



LEXi
Legal Expenses Insurance
for the Building & Construction Industry
POLICY WORDING
EDGE_LEXI_20150630 (Construction)

Coverholder at **LLOYD'S**

IMPORTANT NOTICES

Insurer's Notice to the Insured:

(These notices are subject to and do not affect the provisions of this Policy)

1. Non-Standard Policy

The terms and conditions of this Commercial Legal Expenses Insurance are distinct and exclusive from the terms and conditions of all other business insurances arranged by us. It may contain provisions which are unusual or different from any other policies and you should read the entire Policy carefully prior to entering into any contract.

2. Legal Advice

You can e-mail the Advice Provider via pfb@legalaccess.com.au for legal advice on any problem related to your business, trade or profession. The advice available is limited to the law and practice in Australia. This insurance is only available to an Insured whose Normal Business Activities are conducted within the Territorial Limits.

3. Claims Made and Notified

3.1 This is a "claims made and notified" insurance policy, which means that it provides cover only in relation to a Claim against you that is:

- (a) first made against you during the Period of Insurance; and
- (b) notified by you to the Claims Administrator during the Period of Insurance,

provided that you were not aware before the commencement of the Period of Insurance of any facts that alerted you or would have alerted a reasonable person in your position that the Claim might arise (see Condition 2 and Exclusion 12).

3.2 This Policy also responds to "claims circumstances" notified by you to the Claims Administrator during the Period of Insurance pursuant to section 40(3) of the Insurance Contracts Act 1984 (Cth), which provides:

'Where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract.'

3.3 This insurance also provides cover in relation to a Claim made by you against another, but only if:

- 3.3.1 you first become aware of facts and circumstances giving rise to the Claim during and not before the Period of Insurance; and
- 3.3.2 you first notify the Claims Administrator of those facts and circumstances and your intention to make the Claim during the Period of Insurance.

3.4 This Policy does not provide cover for any legal costs or expenses that you incur before the Claims Administrator accepts the Claim.

- 3.5 Please note that, in addition to Condition 2, special conditions dealing with the reporting of claims apply to claims under the Statutory Licence Protection and Tax Disputes covers – see Sections 6 and 8 of “Insuring Clause”.

4. Your Duty of Disclosure

- 4.1 Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer’s decision whether to accept the risk of the insurance and, if so, on what terms.
- 4.2 You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.
- 4.3 Your duty however does not require disclosure of a matter:
- that diminishes the risk to be undertaken by the insurer;
 - that is of common knowledge;
 - that your insurer knows or, in the ordinary course of his business, ought to know;
 - as to which compliance with your duty is waived by the insurer.
- 4.4 Non-disclosure
- 4.4.1 If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce his liability under the contract in respect of a claim or may cancel the contract.
- 4.4.2 If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

5. Material Alterations of Risk

- 5.1 You shall throughout the Period of Insurance disclose to us as soon as reasonably practicable any material change in any fact, activity or circumstance as described in the Proposal.
- 5.2 The Insurer is entitled to refuse to cover the additional exposure or to charge a reasonable additional premium or, if the nature of the change in circumstances entails a substantially different risk, whether in type or degree, from that previously envisaged, to cancel the contract or reduce its liability.

6. Waived Recourse Rights

Please note that the Policy excludes any Claim or Claims where and to the extent Insurers have or would have rights of recourse in respect of such Claim but you have granted without the Insurer’s prior consent a waiver of such recourse rights to others whether by express term or by reason of an assumption of liability under contract.

7. Enquiries, Complaints or Disputes

About Lloyd’s

Lloyd’s is the world’s specialist insurance and reinsurance market, bringing together an outstanding concentration of underwriting expertise and talent. Over 80 syndicates underwrite insurance at Lloyd’s, covering all classes of business. Together they interact with thousands of brokers daily to create insurance solutions for businesses in over 200 countries and territories around the world.

In Australia, Lloyd's is proud to be a member of the Insurance Council of Australia. Lloyd's has adopted the General Insurance Code of Practice subject to certain specific qualifications. You can obtain a copy of the code at www.codeofpractice.com.au

Our aim is to provide the highest service to our Australian policyholders and, to this end, we have developed the following procedures for the fair handling of complaints from Lloyd's policyholders.

How can we help you?

There are established procedures for dealing with complaints and disputes regarding your policy or claim. All policyholders can take advantage of the complaints service, as can third-party motor vehicle claimants who are uninsured and where the amount in dispute is less than \$5,000.

Stage 1

Any enquiry or complaint relating to a Lloyd's policy or claim should be addressed to either your Lloyd's insurance intermediary ("the coverholder") or to the administrator handling your claim in the first instance – in most cases this will resolve your grievance.

They will respond to your complaint within 15 business days provided they have all necessary information and have completed any investigation required. Where further information, assessment or investigation is required, they will agree to reasonable alternative timeframes with you. You will also be kept informed of the progress of your complaint.

Stage 2

In the unlikely event that this does not resolve the matter or you are not satisfied with the way your complaint has been dealt with, you should contact:

Lloyd's Australia Limited
Suite 2, Level 21 Angel Place
123 Pitt Street
Sydney NSW 2000
Telephone: (02) 9223 0752
Facsimile: (02) 9223 1466
Email: ldraustralia@lloyds.com

When you lodge your dispute with us, we will usually require the following information:

- Name, address and telephone number of the policyholder
- The type of insurance policy involved
- Details of the policy concerned (policy and/or claim reference numbers, etc)
- Name and address of the insurance intermediary through whom the policy was obtained
- Details of the reasons for lodging the complaint
- Copies of any supporting documentation you believe may assist us in addressing your dispute appropriately.

Following receipt of your complaint, you will be advised whether your dispute will be handled by either Lloyd's Australia or the Policyholder & Market Assistance Department at Lloyd's in London:

- Where your complaint is eligible for referral to the Australian Financial Ombudsman Service (FOS), your complaint will be reviewed by a person at Lloyd's Australia with appropriate authority to deal with your dispute.
- Where your complaint is not eligible for referral to the Australian FOS, Lloyd's Australia will refer your complaint to the Policyholder & Market Assistance Department at Lloyd's, who will then liaise directly with you.

How long will the Stage 2 process take?

Your complaint will be acknowledged in writing within 5 business days of receipt, and you will be kept informed of the progress of our review of your complaint at least every 10 business days.

The length of time required to resolve a particular dispute will depend on the individual issues raised, however in most cases you will receive a full written response to your complaint within 15 business days of receipt, provided we have received all necessary information and have completed any investigation required.

External Dispute Resolution

If your complaint is not resolved in a manner satisfactory to you or we do not resolve your complaint within 45 calendar days of receiving it at Stage 1, you may refer the matter to the Financial Ombudsman Service (FOS). FOS can be contacted by post GPO Box 3, Melbourne Vic 3001 or phone 1300 780 808, www.fos.org.au

FOS is an independent body that operates nationally in Australia and aims to resolve disputes between you and your insurer. Your dispute must be referred to the FOS within 2 years of the date of our final decision. Determinations made by FOS are binding upon us.

Clients not eligible for referral to the Australian FOS, may be eligible for referral to the Financial Ombudsman Service (UK). Such referral must occur within 6 months of the final decision by the Policyholder & Market Assistance Department at Lloyd's. Further details will be provided by the Policyholder & Market Assistance Department with their final decision to you.

How much will this procedure cost you?

This service is free of charge to policyholders.

8. Service of Suit

The Insurer agrees that in the event of a dispute arising under this policy, the Insurer will at your request 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.

Any summons notice or process to be served upon the Insurer may be served upon:

Lloyd's Underwriters' General Representative Australia
Suite 2
Level 21 Angel Place
123 Pitt Street
SYDNEY NSW 2000

who has authority to accept service and to enter an appearance on the Insurer's behalf, and who is directed at your request to give a written undertaking to you that he will enter an appearance on the Insurer's behalf.

9. Privacy

Edge Underwriting is committed to protecting the privacy of the personal information you provide to us. Edge Underwriting has implemented practices, procedures and systems to ensure that it collects, uses and retains your personal information in accordance with the Australian Privacy Principles.

We need to collect the personal information on the applicable proposal form to consider your application for insurance and to determine the premium (if your application is accepted) when you are applying for, changing or renewing an insurance policy with us. This information will also be used if you lodge a claim under your policy. We may also need to request additional information from you in connection with your application or a claim. If you do not provide us with this information, or any additional information we request, we may not be able to process your application or offer you insurance cover or respond to any claim. We may also need to use your personal information to comply with our legal obligations, for example laws relating to anti-money laundering.

We will usually collect personal information directly from you, or your broker, in different ways, including in writing, by telephone, by email, in person or over the internet. We may also collect your information from publically available sources of information, or from other parties such as your professional advisers, other insurers, our business partners, government bodies and anyone that you have authorised us to deal with.

Any personal information collected and stored within Edge Underwriting is secured using industry standard technology and processes.

We may disclose the personal information we collect:

- To our relevant employees involved in delivering our services;
- If your insurance broker collects this form from you, to that broker;
- To facilitators such as legal firms, professional experts such as accountants, actuaries, engineers and technology experts;
- To the insurance companies with whom we transact business;
- To the Lloyd's Syndicates we represent (which are located in the United Kingdom) ;
- To insurance reference bureau or credit reference bureau;
- To reinsurers or reinsurance brokers (which may include reinsurers located outside of Australia).

Where we do disclose the information as above the recipient may hold the information in accordance with its own privacy statement / policies. Those may include, by way of example, disclosing the information to, and storage of that information by, its associated entities which may be located overseas. (It is not practicable to provide a list of the countries in which such overseas recipients are likely to be located). We may also be required to provide your personal information to others for purposes of public safety and law enforcement and if required by law or by a law enforcement body to do so.

You may request access to your personal information, and where necessary, correct any errors in this information (some restrictions and costs may apply). If you would like to access a copy of your personal information or you wish to correct or update your personal information, please also contact us on (08) 9420 7900.

By completing and returning the proposal form and/or providing us with any additional information in connection with your application, you agree to us using and disclosing your information as set out above. This consent to the use and disclosure of your personal information remains valid unless you alter or revoke it by giving us written notice.

If you wish to make a complaint about any breach by Edge Underwriting of the Australian Privacy Principles, please send us the complaint in writing to david.jones@edgeundwerwriting.com.au. We will acknowledge your complaint within 7 days and respond to your complaint within 30 days.

From time to time, we may use your personal information to send you details of new insurance products or other insurance related information that may be of interest to you. If you do not wish to receive such information, please advise us on (08) 9420 7900.

10. Code of Practice

This policy is compliant with the Insurance Council of Australia's General Insurance Code of Practice, apart from any claims adjusted outside Australia. Edge Underwriting Agency Pty Ltd and Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry

A copy of the code is available from the Insurance Council of Australia's website at www.ica.com.au or from the Code's dedicated website at www.codeofpractice.com.au.

DEFINITIONS (words with special meaning)

In this Policy, unless the context otherwise requires, the following words and expressions shall bear the meaning set out below:

1. **Advice Provider**
means the person or company specified as 'Advice Provider' in the **Schedule** or appointed subsequently by the **Insurer**, who provides legal advice under this Policy on the **Insurer's** behalf.
2. **ADR**
means any form of legal dispute resolution alternative to or outside a proceeding in a **Court or Tribunal** agreed to by the **Insured** and **Claims Administrator**, including a mediation presided over by an independent mediator who is both accredited by LEADR, or registered with or endorsed by the Law Society or corresponding body of the appropriate State, and agreed to by the **Insured** and the other party.
3. **ADR Costs**
Means the portion payable by the **Insured**, or for the purposes of Section of Cover 3 by the **Employee**, of the fees, charges, expenses and disbursements in connection with a **Claim** which have been reasonably and properly charged by a mediator and/or other person appointed for the purposes of **ADR** including a **Preferred Practitioner**.
4. **Annual Aggregate Limit**
means the amount specified as 'Annual Aggregate Limit' in the **Schedule** being the maximum the **Insurer** will pay for all **Claims** notified under this **Policy** during the **Period of Insurance**.
5. **ATO**
means the Australian Taxation Office or appropriate government authority or state authority or agency authorised to conduct the relevant activity.
6. **ATO Investigation**
means an investigation into the **Insured's** taxation affairs by the **ATO** under **Income Tax Legislation**.
7. **Attendance Expenses**
means, subject to a limit of AUD\$2,500 per **Legal Action**, the **Limit of Indemnity** and the **Annual Aggregate Limit**, the salary or wages up to AUD\$125 per person per day of an **Employee, Partner** or **Director** paid by the **Insured** for the period he or she is absent from work to attend a hearing before a **Court or Tribunal** at the request of the **Preferred Practitioner**:
 - 7.1 as a witness on behalf of the **Insured** in a **Legal Action** in respect of a **Claim**; or
 - 7.2 as a party to a **Legal Action** in respect of a **Claim**.

- 8. Business Premises**
means the business premises for which the **Insured** is legally responsible and used by the **Insured** for the purposes of the **Normal Business Activities**.
- 9. Claim**
means a claim of a kind described in the Sections of Cover under 'What is Covered' that:
- 9.1 is first made against the **Insured** or **Employee** during the **Period of Insurance** and notified by the **Insured** to the **Claims Administrator** before the end of the **Period of Insurance**; or
- 9.2 first comes to the knowledge of the **Insured** during the **Period of Insurance** and is first notified to the **Claims Administrator** before the end of the **Period of Insurance**;
- and arises out of the **Normal Business Activities**.
- 10. Claims Administrator**
means the entity specified as 'Claims Administrator' in the **Schedule** or appointed subsequently by the **Insurer**, which administers the **Insured's** claims under this **Policy** on the **Insurer's** behalf and to whom notification of a **Claim** must be made.
- 11. Competition and Consumer Act**
means:
- 11.1 *Competition and Consumer Act 2010 (Cth)*;
- 11.2 any legislation of an Australian State or Territory to the extent that it concerns matters dealt with in the named legislation above.
- 12. Court or Tribunal**
means a court, tribunal or other statutory body of competent jurisdiction within the **Territorial Limits** as agreed to by the **Claims Administrator**.
- 13. Coverholder**
means Edge Underwriting Pty Ltd, which is the **Insurer's** agent for the purposes of this **Policy**.
- 14. Cth**
is an abbreviation for the Commonwealth of Australia.
- 15. Declared and Accepted**
means declared by or on behalf of the **Insured** to the **Coverholder** for the purpose of coverage under the **Policy** and accepted by the **Coverholder**.
- 16. Director**
means a director or other board member of the **Insured** where the **Insured** is a company.
- 17. Discrimination Legislation**
means:
- 17.1 Age Discrimination Act 2004 (**Cth**), Disability Discrimination Act 1992 (**Cth**), Australian Human Rights Commission Act 1986 (**Cth**), Sex Discrimination Act 1984 (**Cth**), Racial Discrimination Act 1975 (**Cth**), Equal Opportunity for Women in the Workplace Amendment Act 1999 (**Cth**); or similar legislation; and
- 17.2 any legislation of an Australian State or Territory to the extent that it concerns matters dealt with in any of the named legislation above.
- 18. Director**
means a director or other board member of the **Insured** where the **Insured** is a company.

- 19. Employee**
means an existing or former employee of the **Insured**, and does not include a prospective employee.
- 20. Employee's Costs**
means the legal fees and disbursements and **ADR Costs** incurred by the **Employee** and charged by the **Employee's** solicitor in respect of the **Legal Action** and/or **ADR** and payable by the **Insured** in its capacity as employer, which have been incurred with the prior written consent of the **Claims Administrator** and whose reasonable amount is determined by taxation or assessment of costs or by agreement of the **Claims Administrator**, but excludes any such fees and disbursements and **ADR Costs** recovered by the **Employee**.
- 21. Excess**
means the amounts as specified in the **Schedule** which in respect of each claim under this **Policy** the **Insured** must bear before the **Insurer** is obliged to make any payment of indemnity.
- 22. First Period of Insurance**
means the period of insurance of the **Insured's** first Commercial Legal Expenses Insurance policy with the **Insurer** provided that the insurance was renewed continuously every year up to this **Policy**.
- 23. Fringe Benefits Dispute**
means a dispute with the **ATO** regarding the amount of tax payable by the **Insured** or an **Employee** under **Income Tax Legislation** in respect of fringe benefits where there are reasonable grounds for such dispute.
- 24. GST Dispute**
means a dispute with the **ATO** regarding the amount of GST payable by the **Insured** where there are reasonable grounds for such dispute.
- 25. Income Tax Legislation**
means The Income Tax Assessment Act 1936; The Income Tax Assessment Act 1997; The Fringe Benefits Tax Assessment Act 1986 and Fringe Benefits Act 1986; Sales Tax Assessment Act 1992; Taxation Administration Act 1953; Superannuation Charge Act 1992; A New Tax System (Goods and Services Tax) Act 1999; any other Commonwealth, State or Territory legislation dealing with income tax or any other legislation replacing the above legislation.
- 26. Inquiry**
means any investigation, examination, inquiry, coronial inquest, royal commission or other proceeding ordered or commissioned by any statutory body of competent jurisdiction within the **Territorial Limits** as agreed to by the **Claims Administrator**.
- 27. Insured**
means the policyholder specified as 'Insured' in the **Schedule**, whose registered office or principal trading address is within the **Territorial Limits**.
- 28. Insured's Costs**
means the legal fees and disbursements payable by the **Insured** to the **Preferred Practitioner** in respect of the **Legal Action** or **ATO Investigation** and **ADR Costs**, which have been incurred with the prior written consent of the **Claims Administrator** and whose reasonable amount is determined by taxation or assessment of costs or by agreement of the **Claims Administrator**, but excludes any such fees and disbursements and **ADR Costs** recovered by the **Insured**.
- 29. Insurer**
means Certain Underwriters at Lloyd's specified as 'Insurer' in the **Schedule**.
- 30. Legal Action**
means:
30.1 a civil proceeding in a **Court or Tribunal**, including:

- (a) any necessary steps approved by the **Claims Administrator** taken before the commencement of that proceeding;
 - (b) any appeal to a **Court or Tribunal** with the **Claims Administrator's** written consent;
- 30.2 in respect of Section of Cover 2.1 and 3, a criminal prosecution in a **Court or Tribunal**;
- 30.3 in respect of Section of Cover 7, any proceeding in the nature of an **Inquiry**;
- 30.4 in respect of Section of Cover 8, a proceeding in the appropriate forum for a **Fringe Benefits Dispute**, a **GST Dispute** or an **ATO Investigation**.
- 31. **Limit of Indemnity**
means the amount specified as 'Limit of Indemnity' in the **Schedule** being the maximum sum the **Insurer** will pay in connection with the one event or the one series of events attributable to a single source or cause or to a single set of circumstances, from which the **Excess** is deducted, and is subject always to the **Annual Aggregate Limit**.
- 32. **Normal Business Activities**
means the **Insured's Declared and Accepted** normal business activities.
- 33. **Occupational Health and Safety Legislation**
means:
 - 33.1 *Occupational Health and Safety Act 1991 (Cth)*;
 - 33.2 any legislation of an Australian State or Territory to the extent that it concerns matters dealt with in the named legislation above.
- 34. **Opponent**
means a party to a **Legal Action** other than the **Insured**, an **Employee**, **Partner** or **Director**.
- 35. **Opponent's Costs**
means the legal fees and disbursements of the **Legal Action** incurred by the **Opponent** and payable by the **Insured** pursuant to a judgement of the **Court or Tribunal** or a settlement agreed to by the **Claims Administrator**, whose reasonable amount assessed on the standard basis is determined by taxation or assessment of costs or by agreement of the **Claims Administrator**.
- 36. **Partner**
means where the **Insured** is a partnership, any of the partners within that partnership..
- 37. **Period of Insurance**
means the period specified as 'Period of Insurance' in the **Schedule**.
- 38. **Policy**
means the contract of insurance between the **Insurer** and the **Insured** as set out in this document and the **Schedule**.
- 39. **Preferred Practitioner**
means the lawyers or suitably qualified tax advisers designated to act on behalf of the **Insured** in respect of the resolution of a **Claim**.
- 40. **Privacy Act**
means:
 - 40.1 *Privacy Act 1988 (Cth)*;
 - 40.2 any legislation of an Australian State or Territory to the extent that it concerns matters dealt with in the named legislation above.
- 41. **Prospects of Success**
means in the **Claims Administrator's** reasonable opinion:

41.1 it is more probable than not that at a determination at a final hearing the **Insured** will be successful in obtaining the outcome in respect of the **Claim** that the **Insured** is seeking; and

41.2 the **Insured's** interests cannot be better achieved by other means.

42. Schedule

means the Schedule to this **Policy**.

43. Statutory Licence

means a **Declared and Accepted** licence issued under statute or statutory instrument or by government or local authority to the **Insured** where the licence is necessary for the **Normal Business Activities**.

44. Territorial Limits

means the Commonwealth of Australia and its external territories and an Australian State or Territory.

Please Note:

Reference to any statute or statutory provision and orders or regulations there under shall include a reference to that statute, provision, order or regulation as amended, re-enacted or replaced from time to time.

Unless the context otherwise requires reference to the singular includes the plural and the plural includes the singular.

Headings are for convenience only and do not affect the interpretation or form part of this policy.

WHAT IS COVERED

The **Insurer** will indemnify the **Insured** under the following Sections of Cover as are specified as covered in the **Schedule**, subject to the terms of this **Policy** and up to but not exceeding the **Limit of Indemnity** and the **Annual Aggregate Limit**:

1. Privacy

The **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** of a **Legal Action** in respect of:

1.1 a **Claim** against the **Insured** for breach of the **Privacy Act**; or

1.2 a **Claim** by the **Insured** being an appeal against an enforcement notice, declaration, determination or other notice relating to interferences with privacy issued under the **Privacy Act** following the **Insured's** receipt of such a notice.

2. Prosecution Defence for the Insured

2.1 The **Insured's Costs** and **Attendance Expenses** of a **Legal Action** against the **Insured** being a criminal prosecution, including under the **Competition and Consumer Act**, arising from a **Claim** of an alleged act or omission by the **Insured**; or

2.2 The **Insured's Costs** and **Attendance Expenses** of a **Legal Action** in respect of a **Claim** being a review of, or appeal against, improvement, prohibition and non-disturbance notices served on the **Insured** under the Occupational Health and Safety Act 1991 (**Cth**) or corresponding legislation of a State or Territory of the Commonwealth.

3. Employee Protection

An **Employee's Costs** and the **Insured's Attendance Expenses** of a **Legal Action** against that **Employee** being a criminal prosecution, including under the **Competition and Consumer Act**, arising

from a **Claim** relating to an alleged act or omission in the course of his or her duties as an **Employee** of the **Insured**.

4. **Property Protection**

The **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** of a **Legal Action** by the **Insured** against an **Opponent** in respect of a **Claim** relating to an act or omission by that **Opponent** in relation to the **Business Premises** or goods owned by the **Insured** which results in, or is likely to result in, uninsured financial loss to the **Insured** resulting from physical damage to that property.

5. **Tenancy Disputes**

The **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** of a **Legal Action**:

- 5.1 by the **Insured** against the **Insured's** landlord or against the **Insured** by the **Insured's** landlord in respect of a **Claim** for breach of the terms contained within the lease or tenancy agreement applying to the **Business Premises**;
- 5.2 by the **Insured** in respect of a **Claim** for breach of the terms contained within a lease or tenancy agreement granted to the tenant by the **Insured** where the **Insured's Normal Business Activities** are those of a commercial landlord;
- 5.3 brought against the **Insured** by a tenant in respect of a **Claim** for breach of the terms contained within a lease or tenancy agreement granted to the tenant where the **Insured's Normal Business Activities** are those of a commercial landlord.

6. **Statutory Licence Protection**

The **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** of a **Legal Action** in respect of a **Claim** being an appeal against suspension, revocation, alteration of the terms of or refusal to renew a **Statutory Licence**, provided that the **Insured** has, or is likely to suffer, a financial loss, if the appeal is not brought.

Conditions:

In addition to the General Conditions, the **Insured** must immediately contact the **Advice Provider** quoting the policy number and follow the advice given and procedures laid down by the **Advice Provider** after becoming aware of any threatened suspension, revocation, alteration of the terms of or refusal to renew a **Statutory Licence**.

7. **Inquiry Protection**

The **Insured's Costs** and **Attendance Expenses** of a **Claim** being an **Inquiry**, excluding those recoverable under any other Section of this **Policy**.

8. **Tax Disputes and Investigations**

8.1 The **Insured's Costs** and **Attendance Expenses** of a **Legal Action** arising directly from:

- 8.1.1 a **GST Dispute** with the **ATO** in respect of a **Claim** by the **ATO** for additional amounts of GST where there are reasonable prospects of the **Insured** obtaining a financial benefit. For the purpose of this clause, the **Claim** is first made against the **Insured** on the earliest of the following:
 - (a) the date on which the **ATO** requests a meeting with the **Insured** or enters the **Insured's** premises or expresses dissatisfaction with any of the **Insured's** GST returns in writing;
 - (b) the date on which the **Insured** or his or her adviser first became aware, or could reasonably have become aware, that a **GST Dispute** was likely to arise with the **ATO**; or

- (c) the date on which the **Insured** is served with a notice of assessment or amended notice of assessment relating to the additional amounts of GST;
- 8.1.2 a **Fringe Benefits Dispute** in respect of a **Claim** by the **ATO** for additional amounts of tax within the meaning of **Income Tax Legislation**. For the purpose of this clause, the **Claim** is first made against the **Insured** on the earliest of:
- (a) the date on which the **ATO** expresses dissatisfaction with the amounts of PAYG or FBT (as those terms are defined in **Income Tax Legislation**) paid by the **Insured** or his or her returns relating to PAYG or FBT; or
 - (b) the date on which the **ATO** starts an investigation into the accuracy of PAYG or FBT returns or information or into the **Insured's** liability or that of an **Employee** to pay additional tax because of alleged inaccuracies in such returns or information.

8.2 The **Insured's Costs** and **Attendance Expenses** arising directly from an **ATO Investigation** in respect of a **Claim** being a notification from the **ATO** that it is taking action, carrying out an investigation or making an inquiry under the provisions of **Income Tax Legislation**.

Conditions:

- 8.3 In addition to the General Conditions, the **Insured** must contact the **Advice Provider** as soon as possible after the **Claim** is first made and comply with the advice given by the **Advice Provider**;
- 8.4 The **Insured** must have maintained and must continue to maintain accurate, truthful and up to date records and make returns in due time in accordance with statute and accounting conventions acceptable to the **ATO** where applicable and have made all returns and payments except those which are disputed and provided information to relevant authorities in due time;
- 8.5 The **Insured** and the **Preferred Practitioner** must provide information to the **ATO** in due time and must comply with any statutory notice requesting information which is not the subject of an appeal;
- 8.6 The **Insured** or his or her **Preferred Practitioner** must immediately notify the **Claims Administrator** in writing of any invitation by the **ATO** to make an offer in settlement; and
- 8.7 In respect of an **ATO Investigation** the **Preferred Practitioner** must provide to the **Claims Administrator** copies of relevant correspondence between the **ATO**, the **Preferred Practitioner** and the **Insured** (including the notice of investigation) together with copies of the accounts, tax computations and returns giving rise to the investigation.

9. **Personal Injury**

The **Insured's Attendance Expenses** of a **Legal Action** by that **Employee** in respect of a **Claim** against anyone other than the **Insured** arising from an incident which causes death or personal injury to the **Employee** while in the course of the **Employee's** employment.

10. **Discrimination Protection**

The **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** of a **Legal Action** against the **Insured** by an **Opponent** in respect of a **Claim** or infringement of his or her rights under **Discrimination Legislation**.

11. **Contract**

The **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** of a **Legal Action** by or against the **Insured** in respect of a **Claim** arising from a dispute between the **Insured** and his or her customer or supplier about a written agreement or contract for the supply of goods or services. The dispute must be such that the amount in dispute exceeds the jurisdictional Small Claims limit of any **Court or Tribunal**

having jurisdiction to deal with Small Claims in the State or Territory in which the action is brought.

The facts and circumstances giving rise to the dispute must first occur at least 90 days after the start of the **First Period of Insurance**.

WHAT IS NOT COVERED

The following exclusions apply in respect of the following sections of cover:

1. Privacy

Any **Claim** arising from or relating to:

- 1.1. a failure to respond to any notice served under the **Privacy Act**;
- 1.2. a wilful failure to comply with any legislative requirement about the processing of sensitive information;
- 1.3. the cost associated with any **Legal Action** concerning the grant and/or execution of a warrant of entry; and
- 1.4. the payment of any civil penalty.

2. Prosecution Defence for the Insured

Any **Claim** arising from or relating to:

- 2.1. the ownership, possession, hire or use of a motor vehicle, aircraft or marine craft;
- 2.2. allegations of:
 - 2.2.1. intentional obstruction of a person in the execution of an authorisation order issued under the **Privacy Act**; and/or
 - 2.2.2. failure to give a person executing such an authorisation order the assistance that is reasonably required for its execution;
- 2.3. allegations of manslaughter;
- 2.4. prosecution for offences against the person including offences of a sexual nature;
- 2.5. drugs, alcohol, indecent or obscene materials, or immigration;
- 2.6. income tax;
- 2.7. superannuation contributions under the Superannuation Industry (Supervision) Act 1993 (**Cth**).
- 2.8. allegations of fraud, dishonesty, bribery, intentional violence or any deliberate criminal or dishonest act or omission by the **Insured**.

3. Employee Protection

Any **Claim** arising from or relating to:

- 3.1. the ownership, possession, hire or use of a motor vehicle;
- 3.2. allegations of:
 - 3.2.1. intentional obstruction of a person in the execution of an authorisation order issued under the **Privacy Act**; and/or
 - 3.2.2. failure to give a person executing such a warrant the assistance that is reasonably

required for its execution;

- 3.3. matters which do not relate to the **Employee's** duties as an **Employee** of the **Insured**;
- 3.4. allegations of manslaughter;
- 3.5. drugs, alcohol, indecent or obscene materials, or immigration.
- 3.6. income tax;
- 3.7. allegations of fraud, dishonesty, bribery, intentional violence or any deliberate criminal or dishonest act or omission by the **Employee**.

4. **Property Protection**

Any **Claim** arising from or relating to:

- 4.1. a contract between the **Insured** and a third party;
- 4.2. a lease or licence to occupy land or buildings;
- 4.3. a dispute over the possession of or right to occupy land and/or any building;
- 4.4. goods in transit;
- 4.5. goods the **Insured** has hired from or lent to third parties;
- 4.6. goods at premises other than the **Business Premises** unless they are to be installed at those premises or to be used in work carried out by the **Insured**;
- 4.7. a motor vehicle belonging to the **Insured** or in the **Insured's** possession except whilst on the **Business Premises**;
- 4.8. any dispute relating to tax, planning or building regulations or decisions or compulsory purchase orders.

5. **Tenancy Disputes**

Any **Claim** arising from or relating to:

- 5.1. the amount, payment or non-payment of rent or other payments due under the terms of the lease, licence or tenancy agreement between the **Insured** and its landlord;
- 5.2. the renewal of a lease or tenancy agreement or any dispute arising during a rent review period.

6. **Statutory Licence Protection**

Any **Claim** arising from or relating to:

- 6.1. an original application for or standard renewal of a licence;
- 6.2. an appeal relating to the ownership, driving or use of a motor vehicle;
- 6.3. an appeal where the **insured** has already appealed in the twelve months prior to inception of the **Policy**;
- 6.4. an alteration, or refusal to renew, a **Statutory Licence**, which is imposed by legislation.

7. **Inquiry Protection**

Any claim arising from or relating to:

- 7.1. routine supervision, inspection, compliance or similar review of an **Insured** undertaken by any regulatory (including self-regulatory), professional, statutory or official body or institution; or
- 7.2. investigation of industry-wide violations (as opposed to specific investigations of an **Insured**).

8. Tax Disputes and Investigations

- 8.1. Costs incurred in dealing with routine matters which do not fall within a **Claim** by the **ATO** in respect of a **GST Dispute**, **Fringe Benefits Dispute** or **ATO Investigation** (including but not limited to a BAS audit/Superannuation Fund audit/payroll tax audit visit).
- 8.2. In respect of only an **ATO Investigation**:
 - 8.2.1. costs arising after the issue of a notice under **Income Tax Legislation** notifying the **Insured** that the investigation has been completed; and/or
 - 8.2.2. costs arising directly from an amendment under **Income Tax Legislation**; and/or
 - 8.2.3. costs incurred otherwise than wholly in connection with an **ATO Investigation** into the **Insured's** business income or profits. Where appropriate the **Preferred Practitioner's** fees will be apportioned.
- 8.3. Any **Claim** where:
 - 8.3.1. deliberate mis-statements have been made in respect of accounts, returns or any other submissions made to the relevant authorities with intent to deceive;
 - 8.3.2. the **Insured** has failed to notify his or her business status to the relevant authorities within a statutory period;
 - 8.3.3. there has been a failure to maintain or submit accurate, truthful and up-to-date records and returns or a failure to observe statutory time limits or requirements;
 - 8.3.4. a false representation has been made either knowingly or without belief in its truth and this has resulted in a mis-statement of amounts payable, expenses claimed, income or profits chargeable or losses allowable for tax or contributions purposes or of expenses payments made;
- 8.4. Any **Claim** arising from or relating to:
 - 8.4.1. an investigation or inquiry by the Prosecutions Division of the **ATO** or following the transfer of an inquiry to that Division;
 - 8.4.2. avoidance schemes relating to tax or superannuation contributions under the Superannuation Industry (Supervision) Act 1993 (**Cth**); and/or
 - 8.4.3. GST refunds in countries outside Australia or Import GST.

9. Contract

- 9.1 Any **Claim** arising from or relating to:
 - 9.1.1 the recovery of a debt from a customer or supplier where that customer or supplier does not dispute that the money is lawfully owed to the **Insured**;
 - 9.1.2 a dispute between a landlord and tenant or licensor and licensee;
 - 9.1.3 the sale, lease, service, repair or test of a motor vehicle;
 - 9.1.4 a contract of employment;
 - 9.1.5 a dispute about securities, bills of exchange, goodwill, credit, guarantees, assignment, agency, franchisement or bailment;
 - 9.1.6 the sale or purchase of real property;
 - 9.1.7 computer software operating systems and packaged software tailored by a supplier to the **Insured's** special order.
- 9.2 Any **Claim** arising from an arbitration clause in a contract unless the **Claims Administrator** has agreed in writing to accept the **Claim**.

10. Discrimination Protection

Any **Claim** arising from or relating to deliberate discrimination amounting to unlawful discrimination.

The Following Exclusions Apply to the Whole Policy

11. Excess and Various Liabilities

The **Insurer** will not pay for:

- 11.1. the **Excess**;
- 11.2. compensation, damages, interest, penalties or taxes which the **Insured** or his or her **Employees**, **Partners** or **Directors** are ordered or agree to pay.

12. Excluded Claims

- 12.1. Any **Claim**:
 - 12.1.1. notified to the **Claims Administrator** after the **Period of Insurance** expires;
 - 12.1.2. where the **Insured's** delay during the **Period of Insurance** in notifying the **Claims Administrator** has prejudiced the **Insurer's** position, but only to the extent of such prejudice;
 - 12.1.3. arising from an event, fact or circumstance which happens, or a series of events, facts or circumstances which starts, before the **First Period of Insurance**;
 - 12.1.4. where, before the commencement of the **Period of Insurance**, the **Insured** was aware, or should have been aware, that a **Claim** was likely to be made;
 - 12.1.5. where, before the commencement of the **Period of Insurance**, the **Insured** was aware of facts and circumstances that might give rise to a **Claim**;
 - 12.1.6. arising from driving a motor vehicle without a valid licence and/or insurance;
 - 12.1.7. more specifically insured or any amount that the **Insured** cannot recover from a more specific insurance because the insurer refuses the claim for indemnity under the other insurance;
 - 12.1.8. in respect of which the **Insured** is indemnified or is entitled to be indemnified under any contract of insurance;
 - 12.1.9. in respect of which the **Insured** is indemnified or entitled to indemnity under an insurance contract:
 - (a) not entered into by the **Insured**; or
 - (b) that the **Insured** was required to enter into by or under a law;
 - 12.1.10. where the **Insured** has admitted liability or pled guilty without the **Claims Administrator's** consent;
 - 12.1.11. where no **Court or Tribunal** will or would entertain a hearing on the substantive merits of the dispute or which is otherwise not within the jurisdiction of a **Court or Tribunal**.
- 12.2. Any claim for indemnity under the **Policy** which is false, fraudulent or exaggerated.
- 12.3. Any **Claim** concerning or arising from:

- 12.3.1. anything to do with building, rebuilding, converting or extending all or part of a building;
 - 12.3.2. a dispute about a licence to occupy property;
 - 12.3.3. a dispute relating to a rights under a franchise agreement entered into by the **Insured**;
 - 12.3.4. a tax or levy relating to the **Business Premises**;
 - 12.3.5. works by or under the order of any government, public or local authority;
 - 12.3.6. planning laws and regulations;
 - 12.3.7. patents, copyrights, trademarks, merchandise marks, service marks, registered designs, intellectual or artistic property, secrecy or confidentiality agreements and passing off;
 - 12.3.8. a manufacturer's warranty or guarantee;
 - 12.3.9. subsidence, land heave, land slip, mining or quarrying;
 - 12.3.10. libel, slander, defamation or malicious falsehood;
 - 12.3.11. a dispute between the **Insured, Coverholder, Claims Administrator, Advice Provider** and/or **Insurer** about this **Policy**;
 - 12.3.12. any dispute between the **Insured** and any parent, subsidiary or associated company, or any partner or company or trust operated or controlled by the **Insured**;
 - 12.3.13. any statute relating to Worker's Compensation;
 - 12.3.14. an application for judicial review;
 - 12.3.15. the deliberate, conscious or intentional or reckless or negligent disregard by the **Insured** of the need to take all reasonable steps to avoid and prevent claims or legal proceedings. For the purposes of this clause 12.3.15 'reasonable' shall be assessed by the standards of a reasonable person carrying on the **Business Activities** of the **Insured**;
 - 12.3.16. wilful breach of duty or a dishonest, fraudulent, reckless or malicious act or omission or other act committed with criminal intent by the **Insured**.
- 12.4. Any **Claim** directly or indirectly caused by or contributed to or arising from:
- 12.4.1. any software, stored program, computer, device or system failing (or partly failing) because of a date-based event;
 - 12.4.2. pressure waves caused by aircraft or any other airborne device travelling at sonic or supersonic speed;
 - 12.4.3. confiscation, nationalisation, compulsory purchase, requisition, destruction of or restrictions or controls placed on or damage to property by or under the order of any government or public or local authority.
- 12.5. Any civil claim against the **Insured** arising from:
- 12.5.1. the death or injury to any person including (without limitation) any sickness, disease or any naturally occurring condition or degenerative process;
 - 12.5.2. the loss destruction or damage to property owned or occupied by or under the control of a third party.

13. Excluded Insured's Costs, Attendance Expenses and Opponent's Costs

All Insured's Costs, Attendance Expenses and Opponent's Costs:

- 13.1. associated with an appeal unless:
 - 13.1.1. the appeal relates to a **Claim** that the **Insurer** has already covered under this **Policy**;
and
 - 13.1.2. the **Insured** notifies the **Claims Administrator** in writing that the **Insured** wants to appeal at least six working days before the **Insured** is required to give notice of appeal;
and
 - 13.1.3. the **Claims Administrator** considers that the appeal has **Prospects of Success**;
- 13.2. of any private prosecution;
- 13.3. that the **Insured** pays or agrees to pay before the **Claims Administrator** has accepted the **Insured's** claim for indemnity in writing;
- 13.4. greater than agreed by the **Claims Administrator**;
- 13.5. arising from the **Insured** entering into any form of litigation funding without obtaining the **Claims Administrator's** consent in writing first;
- 13.6. arising from the **Insured's** or **Preferred Practitioner's** unreasonable behaviour or failing;
- 13.7. arising from breach of the **Insured's** duties under this **Policy** or acts of the **Insured** or the **Preferred Practitioner** that cause prejudice to the **Insurer**;
- 13.8. arising from the **Insured** acting against or differently from the advice of the **Preferred Practitioner**;
- 13.9. of or relating to any security for costs the **Insured** is ordered to pay or agrees to pay; and
- 13.10. incurred in unnecessary correspondence.

14. Claims not arising from Normal Business Activities

This **Policy** does not provide cover in relation to **Claims** not arising out of the **Normal Business Activities**.

15. Professional Negligence Claims

This **Policy** does not provide cover in relation to **Claims** against the **Insured** or any **Partner, Director** or **Employee** for alleged negligent act, error or omission of a type normally covered under professional indemnity, directors and officers, management liability or similar insurance.

16. Terrorism / War and Contamination Exclusions

- 16.1. This **Policy** does not cover any claims or legal proceedings (including any costs or expenses of any description) arising out of or in connection with:
 - 16.1.1. war (whether declared or not), invasion, acts of a foreign enemy, hostilities, or any similar act, condition or warlike operation, warlike action by a regular or irregular military force or other authority to hinder or defend against an actual or expected attack;
 - 16.1.2. insurrection, rebellion, revolution, riot, attempt to usurp power, popular uprising, or any action taken by any governmental or martial authority in hindering or defending against any of these;
 - 16.1.3. discharge, explosion, or use of a weapon of mass destruction, whether or not employing nuclear fission or fusion, or chemical, biological, radioactive or similar agents, by any party at any time for any reason;

- 16.1.4. any claims or legal proceedings (including any costs or expenses of any description) arising out of or in connection with any terrorist action (regardless of any other cause or event contributing concurrently or in any other sequence to the liability) or any action taken in controlling, preventing or suppressing terrorist action.
- 16.2. This Policy does not cover any claims or legal proceedings (including any costs or expenses of any description) arising out of or in connection with any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including but not limited to material to be recycled, reconditioned or reclaimed) or contamination of any kind; or ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive.

GENERAL CONDITIONS

1. Premium

The **Insured** must have paid the relevant premium and have been declared to the **Insurer** by the **Coverholder** as having done so.

2. Reporting of Claims

- 2.1 This is a “claims made and notified” legal expenses insurance which means that, subject to the terms of this **Policy** as a whole, the following conditions apply:
- 2.2 In respect of a **Claim** against the **Insured** or an **Employee**, the **Insured** is covered under the relevant Section of Cover only if:
- 2.2.1 the **Claim** is first made against the **Insured** or **Employee** during the **Period of Insurance**; and
- 2.2.2 the **Insured** notifies the **Claims Administrator** of the **Claim** before the expiration of the **Period of Insurance**.
- 2.3 In respect of a **Claim** by the **Insured**, subject to the terms of this **Policy**, the **Insured** is covered under the relevant Section of Cover only if:
- 2.3.1 the **Insured** first becomes aware of the facts and circumstances which might give rise to the **Claim** during the **Period of Insurance**; and
- 2.3.2 the **Insured** notifies the **Claims Administrator** of those facts and circumstances and the **Insured's** intention to make the **Claim** before the expiration of the **Period of Insurance**.
- 2.4 The **Insured** must notify the **Claims Administrator** by e-mail or post to the address stated in the **Schedule** immediately upon becoming aware of the **Claim** or facts and circumstances, as relevant. Delay may prejudice the **Insured's** legal position. If the **Insured** is in any doubt about the **Insured's** need to notify a **Claim** under this insurance or the **Insured's** eligibility to make a claim in respect of such a **Claim**, then the **Insured** should contact the **Claims Administrator**.
- 2.5 The **Insured** will be sent a claim form. The **Insured** must fill this in fully and truthfully and return it to the **Claims Administrator** and give the **Claims Administrator**, at the **Insured's** own cost,

any documentation, evidence, or other information that the **Claims Administrator** may reasonably need in order to assess the **Claim**, including a copy of the **Schedule**.

- 2.6 To enable the **Claims Administrator** to assess the **Claim** the **Insured** must tell the **Insured's** solicitor or tax adviser, if any, to:
- 2.6.1 provide the **Claims Administrator**, as soon as reasonably possible, with:
- 2.6.1.1 his or her views on the merits of the **Claim** and the strategies and timelines to resolve the **Claim**;
 - 2.6.1.2 his or her detailed estimate of the **Insured's Costs** and **Opponent's Costs** of the **Claim**; and
 - 2.6.1.3 any information, document or file (including the **Insured's** solicitor's or tax adviser's files) relating to the **Claim**, whether or not privileged, that the **Claims Administrator** may ask for.
- 2.7 The **Insured** must also give the **Claims Administrator** immediate notice of any proceedings brought against the **Insured**, contemplated by the **Insured** or believed by the **Insured** to be considered by a third party and any summons or other process served or threatened to be served on the **Insured** and/or any other incident or circumstance which may give rise to a **Claim**.

3. **Observance**

The due observance and fulfilment of the terms, conditions and endorsements of this **Policy** insofar as they relate to anything to be done or complied with by the **Insured** and the truth of any statements in the **Insured's** proposal and declaration shall be conditions of any liability of the **Insurer** to make any payment under this **Policy**.

4. **Acceptance of a claim**

- 4.1 The **Insurer** will pay the **Insured's Costs** and **Attendance Expenses** incurred after the **Claims Administrator** accepts the **Insured's** claim in writing and the **Insured's** solicitor or tax adviser confirms in writing that he or she will co-operate with the **Insured** to keep to the terms of this **Policy**.
- 4.2 The **Claims Administrator** will accept the **Insured's** claim only if there are **Prospects of Success**.
- 4.3 The **Insurer** will only meet the **Insured's Costs** and **Attendance Expenses** of the **Claim** which have been agreed in advance by the **Claims Administrator** as to both amount and purpose.
- 4.4 If at any stage the **Claims Administrator** considers that the **Claim** does not have **Prospects of Success**, the **Insured** will be given an explanation of the decision in writing. The **Insurer** will not provide any further cover for the **Claim**.
- 4.5 If the **Insured** disagrees with the **Claims Administrator's** decision, the **Insured** can refer the matter under the Inquiries, Complaints or Disputes procedure.

5. **Appointment of Preferred Practitioner and Conduct of Claims**

- 5.1 The **Claims Administrator** or **Advice Provider** will arrange for the **Preferred Practitioner** to act on behalf of the **Insured** in the resolution of a **Claim**. The **Insured** shall choose the **Preferred Practitioner** from a list provided by the **Claims Administrator** or the **Advice Provider** or, upon request, the **Claims Administrator** will nominate the **Preferred Practitioner**.

- 5.2 The **Insured** will authorise and request the **Preferred Practitioner** to:
- 5.2.1 provide the **Claims Administrator**, as soon as reasonably possible, with:
 - 5.2.1.1 their views on the merits of the **Claim** and the strategies and timelines to resolve the **Claim**;
 - 5.2.1.2 their detailed estimate of the **Insured's Costs** and **Opponent's Costs** of the **Claim**; and
 - 5.2.1.3 any information, document or file (including the **Preferred Practitioner's** files) relating to the **Claim**, whether or not privileged, that the **Claims Administrator** may ask for,
 - 5.2.2 keep the **Claims Administrator** fully updated during the **Claim**:
 - 5.2.2.1 on the progress of the **Claim**, including any offers to settle;
 - 5.2.2.2 of any change in their views on the merits of the **Claim**; and
 - 5.2.2.3 of any change to their estimate of **Insured's Costs** and **Opponents Costs**.
- 5.3 The **Insured** will co-operate at all times with:
- 5.3.1 the **Claims Administrator** and reply promptly to any correspondence about the **Claim**; and
 - 5.3.2 the **Preferred Practitioner** and provide them with all information that they need and attend meetings and hearings whenever the **Insured** is asked to.
- 5.4 In the event that the **Claims Administrator** considers it appropriate to refer an issue for expert determination, the **Claims Administrator** will nominate the expert to be appointed for that purpose.
- 5.5 In the event that the **Claims Administrator** considers if appropriate to brief counsel, the **Claims Administrator** will nominate the counsel to be appointed for that purpose.
- 5.6 The **Claims Administrator**, or its agents, may investigate the **Claim**. At its absolute discretion, the **Insurer** may, after considering all the circumstances of the **Claim**, pay the **Insured** an amount equal to the **Claims Administrator's** reasonable estimate of the value of the indemnity instead of providing cover for the costs.
- 5.7 The **Insured** or the **Preferred Practitioner** must immediately write to tell the **Claims Administrator** of any offer made to settle the **Claim** including offers relating to costs. The **Insured** must not accept any offers without getting the permission of the **Claims Administrator** first. The **Claims Administrator** will not withhold consent in relation to an offer that a reasonable solicitor would recommend to a private client who is paying his or her own fees. If the **Insured** does not accept an offer the **Claims Administrator** considers reasonable, the **Insurer** will not pay any further costs.
- 5.8 If the **Claims Administrator** considers at any stage that the **Claim** no longer has reasonable **Prospects of Success**, the **Claims Administrator** will give the **Insured** an explanation of that decision in writing. The **Insurer** will not provide any further cover for the **Claim**. If the **Insured** disagrees with the decision, the **Insured** can refer the matter for resolution in accordance with the Inquiries, Complaints or Disputes procedure.
- 5.9 If the **Insured** withdraws from or discontinues the **Claim** without getting the permission of the **Claims Administrator** in writing first then the **Insurer** will not pay any costs and will be entitled

to recover from the **Insured** any **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** paid before the withdrawal or discontinuance. The **Claims Administrator** will not withhold permission in relation to a withdrawal or discontinuance that a reasonable solicitor would recommend to a private client who is paying his or her own fees.

- 5.10 All accounts for **Insured's Costs**, **Attendance Expenses** and **Opponent's Costs** payable under this **Policy** must be submitted to the **Claims Administrator** immediately upon receipt.
- 5.11 If any payment in respect of **Insured's Costs**, **Attendance Expenses** or **Opponent's Costs** is made under this **Policy** the **Claims Administrator** will be subrogated to the **Insured's** rights of recovery. The **Insured** will not enter into any agreement, arrangement or understanding which has the effect of limiting or compromising the **Claims Administrator's** rights of subrogation.
- 5.12 If the **Insured** is dissatisfied with any decision made by a **Court or Tribunal** and decides to appeal against that decision, the **Insured** must request the written consent of the **Claims Administrator** no later than 6 business days prior to the expiry of the time for making an appeal. The **Claims Administrator** shall provide consent only if the appeal has **Prospects of Success**.
- 5.13 If the **Claims Administrator** is dissatisfied with any decision made by a **Court or Tribunal** and wishes to appeal against that decision, the **Insured** will co-operate with the **Claims Administrator** in making such an appeal. In this event, the **Insurer** agrees to pay 100% of the **Insured's Costs** and **Opponent's Costs** up to the **Limit of Indemnity**, subject to the **Annual Aggregate Limit** and the terms of the **Policy**.

6. Assessment and Recovery of Costs

- 6.1 If the **Claims Administrator** asks, the **Insured** must instruct the **Preferred Practitioner** to send all of his or her files and any bill of costs for taxation or assessment by a court or certification by the appropriate professional body or auditing by cost consultants appointed by the **Claims Administrator**.
- 6.2 The **Insured** must:
 - 6.2.1 take reasonable steps to recover all costs awarded or agreed to be paid to the **Insured**; and
 - 6.2.2 immediately pay the **Claims Administrator** any **Insured's Costs** recovered, or instruct the **Preferred Practitioner** to do so.
- 6.3 If the **Insured** pays or agrees to pay costs above the **Limit of Indemnity** in order to resolve a **Legal Action** or **Claim**, any costs awarded or agreed to be paid to the **Insured** will be divided between the **Insurer** and the **Insured** to reflect the proportion of costs that both the **Insurer** and the **Insured** have paid or, but for the recovery of costs from an **Opponent**, would be liable to pay. The **Insured** will pay the **Claims Administrator** or instruct the **Preferred Practitioner** to pay to the **Claims Administrator** the amount that is due to the **Insurer** immediately.
- 6.4 The amount of any payment made under the **Policy** will be reduced by the amount of any Input Tax Credit that the **Insured** is, or will be, entitled to under A New Tax System (Goods and Services Tax) Act 1999 in relation to that acquisition, whether or not that acquisition is made.

7. Notification of Alteration in Risk

The **Insured** must notify the **Coverholder** immediately of any alteration in risk which materially affects this legal expenses insurance. The **Insured** must also declare information in the form and at the intervals the **Claims Administrator** specifies and the **Insured** will pay such additional premium to, or receive a refund of premium from, the **Insurer** as the case may be.

8. Insolvency

The **Insurer** is not obliged to indemnify if, at any time, the **Insured** is made bankrupt or goes into liquidation or files a bankruptcy petition or winding up petition or makes an arrangement with the **Insured's** creditors or enters into a deed of arrangement or part or all of the **Insured's** affairs or property are in the control of a receiver or administrator.

9. Agreement

The **Insurer** is not bound by any agreement that the **Insured** or the **Preferred Practitioner** makes without the **Claims Administrator's** prior approval or permission.

10. Waiver

If the **Insurer** waives any right or breaches any term of this **Policy**, this will not waive any other right or later breach.

11. Transferring the Insured's Rights

The **Insured** cannot transfer the **Insured's** rights under this **Policy**.

12. Other Parties and Interests

The **Insurer** will not indemnify anyone not named as an insured.

13. Cancellation

The **Insurer** may cancel this **Policy** in accordance with Sections 59 and 60 of the Insurance Contracts Act 1984 (**Cth**) by giving the appropriate notice to the **Insured**.

IMPORTANT NOTE:

You are advised to read this policy carefully, particularly the exclusions, conditions and limitations.

Should you have any queries about the cover provided please do not hesitate to contact Edge Underwriting who will be pleased to assist with your query.

Edge Underwriting is the appointed insurance intermediary.

In arranging this Insurance Edge Underwriting is acting as agent for the Insurer and not as your agent. Edge Underwriting acts under a binding authority given by the Insurer to arrange, issue and administer policies. When acting under that authority Edge Underwriting acts as an underwriting agency on behalf of the Insurer and not for you. Edge Underwriting is not the Insurer for this contract and they are not liable for any loss or claim. The Insurer is clearly shown on the Schedule.