 shall (subject to paragraphs 3.9 or 9.3 or 9.4) equal its Percentage Participation applicable on the date on which that ARP Policy or any such arrangements incepted.
- 6.3 The ARP Manager may at any time and from time to time demand from the Insurer an amount as specified by the ARP Manager for the purpose of making payments on behalf of the Insurer in accordance with its Percentage Liability.
- 6.4 The ARP Manager may at any time and from time to time demand from the Insurer an amount as specified by the ARP Manager for the purpose of meeting the administration and management costs and expenses (including any applicable Value Added Tax) of the ARP Manager, including without limitation in respect of all costs and expenses howsoever incurred (including where applicable, but without limitation, the amount of any claim paid and associated claimant's costs) in respect of any

claim handled by the ARP Manager in accordance with clause 12.1.2, provided that in each case any such demand is made at the same time from all Qualifying Insurers participating in the ARP at the date of the demand in accordance with the Percentage Liability of each such Insurer on the date of the demand.

- 6.5 If any demand under this paragraph 6 is made before the Notification Date in any Indemnity Period before the relevant Percentage Participation (or, as the case may be, the relevant Percentage Liability) of the Insurer has been determined, then any such demand may be made in accordance with the Initial Participation of the Insurer, provided that the ARP Manager shall make any adjustment necessary to the ARP Amount in respect of the Insurer to reflect any difference between the Insurer's Initial Participation and the Insurer's relevant Percentage Participation (or, as the case may be, the relevant Percentage Liability) within one month of the Notification Date.
- 6.6 The ARP Manager shall not make any demand from the Insurer under this paragraph 6 where:
 - 6.6.1 the Insurer has paid the ARP Manager in full following all previous such demands; and
 - 6.6.2 the ARP Manager holds sufficient premiums on trust for the Insurer from which to pay known and anticipated claims and defence costs and/or meet any administration and management costs and expenses (including any applicable Value Added Tax).
- 6.7 The Insurer shall pay to the ARP Manager all sums demanded by the ARP Manager under this paragraph 6 within 10 business days of such demand being made by the ARP Manager. If the Insurer fails to make payment to the ARP Manager in full within such period, the ARP Manager shall be further entitled to recover from the Insurer a sum equal to all reasonable additional costs and expenses incurred by it in pursuing such payment. Interest shall accrue at a rate equal to the base rate from time to time of Barclays Bank plc plus three per cent to any sums that remain unpaid within 10 business days of such demand being made by the ARP Manager, and any sums representing reasonable additional costs and expenses.
- 6.8 The ARP Manager shall, on request in writing from the Insurer, provide evidence of its administration and management costs and expenses where any sum in respect of such costs and expenses has been demanded under paragraph 6.4.

7 ARP Indemnity Period

- 7.1 Each ARP Policy issued and any arrangements made pursuant to paragraph 2.8 by the ARP Manager on behalf of the Qualifying Insurers shall expire at the end of an Indemnity Period, irrespective of the date on which the ARP Policy is written or incepted or any such arrangements are made or incepted.
- 7.2 The ARP Manager may not issue an ARP Policy or effect any arrangements pursuant to paragraph 2.8 with an expiry date before the end of the Indemnity Period in which that ARP Policy incepted or in relation to which those arrangements are made.
- 7.3 Paragraphs 7.1 and 7.2 shall apply in respect of an ARP Policy subject to the eligibility under the Rules of the ARP Firm in question to remain in the ARP until the end of the Indemnity Period, and an ARP Policy shall expire upon the ARP Firm holding such Policy ceasing to be entitled under the Rules to be insured through the ARP.

8 Additional charges

- 8.1 The ARP Manager shall pay on behalf of Qualifying Insurers the costs and expenses of the Law Society in respect of any special measures as notified to it by the Law Society imposed on an ARP Firm. The ARP Manager shall be entitled to seek reimbursement of any such costs and expenses from the relevant ARP Firm.

9 Adjustments to Percentage Participation and Percentage Liability

- 9.1 If any Qualifying Insurer becomes a Run-off Insurer during any Indemnity Period (but not thereafter) then:

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- 9.1.1 the Percentage Participation of each of the other Qualifying Insurers in respect of the unexpired part of the relevant Indemnity Period shall be recalculated in accordance with the formula set out in paragraph 3.7 but excluding the Relevant Premium Income of the Run-off Insurer in question; and
- 9.1.2 the Percentage Participation of the Run-off Insurer in question in respect of the unexpired part of the relevant Indemnity Period shall equal zero.
- 9.2 The Percentage Participation adjusted under paragraph 9.1 shall apply from the date on which the Run-off Insurer in question became a Run-off Insurer.
- 9.3 If at any time after the start of any Indemnity Period any Qualifying Insurer or Run-off Insurer which is or was a participant in the ARP during that Indemnity Period is the subject of an Insolvency Event, then:
 - 9.3.1 in the case of an insurer which was a Qualifying Insurer immediately prior to the Insolvency Event, paragraph 9.1 shall apply; and
 - 9.3.2 for the purposes of any claim first made, or arising from circumstances first notified to the ARP Manager before the date of the relevant Insolvency Event, no adjustment shall be made in accordance with paragraph 9.3.1. However, the Percentage Liability of each of the other Qualifying Insurers in relation to Defence Costs and any associated costs and/or expenses incurred by each of the other Qualifying Insurers in respect of each ARP Policy on or after the date of the relevant Insolvency Event may be recalculated by the ARP Manager (in its absolute discretion) in accordance with the formula set out in paragraph 3.7 but excluding the Relevant Premium Income of the Qualifying Insurer or Run-off Insurer which is the subject of the Insolvency Event; and
 - 9.3.3 the Percentage Liability of each of the other Qualifying Insurers in respect of each ARP Policy and any arrangements made pursuant to paragraph 2.8 in force immediately prior to the date of the relevant Insolvency Event shall, with effect from the date of the relevant Insolvency Event, for the purposes of any claim first made, or arising from circumstances first notified to the ARP Manager, on or after the date of the relevant Insolvency Event, equal their respective Percentage Participation on that date after adjustment (if applicable) in accordance with paragraph 9.3.1; and
 - 9.3.4 the Percentage Liability of the Qualifying Insurer or Run-off Insurer in question in respect of the unexpired part of the relevant Indemnity Period shall equal zero.
- 9.4 Without prejudice to paragraph 3.9 the ARP Manager may, in its absolute discretion, at any time during or after the end of any Indemnity Period adjust the Initial Participation, the Percentage Participation and/or the Percentage Liability of each Qualifying Insurer prospectively or retrospectively in the light of information relating to the Relevant Premium Income of one or more Qualifying Insurers obtained or received by the ARP Manager which indicates that the Relevant Premium Income of such Qualifying Insurers is greater than that previously declared to the ARP Manager.
- 9.5 The ARP Manager shall notify in writing:
 - 9.5.1 each Qualifying Insurer of its revised Percentage Participation; and
 - 9.5.2 each ARP Firm of the revised Percentage Participations of each of the Qualifying Insurers,by no later than 10 business days following any adjustment being made in accordance with any of the provisions of this paragraph 9.

10 Supplementary provisions

- 10.1 Clauses 6, 7, 9, 10, 12, 13, 14, 15 and 16 shall apply to the ARP Manager in respect of its dealings with ARP Firms, Qualifying Insurers and the Law Society in the same way as they apply to Qualifying Insurers, except that the ARP Manager shall be obliged to notify the Law Society in the circumstances described in clause 6.2.
- 10.2 The Insurer undertakes and agrees with the ARP Manager and the Law Society that it shall:

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- 10.2.1 if called upon to do so, ratify and confirm any lawful and reasonable act or omission of the ARP Manager, its employees and agents on behalf of the Insurer and/or all Qualifying Insurers in carrying out the duties of the ARP Manager under this Agreement; and
- 10.2.2 indemnify the ARP Manager and keep it indemnified fully at all times against all liabilities, claims, actions, proceedings, damages, losses, costs and expenses which are made or brought against or incurred by the ARP Manager in the proper performance by the ARP Manager of its duties under this Agreement.
- 10.3 The ARP Manager (and its agents and advisors from time to time) shall be entitled to access any Records of the Insurer at all times on reasonable notice during normal business hours for the purpose of verifying or obtaining any information provided or required to be provided by the Insurer to the ARP Manager.

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Private & Confidential

Dated _____

Capita Commercial Insurance Services Limited (1)
in its capacity as Assigned Risks Pool Manager

and

The Law Society of England and Wales (2)

Trust Deed

Indemnity Period ~~2010 to~~ 2011 to 2012

THIS DECLARATION OF TRUST is made on~~2010~~2011 between:

- (1) **CAPITA COMMERCIAL INSURANCE SERVICES LIMITED** (a company registered in England and Wales under number 02845397), whose registered office is at The Registry, 34 Beckenham Road, Beckenham, Kent, BR3 4TV (the **Trustee**); and
- (2) **THE LAW SOCIETY OF ENGLAND AND WALES**, as established by a Royal Charter in 1845 and currently located at 113 Chancery Lane, London WC2A 1PL (the **Society**).

WHEREAS

- (A) The Council of the Society has, in exercise of its powers under the Solicitors Act 1974, made rules concerning indemnity against civil liability incurred by, amongst others, solicitors in private practice in England and Wales.
- (B) These rules require firms and sole practitioners in private practice to take out professional indemnity insurance on at least the minimum terms and conditions with an authorised insurer which has entered into a Qualifying Insurer's Agreement with the Society.
- (C) The Rules and the Qualifying Insurer's Agreement provide for an assigned risks pool to be managed by an assigned risks pool manager.
- (D) The Society has appointed the Trustee to perform the obligations of assigned risks pool manager as agent for each Qualifying Insurer and in accordance with the requirements of the Rules and the Qualifying Insurer's Agreement.
- (E) The purpose of this Deed is to set out the terms on which the Trustee, as Assigned Risks Pool Manager, will hold monies as agent and trustee of the Beneficiaries.

1 Definitions and interpretation

1.1 In this Deed, unless the context requires otherwise:

ARP Monies means all sums held by the Trustee in accordance with the Assigned Risks Pool Management Agreement and the Qualifying Insurer's Agreement in relation to the establishment and operation of the Assigned Risks Pool, including interest accrued on such sums

Assigned Risks Pool means the arrangements described in schedule 2 to the Qualifying Insurer's Agreement and in the Rules, in relation to the Indemnity Period

Assigned Risks Pool Management Agreement means the agreement entered into between the Trustee (as assigned risks pool manager) and the Society relating to the establishment and operation of the Assigned Risks Pool, as amended from time to time

Beneficiaries means those Qualifying Insurers participating in the Assigned Risks Pool for all or part of the Indemnity Period, as shown for ease of identification in Annex 1

Indemnity Period means the period from 1 October ~~2010~~2011 to 30 September ~~2011~~2012

Qualifying Insurer's Agreement means the agreement entered into by each of the Beneficiaries and (in each case) the Trustee and the Society in relation to the Indemnity Period

Percentage Participations has the meaning given in the Qualifying Insurer's Agreement, and in relation to each Beneficiary means that amount, expressed as a percentage, set out for ease of identification alongside the name of each Beneficiary in Annex 1, or as they may be varied from time to time in accordance with the Qualifying Insurer's Agreement

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Rules means the Solicitors' [Indemnity Insurance Rules or SRA](#) Indemnity Insurance Rules in respect of the Indemnity Period.

- 1.2 In this Deed, unless the context requires otherwise:
 - 1.2.1 references to a clause or annex are to a clause of, or an annex to, this Deed, and references to this Deed include its annex(es);
 - 1.2.2 references to this Deed or any other document or to any specified provision of this Deed or any other document are to this Deed, that document or that provision as in force for the time being and as amended from time to time;
 - 1.2.3 the singular includes the plural and *vice versa*, words importing a gender include every gender and references to persons include bodies corporate, partnerships and other unincorporated associations or bodies of persons;
 - 1.2.4 the contents table and the headings to clauses and schedules are inserted for reference only and shall be ignored in interpreting this Deed;
 - 1.2.5 a reference to any statute, statutory provision, code or regulation includes:
 - (a) any subordinate legislation (as defined by section 21(1) Interpretation Act 1978) made under it; and
 - (b) 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 the date of this Deed, or after the date of this Deed.

2 Declaration of trust

- 2.1 The Trustee declares that it holds the ARP Monies upon trust for the Beneficiaries and their respective successors in title in proportion to their Percentage Participations.
- 2.2 The Trustee shall pay and deal with the ARP Monies in accordance with the terms of the ARP Management Agreement, the Qualifying Insurer's Agreement and the provisions of this Deed, including, without limitation, paying and receiving such sums on behalf of each Beneficiary as are contemplated in Schedule 2 to the Qualifying Insurer's Agreement and, subject thereto, as each Beneficiary from time to time directs.
- 2.3 The Trustee may, with the prior consent in writing of the Society, terminate the trust established by this Deed at any time upon reasonable notice to each Beneficiary, but without prejudice to the rights and obligations of the Trustee and each of the Beneficiaries arising prior to the date of termination. As between the Trustee and the relevant Beneficiary, the trust established by this Deed shall terminate upon the Trustee paying such sum (if any) as it may at that time hold on behalf of any Beneficiary in full and final settlement of that Beneficiary's obligations under the Qualifying Insurer's Agreement in respect of the Assigned Risks Pool.
- 2.4 The obligations of the Trustee set out in this Deed are additional to and not in substitution for its obligations under the Assigned Risks Pool Management Agreement and the Qualifying Insurer's Agreement, and references in the Qualifying Insurer's Agreement to the duties of the Assigned Risks Pool Manager shall be read as including the duties of the Trustee under this Deed.
- 2.5 The Trustee shall complete the details of each Beneficiary in Annex 1 upon that information becoming available to it in accordance with the Qualifying Insurer's Agreement, but any omission or inaccuracy in Annex 1 shall in no way prejudice the rights of any Qualifying Insurer or alter the obligations of the Trustee in relation to that Qualifying Insurer, and the Trustee shall not be obliged to update the details in Annex 1 if they change for whatever reason.

3 Holding of ARP Monies

- 3.1 The Trustee shall hold the ARP Monies in a separate designated bank account, in the name of “Capita Commercial Insurance Services Limited as trustee for underwriters subscribing to the Assigned Risks Pool for the ~~2010/2011~~/2012 Indemnity Period”, held with Barclays Bank plc, PO Box 544, 54 Lombard Street, London EC3V 9EX, Sort Code 20-00-00, or at such other UK branch of any bank authorised to carry on business in the UK as the Trustee may determine from time to time.
- 3.2 The ARP Monies shall not be mixed or commingled with any other monies, including without limitation monies relating to the assigned risks pool for any other indemnity period.
- 3.3 The Trustee shall notify the Beneficiaries in writing of the details of the account referred to in clause 3.1 and of any material change to the account in which the ARP Monies are held.
- 3.4 The Trustee shall comply with all regulatory requirements in respect of the holding of the ARP Monies, including without limitation all regulatory requirements imposed by the Financial Services Authority.

4 Appointment of new trustees

- 4.1 The Trustee may, with the prior consent in writing of the Society and on reasonable notice to the Beneficiaries, appoint another person or persons to act as trustee jointly in addition to or in substitution for the Trustee in accordance with the terms of this Deed.
- 4.2 The Society may, on reasonable notice to Trustee, terminate the appointment of the Trustee as trustee under this Deed, including without limitation if it terminates the appointment of the Trustee as manager of the Assigned Risks Pool, and may appoint another person or persons to act as trustee in addition to or in substitution for the Trustee in accordance with the terms of this Deed. The Society shall procure that any replacement trustee promptly gives notice of its appointment as such to the Beneficiaries.
- 4.3 On the happening of any of the events contemplated in clauses 4.1 and 4.2, the Trustee or (as the case may be) the Society may transfer all or part of the ARP Monies to another person or persons to act as trustee, provided that each such other person has agreed to hold such monies on terms substantially the same as those set out in this Deed and in particular on trust for the Beneficiaries.

5 Other provisions

- 5.1 This Deed (together with any documents referred to in it) sets out the entire agreement and understanding in connection with the matters described in it.
- 5.2 Any Beneficiary may enforce the terms of this Deed as if it were a party hereto, in accordance with the Contracts (Rights of Third Parties) Act 1999, but no third party shall otherwise have any rights under or in connection with this Deed by virtue of that Act or otherwise.
- 5.3 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

IN WITNESS of which this document has been executed as a Deed and delivered on the date first above written.

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EXECUTED as a **DEED** and delivered)
by **THE TRUSTEE**)

.....
Director

.....
Director / Secretary

EXECUTED as a **DEED** and delivered)
by **THE LAW SOCIETY**)

.....
.....

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**Annex 1
List of Beneficiaries**

[List relevant Qualifying Insurers and their Percentage Participations for the Indemnity Period in question]

Beneficiary	Percentage Participation
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Schedule 2
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 or inquiry (save in respect of any disciplinary proceeding under the authority of The Law Society of England and Wales (including, without limitation, the Solicitors Regulation Authority and the Solicitors Disciplinary Tribunal)) 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 or determination of the Legal Services Ombudsman, the Legal Complaints Service, the Office for Legal Complaints (including the Legal Ombudsman pursuant to sections 137(2)(c) and section 137(4)(b) of the Legal Services Act 2007) or any other regulatory authority to the same extent as it indemnifies the Insured against civil liability provided that the Insurer will have no Liability in respect of any determination by the Legal Ombudsman pursuant to section 137(2)(b) of the Legal Services Act 2007 to refund any fees paid to the Insured.

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 in effect at its commencement, 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 SRA Indemnity Insurance Rules 2010/2011 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) no earlier than~~ no earlier than 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 6.2. 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) legal liability assumed or accepted by an Insured or an Insured Firm under any contract or agreement for the supply to, or use by, the Insured or Insured Firm of goods or services in the course of the Insured Firm's Practice, save that this exclusion 6.6(b) will not apply to any legal liability arising in the course of an Insured Firm's Practice in connection with its or any Insured's use of or access to the HM Land Registry network (including, without limitation, access under a Network Access Agreement made under the Land Registration (Network Access) Rules and the Land Registration (Electronic Communications) Order 2007) other than an obligation to pay search fees or other charges for searches or services provided by HM Land Registry to the Insured Firm; 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.

6.11 Financial Institution

The Insurer is not liable to indemnify any Insured in respect of any Claim by a Financial Institution against an Insured arising in relation to any act, error or omission of the Insured which occurs on or after 1 October 2011.

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~~ [SRA](#) Indemnity Insurance Rules ~~2010~~, [2011](#), 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 (including the Legal Ombudsman), 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, the Legal Complaints Service and the Office for Legal Complaints (including the Legal Ombudsman), and any body or person which succeeds in whole or in part to the functions of the Society, the Solicitors Regulation Authority, the Legal Complaints Service or the Office for Legal Complaints (including the Legal Ombudsman), and any delegate of the Society, the Solicitors Regulation Authority, the Legal Complaints Service, the Office for Legal Complaints (including the Legal Ombudsman) 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' SRA~~ Indemnity Insurance Rules ~~2010-2011~~.

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 (save in respect of any disciplinary proceeding under the authority of The Law Society of England and Wales (including, without limitation, the Solicitors Regulation Authority and the Solicitors Disciplinary Tribunal)).

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~~[SRA](#) Indemnity Insurance Rules ~~2010~~[2011](#)), 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~~[SRA](#) Indemnity Insurance Rules ~~2010~~[2011](#) 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.

[Financial Institution means any undertaking or unincorporated association which carries on a business of lending money \(which may include mortgage lending\) or otherwise providing or issuing credit including, without limitation, any bank or building society.](#)

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~~[SRA](#) Indemnity Insurance Rules ~~2010~~[2011](#)) 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' SRA~~ Indemnity Insurance Rules ~~2010~~2011 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 2011.

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~~[SRA](#) Indemnity Insurance Rules ~~2010-2011~~.

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 2011~~;

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 2, (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 13.5.

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 2, 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:

1 Additional provisions

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 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).

**Schedule 7
Pro forma Insured Firms Report**

(Clause 6.9)

Firm Name	<table border="1" style="width: 100%; text-align: center;"> <tr> <td><i>Either</i></td> <td><i>Or</i></td> </tr> </table>		<i>Either</i>	<i>Or</i>	Postcode	Policy number	Inception Date	Expiry Date	Policy Extended or Renewed	COMPULSORY LAYERS		
	<i>Either</i>	<i>Or</i>										
Law Society Firm ID No (Regis number)	Full address	1st £1m layer - % written	2nd £1m layer (£1m in excess of £1m) - % written	3rd £1m layer (£1m in excess of £2m) - % written								

DRAFT

SIGNED by)
.....)
for and on behalf of **THE LAW SOCIETY OF**)
ENGLAND AND WALES)

.....
Duly authorised

SIGNED by)
.....)
for and on behalf of **CAPITA COMMERCIAL**)
INSURANCE SERVICES LIMITED)

.....
Duly authorised

SIGNED by)
.....)
for and on behalf of.....)
.....)

.....
Duly authorised