

Victorian Conveyancers Professional Indemnity Insurance Program

Master policy no:[LPS023134553]



Victorian Conveyancers Professional Indemnity Insurance Program

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An important note regarding this document

Where the terms “Institute”, “Conveyancer”, “Former Conveyancer”, “Master Policy”, “Contract of Insurance”, “Insured” and “Insurer” are used in this important note, they have the meaning given in Section 7 ‘Definitions’ of Part 3 ‘Contract of Insurance’.

This document consists of 3 parts:

Part 1 – Notices

This part includes information about your duty of disclosure, privacy, the General Insurance Code of Practice and our complaints handling procedures. This information applies to both Part 2 and Part 3 of this document.

Part 2 – Master Policy

The Master Policy sets out the agreement between the Insurer and the Australian Institute of Conveyancers Victorian Division Limited to provide insurance to:

1. the Institute;
2. Conveyancers;
3. all Former Conveyancers.

The Master Policy sets out certain coverage particulars for the above parties.

Part 3 – Contract of Insurance

The Contract of Insurance sets out the terms and conditions of the cover provided to the parties under the Master Policy.

Where 'prior consent' is required from the Insurer

There are some covers under the policy where the Insured will need to obtain the Insurer’s prior consent, for example, before incurring costs. Where prior consent is required, consent must be obtained from the Insurer, unless otherwise specified in the policy. The Insurer’s consent will not be unreasonably withheld or delayed.

Where prior consent has not been obtained as required, it does not mean the Insured cannot make a claim. However, the Insurer may be able to reduce the claim payable by an amount that fairly represents the extent to which the Insurer’s interests were prejudiced by the failure to obtain prior consent.

Payment of reasonable amounts of any cost, charges expenses and fees under this policy

A range of different costs, charges, expenses and fees are covered under this policy. Unless otherwise specified in the policy, the policy provides cover for the ‘reasonable’ amount of such cost, charge, expense or fee. Reasonable amount means an amount that is not excessive and where the Insured has given reasonable consideration in the circumstances to the different courses of action available prior to incurring the amount and the course of action taken was prudent in that context.

Where consent is required before incurring such costs, when the Insured contacts the Insurer to seek the Insurer’s consent, the Insured can let the Insurer know the steps it has taken to consider the courses of action available and discuss the circumstances with the Insurer. If the amounts which are to be incurred are reasonable in the circumstances, the Insurer will provide consent for the costs to be incurred.

Part 1 – Notices

These notices do not form part of the Master Policy or Contract of Insurance.

Broker acting as agent for insurer

In effecting this contract of insurance the broker will be acting under an authority given to it by the insurer and the broker will be effecting the contract as agent of the insurer and not the insured. Countrywide Insurance Group Pty Ltd (ABN 49 625 733 539 AFSL 511363) issues the insurance under binder on behalf of the insurer, AAI Limited (ABN 48 005 297 807) trading as Vero Insurance.

Your duty of disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract. You do not need to tell us anything that:

- ▼ reduces the risk we insure you for; or
- ▼ is common knowledge; or
- ▼ we know or should know as an insurer; or
- ▼ we waive your duty to tell us about.

If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

Claims made and notified basis of cover

The professional indemnity insuring clauses of these policies are issued on a 'claims made and notified' basis. This means that these insuring clauses cover claims:

- (a) first made against you during the period of insurance; and
- (b) that you tell us about during the period of insurance.

Pursuant to section 54 of the Insurance Contracts Act 1984 (Cth), if you tell us about claims first made against you during the period of insurance, after the period of insurance expires, we may be able to reduce our liability by an amount that fairly represents the extent to which our interests were prejudiced as a result of your delay in notifying us of the claim.

Written notification of facts pursuant to section 40(3) of the Insurance Contracts Act 1984 (Cth): If during the period of insurance, you learn about facts that might lead to a claim and you tell us in writing about these facts as soon as reasonably practicable after you became aware of those facts but before the end of the period of insurance, we will treat any subsequent claim arising from those facts as though it was made against you during the period of insurance.

The policy doesn't cover claims or potential claims that you knew about prior to the period of insurance which would have put a reasonable person in your position on notice a claim may be made against you. (There are some exceptions to this rule if a 'Continuous Cover' extension applies).

Average provision

Because your policy provides for defence costs in addition to the limit of indemnity, if a payment in excess of the limit of indemnity available under your policy has to be made to dispose of a claim, the insurer shall only be liable for the percentage of defence costs incurred with the insurer's prior consent that is a proportionate ratio to the amount of indemnity available under this policy.

Preservation of rights of recovery / subrogation waiver

This policy contains provisions that have the effect of excluding the insurer's liability for a loss or liability incurred due to the insured taking action to, without the prior consent of the insurer:

- (a) settle or offer to settle any claim, incur any defence costs or otherwise assume any contractual obligation or admit any liability in respect of any claim; or
- (b) pay or offer to pay any crime loss, incur particular types of expenses or otherwise assume any contractual obligation; or
- (c) admit any liability in respect of any crime loss.

Overseas or worldwide activities

If this policy provides cover for the conduct of activities outside of Australia or claims brought in legal jurisdictions outside of Australia, it is possible other countries' laws or regulations may nevertheless prevent this policy from responding to provide that cover. If you conduct activities overseas you may wish to seek specific advice in relation to the relevant countries' insurance requirements from your insurance broker or a legal professional.

Privacy statement

AAI Limited trading as Vero Insurance is the insurer and issuer of your commercial insurance product, and is a member of the Suncorp Group, which we'll refer to simply as "the Group".

Why do we collect personal information?

Personal information is information or an opinion about an identified individual or an individual who is reasonably identifiable. We collect personal information so that we can:

- ▼ identify you and conduct appropriate checks;
- ▼ understand your requirements and provide you with a product or service;
- ▼ set up, administer and manage our products and services and systems, including the management and administration of underwriting and claims;
- ▼ assess and investigate any claims you make under one or more of our products;
- ▼ manage, train and develop our employees and representatives;
- ▼ manage complaints and disputes, and report to dispute resolution bodies; and
- ▼ get a better understanding of you, your needs, your behaviours and how you interact with us, so we can engage in product and service research, development and business strategy including managing the delivery of our services and products via the ways we communicate with you.

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

If we ask for your personal information and you don't give it to us, we may not be able to provide you with any, some, or all of the features of our products or services.

How we handle your personal information

We collect your personal information directly from you and, in some cases, from other people or organisations. We also provide your personal information to other related companies in the Group, and they may disclose or use your personal information for the purposes described in 'Why do we collect personal information?' in relation to products and services they may provide to you. They may also use your personal information to help them provide products and services to other customers, but they'll never disclose your personal information to another customer without your consent.

Under various laws we will be (or may be) authorised or required to collect your personal information. These laws include the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), Personal Property Securities Act 2009 (Cth), Corporations Act 2001 (Cth), Autonomous Sanctions Act 2011 (Cth), Income Tax Assessment Act 1997 (Cth), Income Tax Assessment Act 1936 (Cth), Taxation Administration Act 1953 (Cth), A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth), as those laws are amended and includes any associated regulations.

We will use and disclose your personal information for the purposes we collected it as well as purposes that are related, where you would reasonably expect us to. We may disclose your personal information to and/or collect your personal information from:

- ▼ other companies within the Group and other trading divisions or departments within the same company (please see our Group Privacy Policy for a list of brands/companies);
- ▼ any of our Group joint ventures where authorised or required;
- ▼ customer, product, business or strategic research and development organisations;
- ▼ data warehouse, strategic learning organisations, data partners, analytic consultants;
- ▼ social media and other virtual communities and networks where people create, share or exchange information;
- ▼ publicly available sources of information;
- ▼ clubs, associations, member loyalty or rewards programs and other industry relevant organisations;
- ▼ a third party that we've contracted to provide financial services, financial products or administrative services – for example:
 - ▼ information technology providers,
 - ▼ administration or business management services, consultancy firms, auditors and business management consultants,
 - ▼ marketing agencies and other marketing service providers,

- ▼ claims management service providers,
- ▼ print/mail/digital service providers, and
- ▼ imaging and document management services;
- ▼ any intermediaries, including your agent, adviser, a broker, representative or person acting on your behalf, other Australian Financial Services Licensee or our authorised representatives, advisers and our agents;
- ▼ a third party claimant or witnesses in a claim;
- ▼ accounting or finance professionals and advisers;
- ▼ government, statutory or regulatory bodies and enforcement bodies;
- ▼ policy or product holders or others who are authorised or noted on the policy as having a legal interest, including where you are an insured person but not the policy or product holder;
- ▼ in the case of a relationship with a corporate partner such as a bank or a credit union, the corporate partner and any new incoming insurer;
- ▼ the Australian Financial Complaints Authority or any other external dispute resolution body;
- ▼ credit reporting agencies;
- ▼ other insurers, reinsurers, insurance investigators and claims or insurance reference services, loss assessors, financiers;
- ▼ legal and any other professional advisers or consultants;
- ▼ hospitals and, medical, health or wellbeing professionals;
- ▼ debt collection agencies;
- ▼ any other organisation or person, where you've asked them to provide your personal information to us or asked us to obtain personal information from them, eg your mother.

We'll use a variety of methods to collect your personal information from, and disclose your personal information to, these persons or organisations, including written forms, telephone calls and via electronic delivery. We may collect and disclose your personal information to these persons and organisations during the information life cycle, regularly, or on an ad hoc basis, depending on the purpose of collection.

Overseas disclosure

Sometimes, we need to provide your personal information to – or get personal information about you from – persons or organisations located overseas, for the same purposes as in 'Why do we collect personal information?'.

The complete list of countries is contained in our Group Privacy Policy, which can be accessed at www.vero.com.au/privacy, or you can call us for a copy.

From time to time, we may need to disclose your personal information to, and collect your personal information from, other countries not on this list. Nevertheless, we will always disclose and collect your personal information in accordance with privacy laws.

How to access and correct your personal information or make a complaint

You have the right to access and correct your personal information held by us and you can find information about how to do this in the Suncorp Group Privacy Policy.

The Suncorp Group Privacy Policy also includes information about how you can complain about a breach of the Australian Privacy Principles and how we'll deal with such a complaint.

You can get a copy of the Suncorp Group Privacy Policy. Please use the contact details in Contact us.

Contact us

For more information about our privacy practices including accessing or correcting your personal information, making a complaint, obtaining a list of overseas countries or giving us your marketing preferences you can:

- ▼ Visit www.vero.com.au/privacy
- ▼ Speak to us directly by phoning us on 1300 888 073 or
- ▼ Email us at privacyaccessrequests@vero.com.au

General Insurance Code of Practice

We support the General Insurance Code of Practice. A copy of the Code can be obtained from the Insurance Council of Australia by:

- ▼ Telephone: (02) 9253 5100 or 1300 728 228
- ▼ Website: www.insurancecouncil.com.au

The Code Governance Committee is an independent body which monitors and enforces the Code and has powers to impose sanctions on Code subscribers for non-compliance.

Our complaints handling procedures

We are committed to:

- ▼ listening to what you tell us;
- ▼ being accurate and honest in telling you about our products and services;
- ▼ communicating with you clearly; and
- ▼ resolving any complaints or concerns you have in a fair, transparent and timely manner.

How to contact us with a complaint

Let us know

If you experience a problem, are not satisfied with our products or services or a decision we have made, let us know so that we can help.

Contact us:

By phone: 1300 888 073

By email: claims@vero.com.au

Complaints can usually be resolved on the spot or within 5 business days.

Review by our Customer Relations Team

If we are not able to resolve your complaint or you would prefer not to contact the people who provided your initial service, our Customer Relations team can assist:

By phone: 1300 264 470

By email: idr@vero.com.au

In writing: Vero Customer Relations Team, PO Box 14180, Melbourne City Mail Centre VIC 8001

Customer Relations will contact you if they require additional information or they have reached a decision.

When responding to your complaint you will be informed of the progress of and the timeframe for responding to your complaint.

Seek review by an external service

We expect our procedures will deal fairly and promptly with your complaint.

However, if you remain dissatisfied, there are external dispute remedies such as mediation, arbitration or legal action you may pursue.

Victorian Conveyancers Professional Indemnity Insurance Program

Part 2 – Master Policy

Master policy no: [LPS023134553]

Unless otherwise stated, expressions used in this **Master Policy** have the meanings given to them by Sections 6 and 7 of the **Contract of Insurance**.

Section A: Agreement between the Insurer and the Institute

A.1 Agreement to provide insurance cover

- (a) The Insurer agrees to provide cover to the **Institute** in accordance with insuring clause 1 of this **Master Policy**.
- (b) The Insurer agrees to provide cover to current **Conveyancers** in accordance with insuring clause 2 of this **Master Policy**, subject to each **Conveyancer** being an Insured under a **Certificate of Insurance** issued as follows:
 - (i) In consideration of the payment of the premium requested by the Insurer, the Insurer shall issue a **Certificate of Insurance** to a **Firm, Sole Practitioner** or other legal entity of which a **Conveyancer** is an employee, **Associate**, director or principal.
 - (ii) Each **Certificate of Insurance** issued shall have effect as if it, and the **Contract of Insurance**, were a separate contract of insurance made between the Insurer and the Insured.
 - (iii) The Insurer may not refuse to insure any **Conveyancer** who is required to take out professional indemnity insurance under the Conveyancers Act 2006 (Victoria).
- (c) The Insurer agrees to provide cover to **Former Conveyancers** in accordance with insuring clause 3 of this **Master Policy**.

A.2 Authority to issue certificates of insurance

The Insurer authorises Countrywide Insurance Group ("Austbrokers Countrywide") to issue, on behalf of the Insurer, **Certificates of Insurance** in accordance with this **Master Policy**.

A.3 Intervention

If there are proceedings brought against any **Conveyancer** or **Former Conveyancer**, the liability for which is the subject of a **Claim** under insuring clause 2 or insuring clause 3 of this **Master Policy**, and if:

- (a) such proceedings necessitate intervention by the **Institute** or its nominee (for example, if the Insured cannot be located or is incapacitated); or
- (b) a **Claim** is made against the **Institute** or its nominee in respect of such proceedings,

then, subject to the **Institute** or its nominee first taking reasonable steps to obtain the consent of such Insured, the Insurer agrees that the **Institute** or its nominee shall be deemed to be the Insured referred to in the **Certificate of Insurance** for such proceedings.

A.4 Failure to take out insurance

If a **Conveyancer** ought to have been insured under insuring clause 2 of this **Master Policy**, but failed to take out or renew their professional indemnity insurance in accordance with clause A.1(b)(i) above, then, subject to the **Conveyancer** notifying the Insurer of this failure and paying any premium due, the Insurer shall:

- (a) issue a **Certificate of Insurance** with a **Period of Insurance** commencing on the date of such notification; and
- (b) on the terms of the **Contract of Insurance**, indemnify such **Conveyancer** as though they had not failed to take out or renew their professional indemnity insurance under this **Master Policy**.

Provided that if:

- (i) a **Claim** is made against, **Inquiry Notice** received by, or **Crime Loss Discovered** by a **Conveyancer**; or
- (ii) a **Conveyancer** becomes aware of facts or circumstances that might give rise to a **Claim, Inquiry Notice** or **Crime Loss**,

prior to such **Conveyancer** notifying the Insurer per above, then the **Limit of Indemnity** and premium applicable in respect of the indemnity pursuant to sub-clause A.4(b) above for such **Claim, Inquiry Notice** or **Crime Loss** shall be determined as follows:

- (i) If the **Conveyancer** was insured under the Victorian Conveyancers Professional Indemnity Insurance Program of which this **Master Policy** and **Contract of Insurance** are a renewal, then the **Limit of Indemnity** provided to the **Conveyancer** under this clause A.4 shall be the same as such **Conveyancer's** most recent limit of indemnity under the Victorian Conveyancers Professional Indemnity Insurance Program;

- (II) If the **Conveyancer** was not previously insured under the Victorian Conveyancers Professional Indemnity Insurance Program, then **the Limit of Indemnity** provided to the **Conveyancer** shall be \$2,000,000; and
- (III) The premium payable by such **Conveyancer** shall be the premium applicable to their **Limit of Indemnity** per sub-clause A.4(b)(I) or A.4(b)(II) above, according to the agreed premium rates for the current Victorian Conveyancers Professional Indemnity Insurance Program.

A.5 Master policy period of insurance

- (a) This **Master Policy** commences on the 1st July 2024 and expires at midnight on 1st July 2025.

This **Master Policy** can be extended subsequently for successive periods of one year on each 1st July subject to rates of premium and **Limit of Indemnity** for each renewal being agreed by the Insurer and the **Institute** prior to each renewal.

In the event of any failure of the Insurer and the **Institute** to agree upon such rates of renewal premium and **Limit of Indemnity**, all cover under this **Master Policy** shall cease at midnight on the 1st July of the year after the **Master Policy** commenced or was last extended (whichever is later).

- (b) On the expiry of the period of this **Master Policy** or the period for which it was last renewed or extended, the Insurer agrees to provide cover in accordance with the provisions of this **Master Policy**, for any **Claim** first made against an Insured and notified in writing to the Insurer during an extended reporting period of ninety (90) days from the expiry of such Insured's **Period of Insurance**, but only in respect to an act, error or omission committed, attempted or allegedly committed or attempted, in the conduct of the **Practice** prior to that expiry and provided that any **Claim** made against an Insured during the extended reporting period shall be deemed to have been made during that Insured's immediately preceding **Period of Insurance**.

Section B: Insuring clauses

Insuring clause 1. Cover for the Institute

B.1.1 Who is insured

In respect of cover under this insuring clause 1, the Insured is the **Institute**.

B.1.2 Operative clause

The Insurer will indemnify the Insured against all loss to the Insured arising from any **Claim** first made against the Insured and notified to the Insurer during the **Period of Insurance**.

B.1.3 Period of Insurance

In respect of cover under this clause insuring 1, the **Period of Insurance** commences on the 1st July 2024 and expires at midnight on 1st July 2025.

B.1.4 Limit of Indemnity

- (a) In respect of cover under this insuring clause 1, the **Limit of Indemnity** is \$5,000,000 in respect of any one **Claim**.
- (b) This is separate to the **Limit of Indemnity** provided to any Insured under insuring clauses 2 and clause 3 of this **Master Policy**.

B.1.5 Excess

The **Excess** applicable to this insuring clause 1 is \$2,500.

B.1.6 Defence Costs

- (a) Subject to B. 1.6(b) below, the Insurer will, in addition to the **Limit of Indemnity**, pay reasonable **Defence Costs** incurred with the Insurer's prior consent in connect with **Claims** under this insuring clause 1.
- (b) If the total amount of compensation and **Claimant's Costs** required to dispose of the **Claim** ("Total Claim Amount") exceeds the **Limit of Indemnity**, the Insurer shall only be liable for the percentage of **Defence Costs** that is a proportionate ratio to the Total Claim Amount that is indemnified by the **Limit of Indemnity**.
- (c) The Insurer will advance reasonable **Defence Costs**, incurred by the Insurer or the Insured with the Insurer's prior consent, as they are incurred and prior to final adjudication of a **Claim**. If and to the extent that the Insured is not entitled to coverage under the terms and conditions of this **Master Policy**, then the Insurer will cease to advance such costs and any amounts previously advanced shall be repaid to the Insurer.

B.1.7 Other clauses

- (a) The exclusions listed under clause 4 'What is excluded from the insurance' of Section 1 and Section 2 of the **Contract of Insurance** apply to this insuring clause 1.
- (b) Sections 3, 4, 5, 6 and 7 of the **Contract of Insurance** apply to this insuring clause 1.

Insuring clause 2. Cover for licensed conveyancers

B.2.1 Who is insured

In respect of cover under this insuring clause 2, the Insured is:

- (a) the **Firm**, **Sole Practitioner** and any other legal entity shown in the **Certificate of Insurance**;
- (b) any past and/or present employee, **Associate** or director of the entities described in (a) above;
Provided that such **Associate** is not otherwise covered under this **Master Policy** in respect of such **Associate's** conduct of the **Practice**.
- (c) any past and/or present **Partner** in the **Firm**;
- (d) the former subsidiary of any corporate Insured but only in respect of their conduct of the **Practice** whilst a subsidiary of the corporate Insured;
- (e) any service, administration or nominee company or trust but only in respect of activities carried out in connection with the **Practice**;
- (f) the estate, heirs, legal representatives or legal assigns of any Insured in the event of the death or legal incapacity of such Insured; and
- (g) any **Spouse** of an Insured person covered in paragraphs (a) to (c) above in respect of any **Claim** made against such **Spouse** solely by reason of:
 - (i) his or her status as **Spouse** of such Insured person; or
 - (ii) his or her ownership or other interest in property which is the object of the remedy sought by the person or entity making the **Claim**.

Provided that such **Spouse** is not otherwise covered under this **Master Policy** in respect of such **Spouse's** conduct of the **Practice**.

The Insurer agrees that if during the **Period of Insurance** the **Firm** changes its name, the **Certificate of Insurance** shall be deemed to be amended to substitute the new name for the former name, pending written notification by the **Firm** to the Insurer of the change of name and issue of an amended **Certificate of Insurance** by the Insurer showing the new name.

B.2.2 Operative clause

The Insurer agrees to insure the Insured on the terms and conditions set out in the **Contract of Insurance**.

B.2.3 Period of Insurance

In respect of cover under this insuring clause 2, the **Period of Insurance** for an Insured is the **Period of Insurance** shown in that Insured's **Certificate of Insurance**.

B.2.4 Limit of Indemnity

- (a) In respect of cover under this insuring clause 2, the **Limit of Indemnity** for an Insured is the **Limit of Indemnity** shown in that Insured's **Certificate of Insurance**.
- (b) Each **Certificate of Insurance** has its own **Limit of Indemnity**, which is:
 - (i) shared by all Insureds under that **Certificate of Insurance** in respect of any one **Claim**;
 - (ii) separate to the **Limit of Indemnity** provided under any other **Certificate of Insurance**; and
 - (iii) separate to the **Limit of Indemnity** provided to any Insured under insuring clause 1 and insuring clause 3 of this **Master Policy**.

B.2.5 Excess

In respect of cover under this insuring clause 2, the **Excess** for an Insured is the **Excess** shown in that Insured's **Certificate of Insurance**.

Insuring clause 3. Cover for former conveyancers

B.3.1 Who is insured

In respect of cover under this insuring clause 3, the Insureds are all **Former Conveyancers**.

B.3.2 Operative clause

The Insurer agrees to insure each Insured on the terms and conditions set out in the **Contract of Insurance**, provided that:

- (a) in respect of Section 1 clause 1 'What you are insured for and when' of the **Contract of Insurance**, cover is only provided for **Claims**:
 - (i) first made during the period of seven years from the date the Insured ceased to conduct the **Practice**; and
 - (ii) relating to acts, errors or omissions of the Insured prior to the date on which the Insured ceased to conduct the **Practice**.

(b) in respect of Section 2 clause 1 'What you are insured for and when' of the **Contract of Insurance**, cover is only provided for **Crime Loss**:

- (i) first **Discovered** during the period of seven years from the date the Insured ceased to conduct the **Practice**; and
- (ii) that occurred prior to the date on which the Insured ceased to conduct the **Practice**.

B.3.3 Period of Insurance

In respect of cover under this insuring clause 3, the **Period of Insurance** commences on the 1st July 2024 and expires at midnight on 1st July 2025.

B.3.4 Limit of Indemnity

- (a) In respect of cover under this insuring clause 3, the **Limit of Indemnity** provided to any one Insured is \$2,000,000 in respect of any one **Claim**.
- (b) A separate **Limit of Indemnity** applies in respect of each Insured under this insuring clause 3.
- (c) The **Limit of Indemnity** provided under this insuring clause 3 is separate to the **Limit of Indemnity** provided to any Insured under insuring clause 1 and insuring clause 2 of this **Master Policy**.

B.3.5 Excess

The **Excess** applicable to this insuring clause 3 is \$2,500.

Victorian Conveyancers Professional Indemnity Insurance Program

Part 3 – Contract of Insurance

When reading this **Contract of Insurance**, please note the use of specially defined words that appear in bold type. There is a list of these words in section 7 'Definitions'. Although the **Contract of Insurance** defines the words "Insurer" and "Insured", these words do not appear in bold type.

Section 1: Civil liability arising out of a claim

1. What you are insured for and when

The Insurer will indemnify the Insured against any civil liability for a **Claim** that:

- (a) is first made against the Insured and notified to the Insurer during the **Period of Insurance**; and
- (b) arises from the conduct of the **Practice**.

Clause 1(b) above is extended to the practice of licensed conveyancing in Victoria undertaken as part of a conveyancing business by any past or present **Partner** in the **Firm** in a professional capacity before joining the Insured named in the **Certificate of Insurance**.

2. How much you are insured for

- (a) The liability of the Insurer in respect of any one **Claim** will not exceed the **Limit of Indemnity**.
- (b) For the avoidance of doubt, payments made under clauses 3(b) and 3(c) of this Section 1 will be part of and not in addition to the **Limit of Indemnity**, unless otherwise stated.

3. What else you are covered for

(a) Defence costs

The Insurer will, in addition to the **Limit of Indemnity**, pay reasonable **Defence Costs** incurred with the Insurer's prior consent in connection with a **Claim** under this Section 1.

If the total amount of compensation and **Claimant's Costs** required to dispose of the **Claim** ("Total Claim Amount") exceeds the **Limit of Indemnity**, the Insurer shall only be liable for the percentage of **Defence Costs** that is a proportionate ratio to the Total Claim Amount that is indemnified by the **Limit of Indemnity**.

The Insurer will advance reasonable **Defence Costs**, incurred by the Insurer or the Insured with the Insurer's prior consent, as they are incurred and prior to final adjudication of a **Claim**. If and to the extent that the Insured is not entitled to coverage under the terms and conditions of this **Contract of Insurance**, then the Insurer will cease to advance such costs and any amounts previously advanced shall be repaid to the Insurer.

(b) Inquiry costs

The Insurer will indemnify the Insured for reasonable **Inquiry Costs** incurred with the Insurer's prior consent. Provided that:

- (i) the **Inquiry Notice** is first received by the Insured and notified to the Insurer during the **Period of Insurance**;
- (ii) such **Inquiry Notice** arises directly from conduct allegedly committed by the Insured in carrying on the **Practice**;
- (iii) the Insured's regular or overtime wages, salaries or fees are excluded from this indemnity; and
- (iv) the total liability of the Insurer under this clause shall not exceed \$1,000,000 in the aggregate during the **Period of Insurance**.

Provided that the Insurer will not be liable for any **Inquiry Costs** arising out of an **Inquiry Notice** issued by the Office of the Australian Information Commissioner (OAIC) (or other responsible agency or person as set out in the Privacy Act 1988 (Cth) or any amendment, consolidation, re-enactment, replacement or successor of such legislation).

The Insurer will advance reasonable **Inquiry Costs**, incurred by the Insurer or the Insured with the Insurer's prior consent, as they are incurred. If and to the extent that the Insured is not entitled to coverage under the terms and conditions of this **Contract of Insurance**, then the Insurer will cease to advance such costs and any amounts previously advanced shall be repaid to the Insurer.

For the purpose of clarity, cover under this clause is not dependent upon a **Claim** being made against the Insured but is subject to all other terms of this **Contract of Insurance**, unless otherwise stated.

(c) Lost documents

The Insurer will, in the event of loss of or damage to **Documents** occurring in connection with the **Practice**, indemnify the Insured against reasonable costs and expenses incurred by the Insured in replacing or restoring such **Documents**.

Provided that:

- (i) such loss or damage is sustained during the **Period of Insurance** while the **Documents** are either in transit or in the custody of either:
 - (I) the Insured; or
 - (II) any third party to whom a reasonable person in the Insured's professional position would entrust the **Documents** with the expectation that the **Documents** would be protected from loss or damage;
- (ii) the amount of any claim for such costs and expenses shall be supported by proof of loss or damage to **Documents** (for example, bills and accounts) which shall be subject to approval by an appropriately qualified and experienced professional or advisor to be nominated by the Insurer with the Insured's consent or if such consent is withheld, by the President of the Law Society of the State or Territory where the **Certificate of Insurance** was issued;
- (iii) the Insurer will not be liable for loss or damage caused by or arising directly or indirectly from, in connection with or in respect of any **Cyber Act**;
- (iv) the Insurer shall not be liable in respect of loss or damage to **Documents** caused by riot or civil commotion; and
- (v) the Insurer will not be liable in respect of loss or damage to **Documents** caused by:
 - (I) mould;
 - (II) vermin or pest infestation; or
 - (III) fading, wear, tear or any other gradually operating cause.

All loss of or damage to **Documents** occurring as a result of the same or causally related acts, causes or events will be deemed to be a single occurrence of loss or damage and shall attract one **Limit of Indemnity** and one **Excess**.

For the purpose of clarity, cover under this clause is not dependent upon a **Claim** being made against the Insured but is subject to all other terms of this **Contract of Insurance**, unless otherwise stated.

(d) Legal consultation

The **Firm** or the **Sole Practitioner** is entitled to up to two hours legal advice from the 'Legal Adviser' specified in the **Certificate of Insurance** (or their delegate) on matters related to the risks insured under this **Contract of Insurance**, except in relation to the scope of cover provided under this **Contract of Insurance**, or claims, disputes or complaints against the Insurer, provided that:

- (i) the legal advice is sought during the **Policy Period**;
- (ii) the **Firm** or the **Sole Practitioner** must provide the legal adviser with the policy number, **Policy Period** and name of the **Firm** or the **Sole Practitioner**.

There will be no cost payable by the **Firm** or the **Sole Practitioner** for the legal advice.

(e) Continuous cover

Where the Insured:

- (i) first became aware of facts or circumstances that might give rise to a **Claim**, prior to the **Period of Insurance**; and
- (ii) had not notified the Insurer of such facts or circumstances prior to the **Period of Insurance**,

then clause '4. What is excluded from the insurance (a) Notifications under prior insurance' of this Section 1 will not apply to any notification during the **Period of Insurance** of any **Claim** resulting from such facts or circumstances, provided that:

- (I) there is an absence of fraudulent noncompliance with the Insured's duty of disclosure and an absence of fraudulent misrepresentation by the Insured in respect of such facts or circumstances; and
- (II) the Insurer may reduce their liability under the **Contract of Insurance** to the extent of any prejudice the Insurer may suffer in connection with the Insured's failure to notify the facts or circumstances giving rise to a **Claim** prior to the **Period of Insurance**.

4. What is excluded from the insurance

(a) Notifications under prior insurance

Subject to clause 3(e) of Section 1, the Insurer shall not be liable under this Section 1 in respect of any **Claim** first made against the Insured during the **Period of Insurance** in respect of loss arising out of any circumstance or occurrence which has been notified under any other insurance attaching prior to the **Period of Insurance**.

(b) Other exclusions

The Insurer shall not be liable under this Section 1 to indemnify the Insured in respect of any **Claim**, loss, liability, compensation, **Inquiry Costs**, **Claimant's Costs** or **Defence Costs**:

(i) Asbestos

arising directly or indirectly from, in connection with or in respect of asbestos, asbestos fibres or derivatives of asbestos, unless it arises from the conduct of the **Practice**.

(ii) Failure to account for monies

arising directly or indirectly from, in connection with or in respect of any failure to account for monies or any other negotiable instrument.

(iii) Trade debts

arising directly or indirectly from, in connection with or in respect of any liability:

(I) for payment of any trade debt incurred by the Insured; or

(II) to repay any monies charged as fees and disbursements or for costs incurred in relation to any dispute as to fees and disbursements.

(iv) Pollution

arising directly or indirectly from, in connection with or in respect of any:

(I) personal injury or damage to property, arising directly or indirectly out of inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **Fungi, Mould, Mildew** or **Damaging Factor**; or

(II) the abating, testing for, monitoring, cleaning up, removing, repairing, replacing, containing, treating, detoxifying, neutralising, remediating or disposal of, or in any way responding to, investigating or assessing the effects of, any **Fungi, Mould, Mildew**, or **Damaging Factor**,

unless it arises from the conduct of the **Practice**.

(v) Radioactivity

arising directly or indirectly from, in connection with or in respect of ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or from the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear device or assembly, or a nuclear component thereof.

(vi) War

arising directly or indirectly from, in connection with or in respect of any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

(vii) Contractual liability

arising directly or indirectly from, in connection with or in respect of any liability arising from a contract other than:

(I) a contract to provide services within the definition of the **Practice**; or

(II) if the Insured would have been liable in the absence of the contractual liability.

(viii) Terrorism

arising directly or indirectly from, in connection with or in respect of:

(I) any **Act of Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence; or

(II) any action taken in controlling, preventing, suppressing or in any way relating to any **Act of Terrorism**.

(ix) Acting outside of scope of Victorian conveyancing licence

arising directly or indirectly from, in connection with or in respect of any conveyancing work that is outside the scope of the Insured's conveyancing licence issued by Victoria's Business Licensing Authority.

(c) Sanctions

The Insurer will not provide any cover, pay any claim, make any payment (including any refund), or provide any benefit under this Policy, if doing so will expose the Insurer to, or contravene or violate any sanction, prohibition, restriction, proscription or prevention under any sanctions, laws or regulations, including but not limited to sanctions, laws or regulations of Australia, New Zealand, the European Union, the United Kingdom or the United States of America or those set out in any United Nations resolutions.

Section 2: Liability for stolen transaction funds

1. What you are insured for and when

The Insurer will indemnify the Insured against **Crime Loss** for which the Insured is legally liable and which was first **Discovered** and notified to the Insurer within the **Period of Insurance**.

For the purpose of clarity, **Crime Loss** includes loss of **Transaction Funds** caused by an intentional misrepresentation of a fact by a person which is relied upon by an **Insured** in effecting or authorising the transfer of **Transaction Funds** and that **Insured** is innocent of, and not complicit in, any dishonest or fraudulent act ("Social Engineering Fraud").

2. How much you are insured for

(a) The liability of the Insurer in respect of any one **Crime Loss** will not exceed the **Limit of Indemnity**.

(b) For the avoidance of doubt, payments made under clauses 3(b) and 3(c) of this Section 2 will be part of and not in addition to the **Limit of Indemnity**.

3. What else you are covered for

(a) Fraud investigator expenses

The Insurer will, in addition to the **Limit of Indemnity**, pay all reasonable expenses (excluding overtime wages, salaries, and the like, and other costs incurred in the normal course of business) incurred by the Insured with the Insurer's prior consent, solely to investigate and gather supporting evidence to substantiate **Crime Loss**.

The total liability of the Insurer under this clause 3(a) will not exceed \$100,000 in the aggregate for the **Period of Insurance**.

An **Excess** does not apply to this clause 3(a).

(b) Crime loss prevention expenses

The Insurer will cover reasonable expense incurred by the Insured with the Insurer's prior consent, solely to prevent a specific actual or suspected **Crime Loss** happening or to limit or reduce the amount of actual or suspected **Crime Loss**.

The liability of the Insurer under this clause excludes cover for:

- (i) overtime wages, salaries and the like;
- (ii) the costs of acquiring, upgrading or maintaining security systems;
- (iii) the costs of complying with security requirements of contracts and service agreements entered into by the Insured;
- (iv) other costs incurred in the normal course of business; and
- (v) expenses incurred under this clause that are collectively less than 50% of the amount of the **Excess**.

The total liability of the Insurer under this clause 3(b) will not exceed \$10,000 in the aggregate for the **Period of Insurance**.

Any expenses paid by the Insured under this clause because they are excluded from the Insurer's liability under this clause pursuant to sub-clause 3(b)(v) above shall be deducted from the **Excess** payable by the Insured for any **Crime Loss or Claim** that arises from the same situation that gave rise to expenses under this clause.

(c) Additional costs

Notwithstanding clause 4(a)(iv) of this Section 2, the Insurer will also indemnify the Insured against any of the following amounts for which the Insured is legally liable arising from a covered **Crime Loss**:

- (i) the amount of any non-refundable deposit forfeited as a direct result of the **Crime Loss**;
- (ii) any loan break costs or additional interest incurred as a direct result of the of the **Crime Loss**.

4. What is excluded from the insurance

(a) The Insurer will not be liable under this Section 2 for:

- (i) Asbestos

Crime Loss arising directly or indirectly from, in connection with or in respect of asbestos, asbestos fibres or derivatives of asbestos.

- (ii) Discovery outside the period of insurance

Crime Loss first **Discovered** prior to the commencement of the **Period of Insurance** or after the expiry of the **Period of Insurance**.

(iii) Dishonesty or fraud of director, partner or transaction party

Crime Loss arising directly or indirectly from, in connection with or in respect of any dishonest or fraudulent act committed by:

- (I) a **Sole Practitioner**;
- (II) a director or **Partner** of any entity shown in the **Certificate of Insurance**;
- (III) an employee, agent or **Associate** of any entity shown in **Certificate of Insurance** acting in collusion with a person specified in (I) or (II) above; or
- (IV) a **Transaction Party** acting in collusion with a person specified in (I) or (II) above.

(iv) Extra costs or losses

other than any amount covered under clause 3(c) of this Section 2, the following losses:

- (I) loss of income or revenue, potential income or earning capacity, interest, profits or dividends, whether or not earned or accrued;
- (II) loss of opportunity;
- (III) contractual penalties;
- (IV) changes in property value;
- (V) accommodation costs;
- (VI) loss caused by business interruption or disruption;
- (VII) loss caused by delay;
- (VIII) lack of performance;
- (IX) loss of contract;
- (X) loss of production;
- (XI) loss of use;
- (XII) loss of staff;
- (XIII) depreciation in value;
- (XIV) damages of any type such as punitive, exemplary or aggravated damages; or
- (XV) any other loss not covered under clause 1 or clauses 3(a), 3(b) and 3(c) of this Section 2.

(v) Loss of records

loss of or damage to records, manuscripts, accounts, microfilms, tapes or other records or the cost of reproducing any information contained in such lost or damaged records.

(vi) Loss sustained after discovery

Crime Loss, or any part of **Crime Loss**, caused by an employee or agent of the entity shown in the **Certificate of Insurance**:

- (I) sustained after **Discovery** of any fraudulent or dishonest act committed by that employee or agent; and
- (II) which could reasonably have been foreseen and prevented by the Insured.

(vii) Retroactive date

Crime Loss sustained prior to the **Crime Retroactive Date**.

(viii) Acting outside of scope of Victorian conveyancing licence

Crime Loss arising directly or indirectly from, in connection with or in respect of any conveyancing work that is outside the scope of the Insured's conveyancing licence issued by Victoria's Business Licensing Authority.

(ix) War and terrorism

Crime Loss arising directly or indirectly from, in connection with or in respect of:

- (I) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power;
- (II) any **Act of Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence; or
- (III) any action taken in controlling, preventing, suppressing or in any way relating to any **Act of Terrorism**.

(x) Benefits due to you

amounts which are due to the Insured as a fee or any other kind of benefit.

(xi) Unjust enrichment

any payment to or for the benefit a person or any entity own or controlled by a person who committed or condoned any dishonest or fraudulent act that caused the **Crime Loss**, provided that this exclusion shall not apply until such conduct is established by a formal written admission by the person or final, non-appealable adjudication of a judicial or arbitral tribunal.

(b) Sanctions

The Insurer will not provide any cover, pay any claim, make any payment (including any refund), or provide any benefit under this Policy, if doing so will expose the Insurer to, or contravene or violate any sanction, prohibition, restriction, proscription or prevention under any sanctions, laws or regulations, including but not limited to sanctions, laws or regulations of Australia, New Zealand, the European Union, the United Kingdom or the United States of America or those set out in any United Nations resolutions.

Section 3: General conditions

Where the effect of a term in this **Contract of Insurance** is that the Insurer may refuse to pay a claim by reason of something the Insured or another person did or did not do after this policy was entered into then, in accordance with the Insurance Contracts Act 1984 (Cth), the Insurer may:

- (a) refuse to pay a claim, but only to the extent that such act or failure caused or contributed to the loss which gives rise to the claim; or
- (b) reduce the payment of a claim, but only by an amount that fairly represents the extent to which the Insurer's interests are prejudiced by the act or failure.

In the event of any conflict between the above and Section 5 'Special condition - fraudulent claims and non-compliance', Section 5 shall prevail.

1. Excess

- (a) With respect to the indemnities provided in respect of **Claims**:
 - (i) The **Excess** is payable by the Insured in respect of any compensation or **Claimant's Costs** arising out of or in respect of any one **Claim** made against the Insured.
 - (ii) The **Excess** is deducted from compensation or **Claimant's Costs** payable before the application of the **Limit of Indemnity**.
 - (iii) The Insured is liable for the amount of any compensation or **Claimant's Costs** that are collectively less than the **Excess** for each **Claim**.
- (b) With respect to the indemnities provided in respect of **Crime Loss**:
 - (i) The Insured is liable for the amount of any one **Crime Loss** that is less than the **Excess**; and
 - (ii) The **Excess** is deducted from **Crime Loss** payable before the application of the **Limit of Indemnity**.
- (c) The method for payment of the **Excess** will depend on the particular circumstances of the **Claim**, for example:
 - (i) The Insurer may pay the amount of compensation, **Claimant's Costs** or **Inquiry Costs** that is less than the **Excess**, and then require repayment of this amount from the **Firm** or **Sole Practitioner**;
 - (ii) The Insurer may deduct the amount of the **Excess** from the amount payable by the Insurer to the Insured; or
 - (iii) The Insurer may require the **Firm** or **Sole Practitioner** to pay the **Excess** directly to a third party.

2. Conduct of claim and crime loss

- (a) The Insurer has the right and full discretion, but is not obligated to, at their own expense and at any time to take over and conduct in the Insured's name (including in relation to insured, underinsured and uninsured losses):
 - (i) the defence, investigation or settlement of any **Claim** or investigation relating to an **Inquiry Notice** and the conduct of any proceedings arising from any **Claim**; and
 - (ii) the investigation or payment of any **Crime Loss** and the conduct of any proceedings arising from any **Crime Loss**.
- (b) The Insurer reserves entirely their rights under this **Contract of Insurance**, including their right to agree or deny cover while they assess a **Claim**, **Inquiry Notice** or **Crime Loss**, conduct the defence of any **Claim** or **Inquiry Notice**, or conduct any investigation of **Crime Loss**. The Insurer's rights under this **Contract of Insurance** are not affected if they do not conduct the defence of a **Claim** or **Inquiry Notice**, or the investigation of **Crime Loss**.
- (c) If the Insured disputes the Insurer's approach to defending the **Claim** or **Inquiry Notice**, the Insured and the Insurer shall endeavour to settle this dispute by mediation administered by the Australian Disputes Centre ("ADC") before having recourse to arbitration or litigation.

The mediation shall be conducted in accordance with the ADC Guidelines for Commercial Mediation ("Guidelines") operating at the time the matter is referred to ADC. The terms of the Guidelines are hereby deemed incorporated into this **Contract of insurance**.

3. Claims settlement and crime loss payment

(a) The Insured must not:

- (i) settle or offer to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability in respect of any **Claim**; or
- (ii) pay or offer to pay any **Crime Loss**, incur any expenses under Section 2 clause 3(a) 'Fraud investigator expenses' or Section 2 clause 3(b) 'Crime loss prevention expenses' or otherwise assume any contractual obligation in respect of any **Crime Loss**; or
- (iii) admit any liability in respect of any **Crime Loss**,
without the Insurer's prior consent.

(b) If the Insured objects to a proposal by the Insurer to settle or compromise any **Claim** payable under this **Contract of Insurance** and wishes to contest or litigate the matter, then the Insured may so elect, but the Insurer's liability in respect of any such **Claim** so contested or litigated will not exceed the amount for which, but for such election, it could have been settled or compromised by the Insurer, together with **Defence Costs** payable in accordance with the terms of this **Contract of Insurance** and incurred up to the time of such election, subject to the **Excess** and to the **Limit of Indemnity**.

(c) If the Insured objects to a proposal by the Insurer to resolve any **Inquiry Notice** covered under this **Contract of Insurance** and wishes to contest the matter, then the Insured may so elect, but the Insurer's liability for **Inquiry Costs** in respect of any such **Inquiry Notice** so contested will not exceed the amount which, but for such election, would have been incurred by the Insurer to resolve the matter, subject to the **Excess** and the limit specified in clause 3(b)(iv) of Section 1 of this **Contract of Insurance**.

4. When you have to notify the insurer

(a) The Insured must give notice to the Insurer as soon as reasonably practicable within the **Period of Insurance** of any:

- (i) **Claim** made during the **Period of Insurance** against the Insured;
- (ii) **Inquiry Notice** received by the Insured; and
- (iii) **Discovery** of any **Crime Loss**.

Every legal document or other communication received by the Insured (including letters, demands, writs, summons and legal processes) relating to such **Claim** or **Inquiry Notice** shall be forwarded to the Insurer as soon as reasonably practicable after receipt.

All notifications to the Insurer, including but not limited to **Claims** and any legal documents and other communications specified above, must be sent to the 'Claims notification address' specified in the **Certificate of Insurance**.

(b) Either at the time of or following notification of **Discovery** of a **Crime Loss**, the Insured must as soon as reasonably practicable, provide the Insurer with the following information:

- (i) the nature and particulars of the event that has or may give rise to a **Crime Loss**;
- (ii) the likely quantum of the **Crime Loss**; and
- (iii) affirmative proof of the **Crime Loss**, with full particulars of the **Transaction Funds** involved.

5. Your duty to assist

(a) The Insured must cooperate and provide the Insurer with reasonable assistance in connection with any investigation, negotiation, recovery, defence and legal proceeding or settlement of a **Claim**, **Inquiry Notice** or **Crime Loss**. This assistance may include:

- (i) lodging a police report;
- (ii) providing a more detailed version of facts, including signing statements and affidavits;
- (iii) providing further information, evidence and documentation;
- (iv) attending court or meetings with appointed legal or other experts;
- (v) making available **Partners**, directors and employees for interviews, meetings and court attendance;
- (vi) providing contact details of individuals (if available) who may have information that is relevant to the **Claim** (to the extent that the provision of such details would not breach any legally enforceable privacy or confidentiality requirement);
- (vii) providing access to systems and records (to the extent that doing so would not breach any legally enforceable privacy or confidentiality requirement).

Any of the Insured's costs to comply with the above requirements shall be borne by the Insured, unless otherwise covered under the **Contract of Insurance**.

- (b) The Insured must where reasonably practicable, take steps to avoid or diminish further **Crime Loss**, for example, but not limited to:
- (i) stopping use of processes or documentation which the Insured suspects may have contributed to the **Crime Loss**;
 - (ii) checking the functionality of any standard measures, processes or procedures (for example, risk control processes) in place to prevent **Crime Loss**;
 - (iii) avoiding confrontational engagement with an aggravated claimant;
 - (iv) maintaining a detailed record of all communications with any party about the **Crime Loss**;
 - (v) in the case of a **Firm**, taking steps a reasonable person in the **Firm's** position would take (for example, suspending an employee) where the **Firm** has confirmed or suspects dishonesty or a fraudulent or malicious act or omission has contributed to the **Crime Loss**.
- Any of the Insured's costs to comply with the above requirement shall be borne by the Insured, unless otherwise covered under the **Contract of Insurance**.
- (c) The Insurer may undertake any investigation as is reasonably required in relation to the **Claim, Inquiry Notice or Crime Loss**.

6. Governing law

This **Contract of Insurance** will be governed in accordance with the laws of the State of Victoria. Any disputes relating to interpretation will be submitted to the exclusive jurisdiction of the courts of Australia.

7. Severability

Where this **Contract of Insurance** insures more than one party, any failure on the part of any of the parties to:

- (a) comply with the Duty of Disclosure in terms of the Insurance Contracts Act 1984 (Cth);
- (b) comply with any obligation in terms of this **Contract of Insurance**; or
- (c) refrain from conduct which is dishonest, fraudulent, criminal or malicious,

shall not prejudice the right of the remaining party or parties to indemnity in terms of this **Contract of Insurance**, provided that such remaining party or parties shall:

- (i) be entirely innocent of and have had no prior knowledge of any such failure; and
- (ii) as soon as reasonably practicable after becoming aware of any such failure, advise the Insurer in writing of all its relevant circumstances.

8. Non imputation

For the purpose of determining coverage under this **Contract of Insurance** including without limitation, the application of any exclusion:

- (a) no state of mind or knowledge or information possessed by any Insured (whether before or after inception of this **Contract of Insurance**) shall be imputed any other Insured;
- (b) no act, statement, representation, conduct, breach, contravention, error or omission of any Insured (whether before or after inception of this **Contract of Insurance**) shall be imputed to any other Insured; and
- (c) the proposal will be construed as a separate proposal by each Insured.

9. Notices

Notices to the Insurer, other than notifications pursuant to Section 3 clause 4 'When you have to notify the insurer', shall be deemed to be properly made if given to Vero Insurance, Professional and Financial Risks, GPO Box 115, Sydney, NSW, 2001.

10. Disputes

Except as provided for in clause 2 of this Section 3, any dispute or disagreement between the Insured and the Insurer arising out of or in connection with this **Contract of Insurance** shall, at the Insured's and the Insurer's request, be referred to a sole arbitrator appointed by the Insured and the Insurer or, failing agreement between the Insured and the Insurer, by the President of the Insurance Council of Australia Limited for the time being whose decision shall be final and binding upon both parties, provided that the agreement to refer a dispute or disagreement to arbitration is made after the dispute or disagreement has arisen.

11. Fraudulent claims or crime losses

- (a) Where a claim is made fraudulently, the Insurer may refuse payment of the claim but where only part of the claim is fraudulent, the Insurer shall not refuse payment in respect of that part of the claim which is not fraudulent.
- (b) If the Insured fraudulently seeks payment for an actual or alleged **Crime Loss**, the Insurer may refuse payment of the **Crime Loss** but only for that portion of the **Crime Loss** for which fraudulent payment is sought.

12. Jurisdiction and service of suit

Notwithstanding anything contained in the General Condition 10 above, the Insurer agrees that:

- (a) In the event of a dispute arising under this **Contract of Insurance**, the Insurer at the Insured's request will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.
- (b) The Insurer will accept service of legal documents (including subpoenas, writs and garnishee orders) in person at its Registered Office or via post or email at the following addresses:
 - (I) In person: Vero Insurance, Registered Office, Level 23, 80 Ann Street, Brisbane Qld 4000;
 - (II) Post: The Proper Officer, Court Process Desk, Vero Insurance, GPO Box 1453, Brisbane Qld 4001;
 - (III) Email: CourtProcessDesk@suncorp.com.au
- (c) If a suit is instituted against the Insurer, the Insurer will abide by the final decision of any competent Court or any competent Appellate Court in the Commonwealth of Australia.

13. Goods and services tax

As part of the premium, the Insurer will charge the Insured an amount on account of GST, stamp duty and any other government charges and levies that apply. The premium also includes any discounts the Insurer has given the Insured, and these discounts are applied before the addition of any applicable government taxes and charges.

The Insured must tell the Insurer about the input tax credit (ITC) the Insured is entitled to for the Insured's premium and claim, each time the Insured makes a claim. If the Insured does not give the Insurer this information or if the Insured tells the Insurer an incorrect ITC, the Insurer will not pay any GST liability the Insured incurs.

The Insurer's liability to the Insured will be calculated taking into account any ITC to which the Insured is entitled for any acquisition which is relevant to the claim, or to which the Insured would have been entitled had the Insured made a relevant acquisition.

In respect of the Insured's policy, where the Insured is registered for GST purposes the Insured should calculate the insured amount having regard to the Insured's entitlement to input tax credits. The Insured should, therefore, consider the net amount (after all input tax credits) which is to be insured and determine an insured amount on a GST exclusive basis.

This outline of the effect of the GST on the Insured's policy is for general information only. The Insured should not rely on this information without first seeking expert advice on the application of the GST to the Insured's circumstances.

'GST', 'input tax credit' and 'acquisition' have the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

14. Basis of valuation of crime loss

The Insurer will be liable for the value of lost **Transaction Funds** at the time of **Crime Loss**. In respect of **Crime Loss** of **Transaction Funds** in a currency other than the Australian dollar, the Insurer will not be liable for more than the value of any such foreign currency calculated in Australian dollars at the rate of exchange published in The Australian Financial Review as the wholesale market closing rate on the date or date nearest to the date when the **Crime Loss** was **Discovered**.

15. Recovery rights

- (a) The Insured will not, without the Insurer's prior consent, enter into:
 - (i) any agreement whereby the Insured releases, agrees not to sue on, waives or prejudices any rights to recover from a person or organisation who is or could have been liable to compensate the Insured for any loss, damage or legal liability;
 - (ii) any deed or agreement excluding, limiting or delaying the legal rights of recovery against another party;
 - (iii) any arrangement or compromise or do any act whereby any rights or remedies to which the Insurer would be subrogated in respect to such loss, damage or legal liability are or may be prejudiced.

Where the Insured does not comply with the above, the Insurer may not cover the Insured under this **Contract of Insurance** for any such loss, damage or legal liability.

- (b) In the event of any payment under this **Contract of Insurance**, the Insurer will be subrogated to all the Insured's rights of recovery against any person or organisation.

The Insurer has the right and full discretion but is not obligated to take over and conduct in the Insured's name any recovery action (including in relation to insured, uninsured and underinsured losses). The Insurer may engage legal or other representatives to assist in the conduct of any recovery action.

The Insurer waives any rights of subrogation against the Insured save where those rights arise in connection with a dishonest or criminal act by the Insured.

16. Crime loss recoveries

In the event of any payment in respect of a **Crime Loss**:

- (a) The Insured must, if requested by the Insurer, take all reasonable steps to help in the recovery of the **Crime Loss** from any person committing or condoning the dishonest or fraudulent act or from the legal representatives of such person. This help may include:
 - (i) providing a more detailed version of events including completing a diagram or statement/affidavit;
 - (ii) lodging a police report;
 - (iii) filing searches to locate the person or their legal representative;
 - (iv) attending court (only if required); or
 - (v) providing evidence and documentation relevant to the **Crime Loss** and executing such documents, including signed statements which the Insurer reasonably requests; and
- (b) to the extent allowed by law, the Insurer will deduct the following from any amount payable in respect of **Crime Loss** caused by or resulting from a dishonest or fraudulent act:
 - (i) any monies which but for such dishonest or fraudulent act would be due from the Insured to the person committing or condoning such act, but only to the extent that the Insured has the right to offset such amounts against the **Crime Loss**; and
 - (ii) any monies held by the Insured and belonging to such person, but only to the extent that the Insured has the right to offset such amounts against the **Crime Loss**; and
 - (iii) any monies recovered under (a) above,and all such monies will be applied towards reducing the amount of the **Crime Loss**.

17. Allocation of recoveries

All recoveries obtained from other parties will be allocated, after the settlement of any **Claim** under this **Contract of Insurance**, as follows:

- (a) firstly, to the Insured's benefit to reduce or extinguish the amount of compensation, **Claimant's Costs** or **Defence Costs** to the extent that such amounts would have been paid under this **Contract of Insurance** but for the fact that such amounts exceed the sum of:
 - (i) the **Limit of Indemnity**, or the amount of any specified limit applicable to a specific clause where applicable; and
 - (ii) the **Excess** where applicable; and
- (b) secondly, to the benefit of the Insurer for all sums paid in settlement, defence or investigation of any **Claim** under this **Contract of Insurance**;
- (c) thirdly, to the Insured's benefit for the **Excess** under this **Contract of Insurance**.

All recoveries will be applied as above only after deduction of the reasonable cost of obtaining such recovery. All recoveries made prior to settlement of any **Claim** under this **Contract of Insurance** will be held for the benefit of the Insurer and applied as stated above after settlement if any is made.

Recoveries do not include any amount recovered from insurance, surety, reinsurance, security or indemnity taken for the benefit of the Insurer.

18. Allocation of loss

(a) When this clause applies

This clause applies to any civil liability for compensation and **Claimant's Costs**, **Defence Costs** and compensation for court attendance in respect of any **Claim**, **Inquiry Costs** and **Crime Loss** (referred to collectively as "Loss" under this clause), which is either or both:

- (i) in respect of more than one person or entity (at least one of whom is an Insured), whether jointly or severally; or
 - (ii) partly covered and partly not covered under this **Contract of Insurance**;
- (together "Loss to be Allocated").

The Insurer must decide a fair and reasonable allocation of the covered part of the Loss to be Allocated among the relevant Insureds and the Insurer having regard to the extent of each Insured's comparative responsibility for the Loss to be Allocated.

(b) What the insurer must take into account when deciding loss to be allocated

The Insurer's consideration of what is fair and reasonable shall include without limitation, the following factors:

- (i) the nature of the **Claim** against, **Inquiry Notice** against or **Crime Loss** sustained by each Insured;
- (ii) the issues of fact and law in relation to each Insured;

- (iii) the content and the manner of the conduct of any defence of the **Claim** or **Inquiry Notice**;
- (iv) the relative degree of personal responsibility for the Loss;
- (v) the extent to which the Insured's responsibility for the Loss is joint, several or shared;
- (vi) the extent to which any person or entity, other than that Insured, would obtain a benefit from the payment by the Insurer;
- (vii) the extent to which the Loss is solely of that Insured;
- (viii) the extent to which the issues in the **Claim** against, **Inquiry Notice** against or **Crime Loss** sustained by that Insured are in common with the issues in the **Claim** against, **Inquiry Notice** against or **Crime Loss** sustained by any other person or entity;
- (ix) the extent to which the Loss is partly covered and partly not covered under this **Contract of Insurance**; and
- (x) in the event of a settlement, the likely comparative responsibility had the settlement not occurred.

(c) If the insured does not agree with the insurer's decision relating to the allocation of loss

If the Insured wishes to dispute the Insurer's decision in respect of allocation, each party agrees that the dispute must be referred for expert determination in accordance with the ADC Rules for Expert Determination ("Rules") available on the ADC's website, to an expert agreed by the parties, or if the parties do not agree on an expert, an expert appointed by the ADC in accordance with the Rules.

Each party agrees to sign an agreement with the expert that confirms the following matters, unless contrary to the Rules or the requirements of the ADC:

- (i) the payment of fees for the appointed expert (Note: refer to 'Cost of the expert determination' below for more information);
- (ii) the expert may:
 - (I) consider relevant industry practice;
 - (II) consider all information presented to the expert by either party;
 - (III) request more information from either party;
 - (IV) request a meeting with the parties (to which they may bring their legal representatives or other persons with information or knowledge relevant to the determination) (Note: in accordance with the Rules, the meeting is not a hearing);
- (iii) the expert must provide a determination, subject to receiving all information required, within thirty days after the agreement is signed, unless:
 - (I) another time is agreed between the parties, in which case the agreement will provide for this timeframe; or
 - (II) the expert must comply with a timeframe as set by the ADC, in which case the agreement will provide for this timeframe;
- (iv) the expert must provide written reasons for the determination;
- (v) the expert's decision will be binding on the parties and final; and
- (vi) the liability of the expert to either party (including liability for negligence) will be excluded to the full extent permitted by law.

This allocation applies for all purposes under this **Contract of Insurance** including in relation to any advancement of costs.

Any allocation of Loss will not apply to or create a presumption with respect to the allocation of other Loss on account of such **Claim** or **Crime Loss**.

(d) Cost of the expert determination

The Insurer will pay for the cost of the expert determination above, including the Insured's share of the costs.

The ADC may require each party to bear the cost of the expert determination in equal proportions and require each party to individually pay their share of any cost required directly (including any fee, deposit or other amount charged). Where this is required, the Insured must pay the costs accordingly and the Insurer will separately reimburse the Insured for the cost of the expert determination.

Section 4: Aggregation of claims and crime losses

- (a) All **Claims** arising out of, based upon, attributable to or in respect of a single act, error or omission or series of related acts, errors or omissions consequent upon or attributable to one source or original cause shall be considered to be a single **Claim** and shall attract one **Limit of Indemnity** and one **Excess**.
- (b) All **Crime Loss** sustained as a result of the same or causally related acts, causes or events will be deemed to be one **Crime Loss** regardless of when during the **Period of Insurance** or prior thereto such acts occurred and shall attract one **Limit of Indemnity** and one **Excess**.

- (c) If a **Claim** and **Crime Loss** both arise from or are both in respect of the same or causally related acts, causes or events:
 - (i) the combined liability of the Insurer under Section 1 and Section 2 for that **Claim** and **Crime Loss** will not exceed the **Limit of Indemnity** shown in the **Certificate of Insurance**; and
 - (ii) The Insured shall only be liable for one **Excess** in respect of that **Claim** and **Crime Loss**.

Section 5: Special condition – fraudulent claims and non-compliance

- (a) Subject to clause 11 'Fraudulent claims or crime losses' of Section 3, the Insurer will not:
 - (i) seek to avoid, repudiate or rescind this **Contract of Insurance** upon any ground whatsoever, including in particular non-disclosure or misrepresentation; or
 - (ii) reject or reduce the quantum of any **Claim** or **Crime Loss** payment because of any non-disclosure or misrepresentation.
- (b) Where the Insured's breach of or non-compliance with any condition of this **Contract of Insurance** has resulted in prejudice to the handling or settlement of any **Claim** against the Insured for which the Insured is insured, the Insurer's liability in respect of the **Claim** is reduced by the amount that fairly represents the extent to which the Insurer's interests were prejudiced as a result of the Insured's breach or non-compliance. If the Insurer has already fully indemnified the Insured in accordance with the terms of this insurance, then the Insured shall reimburse the Insurer the difference between the sum payable by the Insurer in respect of that **Claim** and the sum which would have been payable in the absence of such prejudice.
- (c) Where the Insured's breach of or non-compliance with any condition of this **Contract of Insurance** has resulted in prejudice to the investigation, recovery or payment of any **Crime Loss** for which the Insured is insured, the Insurer's liability in respect of the **Crime Loss** is reduced by the amount that fairly represents the extent to which the Insurer's interests were prejudiced as a result of the Insured breach or non-compliance. If the Insurer has already fully indemnified the Insured in accordance with the terms of this insurance, then the Insured shall reimburse the Insurer the difference between the sum payable by the Insurer in respect of that **Crime Loss** and the sum which would have been payable in the absence of such prejudice.

Section 6: Interpretation

In this **Contract of Insurance**, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) the male gender includes the female and vice versa;
- (c) where an expression is defined for the purpose of this **Contract of Insurance**, any other grammatical form of the expression has the same meaning;
- (d) headings are merely descriptive and not an aid to interpretation;
- (e) references to an amount of money are references to that amount in Australian dollars; and
- (f) a reference to any legislation includes all delegated legislation made under it and any amendment, consolidation, re-enactment, replacement or successor of such legislation.

Section 7: Definitions

For the purpose of this **Contract of Insurance**:

- (a) "**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), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government or to put the public, or any section of the public, in fear.
- (b) "**Associate**" has the meaning in section 6 of the Conveyancers Act 2006 (Victoria).
- (c) "**Certificate of Insurance**" means the current certificate of insurance issued by the Insurer to the **Firm**, **Sole Practitioner** or other legal entity of which a **Conveyancer** is an employee, **Associate**, director or principal.
- (d) "**Claim**" means any demand made by a third party upon the Insured for compensation, however conveyed, including a writ, statement of claim, application or other legal or arbitral process.
- (e) "**Claimant's Costs**" means legal costs and expenses the Insured is liable to pay to the person making a **Claim** against the Insured.
- (f) "**Computer System**" means any computer, hardware, software, communications system, electronic device (including but not limited to smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output or data storage device, networking equipment or backup facility.
- (g) "**Contract of Insurance**" means the contract of insurance set out in Part 3 of this document.

- (h) **“Conveyancer”** means a person, who is licensed to carry out conveyancing work under the Conveyancers Act 2006 (Victoria) and includes a corporation.
- (i) **“Crime Loss”** means loss of **Transaction Funds** caused by any dishonest or fraudulent act committed by a person (whether acting alone or in collusion with any other person), with the intent to cause such loss to occur or to obtain a financial gain, whether for themselves or any other person.
- (j) **“Crime Retroactive Date”** means the Crime Retroactive Date shown in the **Certificate of Insurance**.
- (k) **“Cyber Act”** means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **Computer System**.
- (l) **“Damaging Factor”** means bacteria, rot, decay, micro-organisms, protozoa or similar forms.
- (m) **“Data”** means information, facts, concepts, code or any other information of any kind that is converted, recorded or transmitted in a form to be accessed, communicated, displayed, distributed, interpreted, processed, transmitted, stored or used in or by a **Computer System**.
- (n) **“Defence Costs”** means the costs and expenses incurred by the Insurer, or by the Insured, in defending, investigating or settling any **Claim** (not being **Inquiry Costs** or **Claimant’s Costs**).
- (o) **“Discovered/Discovery”** means the date when the **Sole Practitioner** or director, **Partner** or senior manager of any entity shown in the **Certificate of Insurance**, not in collusion with any person committing any dishonest or fraudulent act, first becomes aware of facts which would cause a reasonable person in the circumstances to believe that **Crime Loss** covered by this **Contract of Insurance** has occurred, or is likely to occur, regardless of when the act or acts causing or contributing to such **Crime Loss** occurred and even though the exact amount or details of **Crime Loss** may not then be known.
- (p) **“Documents”** means deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature (excluding any bearer bonds, coupons, bank or currency notes or other negotiable instruments) whether in physical or electronic form or format, which is the property of the Insured or for which the Insured is responsible.
- (q) **“Excess”** means:
 - (i) in respect of insuring clause 1 of the **Master Policy**, the amount specified as the Excess in clause B.1.5 of the **Master Policy**;
 - (ii) in respect of insuring clause 2 of the **Master Policy**, the amount specified as the Excess in clause B.2.5 of the **Master Policy**;
 - (iii) in respect of insuring clause 3 of the **Master Policy**, the amount specified as the Excess in clause B.3.5 of the **Master Policy**.
- (r) **“Firm”** means the firm, as from time to time constituted, carrying on the **Practice**, which firm is identified as the Insured on the **Certificate of Insurance**.
- (s) **“Former Conveyancer”** means a person or entity who has ceased by reason of death, retirement or otherwise to practice in a conveyancing **Practice** or business and who has at any time been insured under the **Master Policy** or any master policy issued by the Insurer of which the **Master Policy** is a replacement.
- (t) **“Fungi”, “Mould” and “Mildew”** means any type or form of fungi, mould or mildew and includes any mycotoxins, allergens, volatile organic compounds, spores, scents, or by-products of any sort produced or released by such fungi, mould or mildew.
- (u) **“Inquiring Body”** means any official body or institution empowered by law to investigate the professional conduct of the Insured including but not limited to Consumer Affairs Victoria, a coroner’s court, statutory regulatory body, tribunal or legally constituted industry or professional board but excluding any Royal Commission, parliament or any committee of a parliament.
- (v) **“Inquiry Costs”** means the legal costs and expenses (not being Defence Costs) incurred by the Insurer, or by the Insured:
 - (i) arising out of any notice from an **Inquiring Body** requiring or inviting the Insured’s response to or attendance at an inquiry or hearing held before an **Inquiring Body**;
 - (ii) in responding to any notice from a Royal Commission; or
 - (iii) arising out of any notice from a Royal Commission requiring the Insured’s attendance at an investigation, inquiry or hearing held before that Royal Commission.
- (w) **“Inquiry Notice”** means any notice that may result in the Insured incurring **Inquiry Costs**.
- (x) **“Institute”** means the Australian Institute of Conveyancers (Victoria Division) Inc.
- (y) **“Insured”** means:
 - (i) in respect of insuring clause 1 of the **Master Policy**, the **Institute**;
 - (ii) in respect of insuring clause 2 of the **Master Policy**, the parties specified as the Insured in clause B.2.1 of the **Master Policy**;
 - (iii) in respect of insuring clause 3 of the **Master Policy**, the parties specified as the Insured in clause B.3.1 of the **Master Policy**.

(z) **“Insurer”** means AAI Limited trading as Vero Insurance ABN 48 005 297 807.

(aa) **“Limit of Indemnity”** means:

- (i) in respect of insuring clause 1 of the **Master Policy**, the amount specified as the Limit of Indemnity in clause B.1.4 of the **Master Policy**;
- (ii) in respect of insuring clause 2 of the **Master Policy**, the amount specified as the Limit of Indemnity in clause B.2.4 of the **Master Policy**;
- (iii) in respect of insuring clause 3 of the **Master Policy**, the amount specified as the Limit of Indemnity in clause B.3.4 of the **Master Policy**.

The **Limit of Indemnity** stated in the **Master Policy** and in any **Certificate of Insurance** is exclusive of GST to the extent the Insured is entitled to claim an input tax credit.

(ab) **“Master Policy”** means the contract of insurance set out in Part 2 of this document.

(ac) **“Partner”** means any Associate held out by the Firm as a partner in the Firm.

(ad) **“Period of Insurance”** means:

- (i) in respect of insuring clause 1 of the **Master Policy**, the period specified as the Period of Insurance in clause B.1.3 of the **Master Policy**;
- (ii) in respect of insuring clause 2 of the **Master Policy**, the period specified as the Period of Insurance in clause B.2.3 of the **Master Policy**;
- (iii) in respect of insuring clause 3 of the **Master Policy**, the period specified as the Period of Insurance in clause B.3.3 of the **Master Policy**.

(ae) **“Practice”** means the practice of licensed conveyancing in Victoria undertaken as part of a conveyancing business in accordance with the Conveyancers Act 2006 (Victoria) carried out by the Insured or the Insured’s predecessors alone or with others, as well as individual components of a licensed conveyancing transaction including but not limited to performing a Verification of Identity in accordance with the Registrar’s Requirements pursuant to S.106A of the Transfer of Land Act 1958 (Vic) published from time to time by Land Victoria, Department of Environment, Land, Water and Planning, and attending settlements where these services are offered as part of a conveyancing transaction only.

(af) **“Privacy Breach”** means an incident involving the unauthorised disclosure, loss, modification, misuse, interference or access of:

- (i) personal information, as defined in the Privacy Act 1988 (Cth) including any amendment, consolidation, re-enactment, replacement or successor of such legislation; or
- (ii) third party corporate information that is identified as confidential.

(ag) **“Sole Practitioner”** means the natural person who engages in the **Practice** on his or her own account and is identified as the Insured in the **Certificate of Insurance**.

(ah) **“Spouse”** means a lawful spouse, a domestic partner (including without limitation a same sex partner) or any person deriving similar status by reason of the common law or statute.

(ai) **“Transaction Funds”** means deposit or settlement funds for a property transaction for which the Insured is engaged to conduct the **Practice**.

Transaction Funds also includes any fees, commissions, taxes, duties and rates included as part of the deposit or settlement transaction.

(aj) **“Transaction Party”** means a party to the property transaction for which the Insured is engaged to conduct the **Practice**, including any authorised agent or legal representative of such party.

End of Policy Wording

