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PROFESSIONAL INDEMNITY INSURANCE

POLICY DOCUMENTS

2011/2012 INDEMNITY PERIOD

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THE ARP POLICY

ASSIGNED RISKS POOL POLICY

Indemnity Period 2011/2012

1. INTERPRETATION

1.1 In this contract, the following expressions shall have the following meanings:

“**1995 Act**” means the Consumer Credit Act 1995 (as amended);

“**1997 Act**” means the Central Bank Act 1997 (as amended);

“**Amount Insured**” means the aggregate limit of liability of the Insurer pursuant to this contract as set out in clause 3.1;

“**ARP**” means the Assigned Risks Pool;

“**ARP Eligible Firm**” has the meaning ascribed to it in the Regulations;

“**ARP Premium**” means the Initial ARP Premium and the Additional ARP Premium in respect of the Indemnity Period (or part thereof);

“**ARP Premium Schedule**” has the meaning ascribed to it in the Regulations;

“**Assigned Risks Pool**” has the meaning ascribed to it in the Regulations;

“**Circumstance**” means an incident, fact, occurrence, matter, act or omission that may give rise to a Claim in the context of civil liability;

“**Claim**” means a request or demand for, or an assertion of a right to, or an intimation of an intention to seek:

- (a) civil compensation of any nature;
- (b) civil damages of any nature; or
- (c) any award to be made pursuant to the provisions of the Solicitors Acts 1954 to 2008 for compensation or restitution to clients or any other obligations that may be imposed on solicitors to compensate or make restitution to clients by statute from time to time;

but for the avoidance of doubt, the term “**Claim**” does not include any claim for payment of costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in paragraph (c) of this definition where the Coverage excludes the Insurer's liability to indemnify the Insured in respect of such costs;

“**Claimant**” means a person or entity that has made or may make a Claim (including a Claim for contribution or indemnity);

“**Coverage**” means this arrangement for indemnification;

“**Coverage Period**” means the period for which this Coverage affords cover as set out in clause 6.10;

“**Defaulting Firm**” has the meaning ascribed to it in the Regulations;

“**Defence Costs**” mean legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the consent of the Insurer in relation to a Claim including without limitation the costs of:

- (a) defending any proceedings; or
- (b) conducting any proceedings for indemnity, contribution or recovery; or
- (c) investigating, reducing, avoiding or compromising any actual or potential Claim;

but the term “**Defence Costs**” does not include:

- (i) any internal overhead expenses of the Insured or the Insurer or the cost of any Insured’s time, or
- (ii) any costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in paragraph (c) under the definition of “Claim” where the Coverage excludes the Insurer’s liability to indemnify the Insured in respect of such costs;

“**Direction**” shall have the meaning ascribed to it in clause 9.3;

“**Employee**” means any person, other than a Principal, employed or otherwise engaged in the Firm’s Practice, including, without limitation, solicitors, registered lawyers, other lawyers, trainee solicitors, consultants, associates, locum staff members, persons seconded to work in the Firm’s Practice or persons seconded by the Firm to work elsewhere, office and clerical staff or otherwise;

“**Financial Institution**” means any of the following:

- (a) a credit institution as defined in section 2(1) of the 1995 Act;
- (b) a credit institution that is the holder of an authorisation for the purposes of Article 4(1) of Directive 2006/48/EC;
- (c) a retail credit firm authorised pursuant to section 31 of the 1997 Act;
- (d) a home reversion firm authorised pursuant to section 31 of the 1997 Act;
- (e) any other party that engages on a professional basis in the business of providing financial accommodation of any nature to another person;
- (f) any assignee of debt from an entity that has been engaged in the business of providing financial accommodation of any nature to another person, including without limitation, NAMA,

but, for the avoidance of doubt, does not include a Minister of the Government in the exercise of the functions, powers or duties of his office;

“**Firm**” means:

- (a) the Partnership (as constituted as at the commencement of the Coverage Period) which, or sole practitioner who, contracted with the Insurer to provide the Coverage, and
- (b) the Partnership referred to in paragraph (a) as constituted from time to time, whether prior to or during the Coverage Period;

“**Firm’s Practice**” means the practice carried on by the Firm, and includes the business of any trustee, nominee, service or administration company owned by the Principals of the Insured;

“**Indemnity Period**” means the period of one (1) year starting on 1 December 2011;

“Initial ARP Premium” has the meaning ascribed thereto in clause 4.1;

“Insured” means:

- (a) the Firm;
- (b) each trustee, nominee, service or administration company owned by the Firm and/or the Principals of the Firm from time to time;
- (c) each director, officer or employee of any such company as is referred to in paragraph (b) above from time to time;
- (d) each Principal or former Principal of the Firm from time to time;
- (e) each Employee or former Employee of the Firm from time to time; or
- (f) the estate or legal personal representatives of any deceased former Principal or Employee of the Firm.

“Insurer” means the insurers participating in the Special Purpose Fund in respect of the Indemnity Period;

“Investment Advice” has the meaning ascribed to such term in the Regulations;

“Investment Business Service” has the meaning ascribed to such term in the Regulations;

“Law Society” means the Law Society of Ireland;

“Legal Services” means services of a legal or financial nature and includes any part of such services, and for the avoidance of doubt, includes (without limitation):

- (a) any Investment Business Services or Investment Advice provided by a Firm;
- (b) acting as personal representative or trustee;
- (c) acting as notary public;
- (d) acting as commissioner for oaths;
- (e) acting as liquidator or receiver;
- (f) acting as company secretary;
- (g) acting as director of any company owned by the Principals of a Firm that provides trustee, nominee, administration or other services;
- (h) acting as arbitrator or mediator; and
- (i) acting on a pro bono basis.

“Minimum Common Risk Management Standard” has the meaning ascribed thereto in the Regulations;

“Minimum Terms and Conditions” has the meaning ascribed thereto in the Regulations;

“NAMA” means the National Asset Management Agency;

“Operative Date” means 1 December 2011;

“Partner” means a partner in the Firm;

“Partnership” means an unincorporated firm;

“Phoenix Firm” has the meaning ascribed to such term in the Regulations;

“PII Committee” means the professional indemnity insurance committee constituted under the Regulations;

“Practice” means a business (which term includes any gainful occupation) or any part thereof consisting of the provision of Legal Services from an establishment in the State and where such Legal Services (as they involve the provision of legal advice) relate to the law of the State (including European Union law as it forms part of the law of the State);

“Preceding Practice” means each practice to which the Firm’s Practice is a Succeeding Practice;

“Principal” means:

- (a) the sole practitioner of the Firm and includes a sole practitioner who employs or employed one (1) or more solicitors or registered lawyers; and
- (b) every Partner of the Firm and every person held out as a Partner of a Firm where the Firm carries on business as a Partnership during the Indemnity Period;

“Qualifying Insurance” has the meaning ascribed to it in the Regulations;

“Regulations” mean the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011, as the same may be amended from time to time;

“Self-Insured Excess” means the amount, as set out in the Schedule 1, that the Insured is required by the terms of this contract to pay to the Claimant in the event of a Claim;

“SPF Manager” means any person (including any body corporate, partnership or unincorporated body) from time to time appointed by the PII committee to manage the Special Purpose Fund, and includes any replacement to such a person appointed from time to time;

“Special Purpose Fund” has the meaning ascribed thereto in the Regulations;

“Succeeding Practice” means a Practice that satisfies any one (1) or more of the following conditions in relation to another Practice (such other practice being a Preceding Practice for these purposes):

- (a) it is expressly held out as being a successor to the practice or part thereof of the Preceding Practice; or
- (b) it is conducted by a Partnership that has a majority of Principals that are identical to those persons that were Principals of any partnership that conducted the Preceding Practice; or
- (c) it is conducted by a sole practitioner who was the sole practitioner conducting the Preceding Practice; or
- (d) it is conducted by a Partnership in which the sole practitioner conducting the Preceding Practice is a partner and where no other person has been held out as a successor to the Preceding Practice; or
- (e) the Partnership which, or sole practitioner who, conducts the practice has assumed the liabilities of the Preceding Practice;

but notwithstanding the foregoing a practice shall not be treated as a Succeeding Practice for the purposes of this contract pursuant to paragraphs (b), (c), (d) or (e) if another practice is or was held out by the owner of that other practice as the Succeeding Practice;

“**Working Day**” means every day, not including a Saturday, Sunday or public holiday, on which banks generally are open for the transaction of normal banking business in the State.

1.2 In this contract, unless the context otherwise requires:

1.2.1 words and expressions shall have the same meaning and shall be construed consistently with the same words and expressions in the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011;

1.2.2 the Interpretation Act 2005 shall apply for the purpose of interpreting this contract as it applies to the interpretation of an act of the Oireachtas, except insofar as it may be inconsistent with the Solicitors Acts 1954 to 2008, the Regulations or with this contract;

1.2.3 a reference to any directive, statute, statutory provision, statutory instrument or other similar instrument includes:

(a) any subordinate legislation made under it, and

(b) any provision which it has superseded or re-enacted (with or without modification) or amended, and any provision superseding it or re-enacting it (with or without modification) or amending it either before, at or after the date of commencement of this contract;

1.2.4 the singular includes the plural, and vice versa;

1.2.5 words denoting any gender include all genders and words denoting the singular include the plural and vice versa;

1.2.6 any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two (2) or more of the foregoing;

1.2.7 references to a “company” include any body corporate;

1.2.8 headings are inserted for convenience only and shall not affect the interpretation of this contract; and

1.2.9 references to awareness of the Insured shall be limited to the actual knowledge of a Principal of the Firm, or any solicitor or registered lawyer employed by the Firm.

2. **SCOPE OF COVER**

2.1 **The Insured**

The persons insured under this Coverage include all those persons and entities which are set out in clause 1 of this contract under the definition of “**Insured**”.

2.2 **Civil Liability**

The Insurer will indemnify each Insured against civil liability incurred by an Insured arising from any provision of Legal Services provided that:

2.2.1 a Claim in respect of such civil liability is

- (a) first made against the Insured during the Coverage Period; and
- (b) notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or

2.2.2 a Claim in respect of such liability is first made during or after the Coverage Period and:

- (a) arises from Circumstances first notified to the Insurer during the Coverage Period; or
- (b) arises from Circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of the Circumstances during the Coverage Period.

2.3 **Defence Costs**

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

2.3.1 any Claim referred to in clauses 2.2, 2.4 and 2.5; or

2.3.2 any Circumstance referred to in clauses 2.2, 2.4 and 2.5;

and such Defence Costs will be met by the Insurer as and when they are determined, due and payable.

2.4 **Preceding Practice**

2.4.1 The Insurer will indemnify each Insured against civil liability to the extent that such liability arises from any provision of Legal Services in connection with a Preceding Practice, provided that

- (a) a Claim in respect of such liability is:
 - (i) first made against an Insured during the Coverage Period; and
 - (ii) notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or
- (b) a Claim in respect of such liability is first made during or after the Coverage Period and
 - (i) arises from Circumstances first notified to the Insurer during the Coverage Period; or
 - (ii) arises from Circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of such circumstances during the Coverage Period.

2.4.2 The cover contemplated in this clause 2.4 includes:

- (a) each Partnership or sole practitioner who carried on the Preceding Practice;
- (b) each trustee, nominee, service or administration company owned by the persons referred to in paragraph (a) from time to time;

- (c) each director or officer of any such company as is referred to in paragraph (b) above from time to time;
- (d) each Principal and former Principal of any Partnership referred to in paragraph (a);
- (e) each Employee and former Employee of any Partnership or sole practitioner or company referred to in paragraph (a) and (b); and
- (f) the estate or legal personal representatives of any person referred to in this clause 2.4.2 who is deceased or legally incapacitated.

2.4.3 The Insurer may charge an additional premium in respect of coverage for a Preceding Practice provided pursuant to this clause 2.4, but the Insurer shall not be entitled to decline to indemnify the Insured or cancel, terminate or avoid the Insurance due to non-payment of any such additional premium when due.

2.5 Succeeding Practice

2.5.1 Where there is a Succeeding Practice to the Firm's Practice, the Insurer will indemnify each Insured against civil liability arising from any provision of Legal Services in connection with a Succeeding Practice to the Firm's Practice, provided that:

- (a) a Claim in respect of such liability is:
 - (i) first made against an Insured during the Coverage Period; and
 - (ii) notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or
- (b) a Claim in respect of such liability is made during or after the Coverage Period and:
 - (i) arises from Circumstances first notified to the Insurer during the Coverage Period; or
 - (ii) arises from circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of such circumstances during the Coverage Period.

2.5.2 The Coverage contemplated in this clause 2.5 shall include:—

- (a) each Partnership or sole practitioner who carries on the Succeeding Practice;
- (b) each trustee, nominee, service or administration company owned by the persons referred to in paragraph (a) from time to time;
- (c) each director or officer of any such company as is referred to in paragraph above from time to time;
- (d) each Principal and former Principal of any Partnership referred to in paragraph (a);
- (e) each Employee and former Employee of any Partnership or sole practitioner or company referred to in paragraph (a) and (b); and
- (f) the estate or legal personal representatives of any person referred to in this clause 2.5.2 who is deceased or legally incapacitated.

2.5.3 The Insurer may charge an additional premium in respect of coverage for a Succeeding Practice provided pursuant to this clause 2.5, but the Insurer shall not be entitled to decline to indemnify the Insured or cancel, terminate or avoid the Insurance due to non-payment of any such additional premium when due.

3. **LIMIT OF INSURANCE COVER**

3.1 **Limit of liability for Claims**

3.1.1 The Insurer's liability for Claims in the Indemnity Period shall be limited to an aggregate amount of €1,500,000 (one million five hundred thousand euro). This is not a limit on each underwriter but the maximum liability of all underwriters taken together.

3.1.2 If a Claim is made that would otherwise exceed the limit of liability established by clause 3.1.1, whether on its own or in aggregate with prior or concurrent Claims, the Insurer will be liable only for the amount of such Claim that does not exceed the limit.

3.2 **Cover for Defence Costs**

The limit on the Amount Insured set out in clause 3.1.1 does not apply to Defence Costs.

3.3 **Proportionate liability for Defence Costs**

Notwithstanding clause 3.2, liability for Defence Costs in relation to a Claim that exceeds the Amount Insured is limited to the proportion of such Defence Costs that the Amount Insured bears to the total amount paid or payable to dispose of the Claim.

3.4 **No retrospective dates**

The Coverage shall not exclude or limit the liability of the Insurer in respect of Claims arising from incidents, occurrences, facts, matters, acts and/or omissions that occurred prior to the commencement of this contract.

3.5 **No other limits**

The Coverage does not apply any monetary exclusions or limits except as provided for by clauses 3.1 and 3.3. For the avoidance of doubt, this clause 3.5 shall not be construed to prevent an Insured and the SPF manager (on behalf of the Insurer) from agreeing that the cover shall provide for a Self-Insured Excess.

4. **ARP PREMIUM**

4.1 The Insured shall pay in consideration for the issuance of this Coverage a premium to be known as the "**Initial ARP Premium**" which shall be calculated by the SPF Manager in accordance with the ARP Premium Schedule.

4.2 The Insured shall undertake to pay and shall pay such further sums, to be known as "**Additional ARP Premium**" which shall be calculated by the SPF Manager in accordance with the ARP Premium Schedule, on such further dates as the SPF Manager may from time to time determine.

4.3 Any Additional ARP Premium shall, as from the date upon which the Additional ARP Premium is due (as determined by the SPF manager) (if not already paid by the Insured), constitute a debt due from the Insured to the SPF Manager. Failing payment of the Additional ARP Premium within three (3) days of the relevant due date, the SPF Manager shall be entitled to treat the Insured as a Defaulting Firm for the period during which the additional ARP premium remains outstanding, such that the ARP Premium for the Insured for the indemnity period shall be calculated in accordance with Regulation 13(e) of the Regulations.

4.4 The Insured shall provide to the SPF Manager such information as the SPF manager may from time to time in its discretion reasonably require to deal efficiently and effectively with the Insured's membership of the ARP.

5. **SELF-INSURED EXCESS**

5.1 **Self-Insured Excess**

5.1.1 The Self Insured Excess applicable to the Coverage shall be the self insured excess as set out in Schedule 1 (the "**Self Insured Excess**");

5.1.2 The Insured will bear the first amount of each and every Claim up to the amount of the Self-Insured Excess.

5.2 **Effect of Self-Insured Excess**

5.2.1 The Self-Insured Excess does not reduce or limit the Amount Insured.

5.2.2 The Self-Insured Excess does not apply to Defence Costs.

5.3 **Payment of Self-Insured Excess to Claimant**

In the event that an amount which is within the Self-Insured Excess is not paid by the Insured to a Claimant within 30 (thirty) Working Days of its becoming due, the Insurer must redress the default on the part of the Insured and make payment thereof to the Claimant provided that in such circumstances the total aggregate liability of the Insurer in respect of Claims and in respect of any amount within the Self-Insured Excess required to be paid by the Insurer in accordance with this clause 5.3 shall not exceed €1,500,000. The Insurer shall be entitled to recover any amount paid which is within the Self-Insured Excess from the Insured.

5.4 **One Claim**

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

6. **SPECIAL CONDITIONS**

6.1 **No cancellation**

Subject to clause 6.2, this contract cannot be cancelled unless:

6.1.1 the Firm's Practice is merged into a Succeeding Practice, provided that the Succeeding Practice has Qualifying Insurance in compliance with the Minimum Terms and Conditions as and to the extent prescribed by the Regulations;

6.1.2 the Insured has provided to the Law Society such evidence as the Law Society may require that the Firm has obtained replacement Qualifying Insurance in accordance with the Minimum Terms and Conditions in force on the date of cancellation of this contract; or

6.1.3 the Insured ceases to be an ARP Eligible Firm.

Cancellation of this contract shall not prejudice the rights and obligations of the Insurer and the Insured accrued under this contract prior to the date of cancellation.

6.2 **Phoenix Firms**

6.2.1 The SPF Manager may cancel this contract forthwith where, pursuant to Regulation 3(m) of the Regulations, the PII Committee decides to treat another firm as a Phoenix Firm to the Firm.

6.2.2 The SPF Manager shall honour and discharge any amount due and owing in respect of any Claim or Circumstance notified to the SPF Manager within the period from the commencement of this contract until its cancellation by the SPF Manager pursuant to clause 6.2.1 but the SPF Manager shall be entitled to recover any amount so paid from the Firm or from the Principals of the Firm.

6.3 **No avoidance or repudiation**

The Insurer is not entitled to avoid or repudiate this contract on any grounds whatsoever including, without limitation, where there has been non-disclosure or misrepresentation by the Insured, whether such non-disclosure or misrepresentation is or is alleged to be innocent, negligent or fraudulent.

6.4 **Rights of Insurer**

Without prejudice to clause 6.3, the Insurer may immediately recover any outstanding premium from, or levy additional premium amounts on, the Insured in any circumstance where (but for the operation of clause 6.3) the Insurer would have been entitled to avoid or repudiate the contract.

In any situation where the Insurer becomes aware that there has been fraudulent non-disclosure or fraudulent misrepresentation to the Insurer in connection with the placement or renewal of the Coverage, the Insurer may refer the conduct of any relevant Principal of the Firm to the Law Society to permit the Law Society to take action against that Principal under the Solicitors Acts 1954 to 2008 or otherwise.

6.5 **No set off**

Any indemnity amount payable to the Insured by the Insurer under this contract must be paid only to the relevant Claimant or as the Claimant may direct. The Insurer is not entitled to set off against any such indemnity amount any payment owing to the Insurer by the Insured, including, without limitation, any payment of premium due to, or any payment required to be made by the Insured to reimburse, the Insurer.

6.6 **No other policy to bar recovery**

Subject to clause 7.4, rights of recovery available to the Insured under a policy of insurance will not bar recovery in respect of any Claim under this contract.

6.7 **Notification of Claims**

The Insured shall report or notify any Claim or Circumstance required to be reported or notified pursuant to this contract to the SPF Manager (acting on behalf of the Insurer) as soon as is reasonably practicable after becoming aware of such a Claim or Circumstance.

Every Principal of the Insured shall be responsible for ensuring that the Insured makes any notifications or reports required pursuant to this contract.

6.8 **Additional Information**

The Firm shall provide to the SPF Manager such information as the SPF Manager may from time to time in its discretion reasonably require to deal efficiently and effectively with the Firm's ARP Coverage.

6.9 **No denial or reduction**

Subject to clause 2.2, the Insurer shall not on any grounds whatsoever, including but not limited to the following:

6.9.1 any failure to notify a Claim or Circumstance within a prescribed period;

6.9.2 any breach of any term or condition of this contract; or

6.9.3 any failure to pay any part of the premium in relation to this contract;

be entitled to reduce or deny its liability under this contract, except in circumstances where a prescribed exclusion contemplated by clause 7 applies.

6.10 **Coverage Period**

6.10.1 Where the Insured has applied to enter the ARP prior to the commencement of the Indemnity Period, the Coverage Period shall commence at the start of the Indemnity Period.

6.10.2 Where the Insured applies to enter the ARP during the Indemnity Period, the Coverage Period shall commence from the date specified in the Insured's application, but that date may not be earlier than the date upon which the application was made.

6.10.3 The Coverage Period shall continue until the end of the Indemnity Period unless otherwise cancelled in accordance with the terms of this contract.

6.11 **Contesting Liability**

The Insured shall not be required against its wish to contest the issue of liability in any legal or arbitration proceedings arising from any Claim unless a solicitor or a member of the Irish Bar (as mutually agreed upon between the Insured and the SPF Manager (acting on behalf of the Insurer), or failing agreement, to be appointed by the Chairman of the Bar Council of Ireland) shall advise that such proceedings or arbitration should be contested.

7. **EXCLUSIONS**

7.1 **No other exclusions**

The liability of the Insurer under this contract shall not be excluded or limited on any basis whatsoever save where and to the extent that any Claim or related Defence Cost is proved to have arisen from one (1) or a number of the matters set out in this clause 7.

7.2 **Death or bodily injury**

The Insurer is not liable to indemnify any Insured for causing death or bodily injury save that the Insurer is liable for psychological injury or emotional distress (including but not limited to stress-related claims).

7.3 **Property**

The Insurer is not liable to indemnify for any act or omission of any Insured which results in or contributes to damage to, or destruction or physical loss of any property of any kind whatsoever, other than property in the care, custody or control of any Insured in connection with the Firm's Practice and not occupied or used in the course of the Firm's Practice, unless such liability is occasioned by the Insured being in breach of professional duty in the performance of or failure to perform Legal Services.

7.4 Previous cover

The Insurer is not liable to indemnify any Insured in respect of claims where another professional indemnity insurance contract for a period earlier than the Coverage Period entitles the Insured to be indemnified in respect of the same Claim. Save as specified in this clause 7.4, the Coverage shall comply with clause 6.6.

7.5 Fraud or dishonesty

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

7.6 Trading debts

The Insurer is not liable to indemnify any Insured against any trading loss or personal debt incurred by the Insured.

7.7 Partnership Agreement

The Insurer is not liable to indemnify any Insured against any actual or alleged breach or other relief in respect of disputes relating to the membership of and rights and obligations relating to membership of the Firm or disputes relating to or arising out of the partnership agreement between any two (2) or more persons comprising or formerly comprising the Firm.

7.8 Solicitors Acts

Save as specifically provided in this clause, the Insurer is not liable to indemnify any Insured against any loss occurring as a result of any process or proceedings brought against the Insured by or on behalf of the Law Society or any other person so entitled to ensure compliance with, or consequent on the breach (or alleged breach) by the Insured of any provisions of the Solicitors Acts 1954 to 2008 or any regulations made thereunder or in respect of misconduct (including, for the avoidance of doubt, any costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in sub-clause (c) of the definition of "Claim"). However, the Insurer will indemnify each Insured for any awards made under the provisions of the Solicitors Acts 1954 to 2008 for compensation or restitution to clients or any other obligations that may be imposed on solicitors or registered lawyers by statute from time to time to compensate or make restitution to clients.

7.9 Insured acting as their own lawyer

The Insurer is not liable to indemnify any Insured against any liability arising in respect of a transaction where the Insured has acted as his or her own lawyer save and except where another solicitor or registered lawyer in the Firm has bona fide acted at arm's length for the Insured concerned in respect of any such transaction or where the Claim is by a bona fide third party in respect of such transaction.

7.10 Claims/Exposure to risk outside Ireland

The Insurer is not liable to indemnify any Insured against any loss occurring or any liability arising in connection with:

7.10.1 any part of the Firm's Practice carried on from offices of the Firm located outside the Republic of Ireland; or

7.10.2 any advice given or action taken or omitted to be taken by the Insured in relation to any law other than the law of the Republic of Ireland (for this purpose the law of the Republic of Ireland includes European Union law where the same forms part of the law of the Republic of Ireland).

7.11 **Employment**

The Insurer is not liable to indemnify any Insured against any Claim or Circumstance arising out of:

7.11.1 a wrongful dismissal; or

7.11.2 any other alleged or actual breach, or any other relief in respect of any contract of employment (including but not limited to a stress-related claim brought by an Employee against the Firm where such claim arises out of the employment relationship between that Employee and the Firm) where such dismissal or breach is alleged or such relief is sought against the Insured.

7.12 **Contracts**

The Insurer is not liable to indemnify any Insured against:

7.12.1 wrongful termination by the Insured of; or

7.12.2 any other actual or alleged breach by the Insured of; or

7.12.3 any other relief claimed against the Insured in respect of;

any contract for supply to or use by the Insured of services and/or materials and/or equipment and/or other goods.

7.13 **Directors' liability**

The Insurer is not liable to indemnify any natural person in their capacity as a director or officer of a company, other than an administration, nominee, service or trustee company in respect of which coverage is otherwise required to be extended pursuant to this contract, except that:

7.13.1 this contract shall cover any liability of that person which arises from a breach of duty in the performance of or failure to perform Legal Services; and

7.13.2 this contract shall cover each Insured against any vicarious or joint liability.

7.14 **War, Terror, Asbestos, Radiation**

The Insurer is not liable to indemnify any Insured in respect of losses directly or indirectly caused by:

7.14.1 war, riot, civil commotion and other hostilities;

7.14.2 terrorism;

7.14.3 asbestos or any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos; or

7.14.4 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 assembly or nuclear component thereof,

provided that in each case any such exclusion or endorsement does not exclude or limit any liability of the Insurer to indemnify the Insured against civil liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) Legal Services or failure to discharge or fulfil any duty incidental to the Firm's Practice.

7.15 **Financial Institutions**

The Insurer is not liable to indemnify any Insured in respect of Claims made by Financial Institutions (regardless of whether the Financial Institution is a client of the Firm).

8. **GENERAL CONDITIONS**

In the event of any inconsistency between the general conditions in this clause 8 and the special conditions set out at clause 6, the special conditions will prevail.

8.1 **Reimbursement**

8.1.1 Any Insured who committed or condoned an innocent or negligent non-disclosure or misrepresentation or other innocent or negligent breach of the terms and conditions of this contract will reimburse the Insurer to the extent that is just and equitable, having regard to the prejudice caused to the Insurer's interests by such non-disclosure, misrepresentation or breach, provided that no Insured shall be required to make any such reimbursement to the extent that any such breach of the terms or conditions of this contract was in order to comply with any applicable rules or codes laid down from time to time by the Law Society.

8.1.2 Any Insured who committed or condoned a dishonest or fraudulent non-disclosure or misrepresentation or other dishonest or fraudulent breach of the terms and conditions of this contract will be required to indemnify the Insurer in full in respect of any sums paid by it in or in connection with the discharge of any Claim.

8.1.3 No non-disclosure, misrepresentation, breach, dishonesty, act or omission will be imputed to a company unless it was committed or condoned by, in the case of a company, all directors and officers of that company.

8.1.4 Any right of reimbursement contemplated by this clause 8.1 against any Employee, each former Employee, and each person who becomes an Employee of the Firm during the Coverage Period, or their personal representatives, is limited to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interests by that person having committed or condoned (whether knowingly or recklessly) dishonesty or any fraudulent act or omission.

8.2 **Reimbursement of Defence Costs**

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

8.3 **Reimbursement of the Self-Insured Excess**

Those persons who are Principals of the Firm at any time during the Coverage Period will reimburse the Insurer for any Self-Insured Excess paid by the Insurer on an Insured's behalf.

8.4 **Reimbursement of monies paid pending dispute resolution**

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

8.5 **Claims Reports**

The Insurer will provide a report (a "**Claims Report**") to the Firm within a reasonable time from receiving a request to do so, setting out (as applicable), as at the date specified in the Claims Report:

- 8.5.1 a summary of each Claim of which the Insurer is aware made against the Firm under this contract;
- 8.5.2 the amount reserved by the Insurer against each Claim;
- 8.5.3 the basis on which each such amount is calculated (for example, whether the figure represents a loss actually incurred, an estimate of probable maximum loss, or any other basis of reserving);
- 8.5.4 whether or not each such amount includes Defence Costs;
- 8.5.5 whether each such amount includes or is in excess of the amount of any excess or deductible that may apply in relation to such claim, and the amount of any such excess or deductible; and
- 8.5.6 any amounts paid out in relation to each Claim, in each case indicating whether such sums include any excess or deductible due from but not paid by the Firm.

In providing Claims Reports, the Insurer shall use its reasonable endeavours to provide all of the information set out in this clause 8.5, but shall not be required to provide any part of that information to the extent that doing so would not be reasonably practicable having regard to the manner in which Claims information is stored on the computer systems of the Insurer.

9. DISPUTE RESOLUTION

9.1 Arbitration

All disputes and differences arising under or in connection with this contract shall be referred to the decision of a sole arbitrator to be agreed between the parties or, failing agreement between the parties within 14 (fourteen) days of either party having made a request in writing to the other party to concur in the appointment of an arbitrator, a person to be nominated by the Chairman for the time being (or failing the Chairman any other member of the Committee) of the Chartered Institute of Arbitrators (Irish Branch) upon the application of either party.

Every or any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2010 or any act or statutory provision amending same and shall be an arbitration conducted in Dublin, Ireland in the English language and governed by the Arbitration Act 2010.

9.2 Related Disputes

Any dispute between the Insured and the Insurer as to any Claim or Circumstance under the Coverage shall be heard and determined in conjunction with any other related dispute between any insured party and that party's insurer.

9.3 Conduct of Claims

Pending the resolution of any coverage dispute and without prejudice to any issue in dispute, the Insurer shall if so directed by the Law Society conduct any Claim against the Insured, advance Defence Costs to the Insured and if appropriate compromise and/or pay any Claim against the Insured, such a direction by the Law Society to be known as a Direction. The Society may make such a Direction if it is satisfied, in its absolute discretion, that:

- 9.3.1 the party requesting the Direction has taken all reasonable steps to resolve the dispute with the other party;
- 9.3.2 there is a reasonable prospect that the coverage dispute will be resolved or determined in the Insured's favour; and
- 9.3.3 it is fair and equitable in all the circumstances for such Direction to be given.

The Insured shall be required to afford reasonable co-operation to the Insurer in relation to the handling of any Claim against the Insured, subject to the Insurer agreeing to meet the Insured's reasonable costs of such co-operation, and the Insurer shall be entitled to recover from the Insured by way of damages a sum equal to the Insurer's loss arising from or connected with the Insured's failure to co-operate.

For the avoidance of doubt, the Insurer shall not refuse to pay any Claim, or cancel, terminate or avoid the Coverage, due to the Insured's failure to co-operate.

Schedule 1

Insured:

Coverage Period:

Excess:

Premium:

Schedule 2

ARP Premium Schedule for 2011/2012

Pursuant to the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (the “**Regulations**”) the Professional Indemnity Insurance Committee has determined that the following terms shall apply to the determination of premium levels in respect of *firms* which obtain or are granted coverage in the *assigned risk pool* for the indemnity period commencing 1 December 2011 in accordance with the Regulations.

For the avoidance of doubt, undefined italicised terms herein shall have the meaning ascribed to such terms by the Regulations.

1. Method for calculation of the ARP premium

Subject to the minimum annual premium below, the *initial ARP premium* is calculated by identifying the fee band appropriate to the average Gross Fees (as defined below) of the insured *firm* for the last three financial years. Where the Gross Fees are €500,000 or less, the *initial ARP premium* is calculated at a rate of 20% of the Gross Fees (subject to the minimum annual premium). The *initial ARP premium* will not be less than the minimum annual premium. Where the Gross Fees of the insured *firm* are €500,001 or more, the *initial ARP premium* is calculated as the sum of:

- (a) the maximum premium for the previous fee band; plus
- (b) the marginal rate on fees applied to the amount of fees that exceed the ceiling of the previous fee band.

A minimum annual premium of €10,000 will apply to *firms* which have been both *claims* free for the five years preceding the start of an *indemnity period* and have average Gross Fees below €30,000. In respect of all other *firms*, a minimum annual premium of €15,000 will apply irrespective of the level of Gross Fees or the period of time spent in the *ARP* during an *indemnity period*.

Fee Bands	Margin al rate on fees	Calculation of maximum premium for fee band (Calculation of example premium)	Maximum premium for fee band	Minimum rate on fee for fee band
1 €0 to €500,000 eg if fees €100,000	20%	20% x €500,000 = €100,000 20% x €100,000 = €20,000	€100,000	20%
2 €500,001 to €1,500,000 eg if fees €1,000,000	15%	€100,000 (maximum premium for fee band 1) plus (15% x €1,000,000 = €150,000) = €250,000 €100,000 plus (15% x €500,000 = €75,000) = €175,000	€250,000	16.66%
3 €1,500,001 to €3,000,000 eg if fees €2,250,000	9%	€250,000 maximum premium for fee band 2) plus (9% x €1,500,000 = €135,000) = €385,000 €250,000 plus (9% x €750,000 = €67,500) = €317,500	€385,000	12.83%
4 €3,000,001 + eg if fees €10,000,000	5%	- €385,000 plus (5% x €7,000,000) = €350,000 = €735,000	-	-

2. **Definition of Gross Fees**

Gross Fees means all professional fees of the insured *firm* including remuneration, retained commission and income of any sort whatsoever of the insured firm and notarial fees where a solicitor notary operates a notarial practice in conjunction with a solicitor's practice, but excluding only:

- (a) any amount charged in respect of value added tax;
- (b) the reimbursement of disbursements;
- (c) interest;
- (d) dividends;
- (e) rents;
- (f) income and capital profits from other investments made by the insured *firm*.

Gross Fees will be verified by the *firm's* reporting accountants or another accountant approved by the *SPF manager*.

Where the insured *firm* has been in existence for less than 12 months as of the date of proposal to the *ARP*, the Gross Fees shall be the insured *firm's* best estimate of the Gross Fees likely to be received during its first 12 months of practice. However, where the expiry date of the *indemnity period* precedes the completion date of the first 12 months of practice, the Gross Fees shall be the insured firm's best estimate of the Gross Fees likely to be received during the period commencing with the starting date of the *practice* and ending with the expiry date of the *indemnity period*.

In the event that the estimated amount of Gross Fees differs from the actual amount of Gross Fees for the relevant *indemnity period*, the *initial ARP premium* shall be adjusted by reference to the actual amount of Gross Fees (to be verified by the *firm's* reporting accountants or another accountant approved by the *SPF manager*).

3. **Self-insured excesses for 2011/2012**

The *self-insured excess* for each and every *claim* shall be calculated by multiplying the relevant number of *principals* by €5,500, subject to a maximum of €275,000 for each and every *claim*. The relevant number of *principals* is the number of *principals* as at the inception date of the *policy*.

4. **Method for calculation of the ARP default premium**

The *ARP default premium* shall be an amount equal to the *initial ARP premium* plus an additional default charge of 20% of the amount concerned. In the event that the *SPF manager* does not have sufficient information to calculate the *initial ARP premium* in respect of a *defaulting firm*, the *initial ARP premium* shall be calculated on the basis of the *SPF manager's* best estimate until such time as sufficient information has been provided by the *defaulting firm*.

5. **Loading for claims or findings of risk management audit**

The *initial ARP premium* and *ARP default premium* calculated in accordance with the foregoing provisions are minimum amounts only.

The *SPF manager* will be given the power to impose *additional ARP premium* without limit following examination of the *claims* history of the *firm* or the findings of the *risk management audit*.

The *SPF manager* will exercise this power in consultation with two *qualified insurers* to be identified as follows:

- (a) From the period of 1 December in each *indemnity period* until such time as the *SPF manager* has calculated each *qualified insurers'* Initial Estimated Proportionate Participation (calculated in accordance with Schedule 2 of the *qualified insurers'* *agreement* in place between each *qualified insurer* and the *Law Society* in respect of the relevant *indemnity period*), the two *qualified insurers* that the *SPF manager* shall reasonably determine, at his discretion, as being the two *qualified insurers* most likely to have the largest Initial Estimated Proportionate Participation in respect of that *indemnity period*.
- (b) From the date on which the *SPF manager* has calculated each *qualified insurers'* Initial Estimated Proportionate Participation, the two *qualified insurers* with the largest Initial Estimated Proportionate Participation in respect of that *indemnity period*.

6. Cancellation

Where a firm enters the *assigned risks pool* during any *indemnity period*, but subsequently arranges *qualifying insurance* outside the *assigned risks pool* before the end of that *indemnity period*, a return premium shall become due to the insured *firm* concerned. The return premium shall be calculated on the following basis:

Calendar month of indemnity period in which cancellation is effective	Percentage of ARP Premium to be returned
First calendar month	80%
Second or third calendar month	60%
Fourth, fifth or sixth calendar month	30%
Seventh, eighth or ninth calendar month	15%
Tenth, eleventh or twelfth calendar month	Nil

Where such a firm arranges *qualifying insurance* outside the *assigned risks pool* with effect from 1 December in that *indemnity period*, the entire *ARP premium* shall be returned to the firm.

There shall be no return premium due to the insured *firm* in the event that any *claims*, or *circumstances* that may give rise to *claims*, have been notified to the *SPF manager* during the *indemnity period* concerned. Furthermore, in the event that the *assigned risk pool* insurers are called upon to deal with a claim that was first made against the insured *firm* during the *indemnity period* concerned, but which claim the insured *firm* failed to notify to the *SPF manager*, the amount of the return premium shall be repaid to the *SPF manager*. The *SPF manager* may set off any return premium due to the insured *firm* against any part of the *ARP premium* which is due in respect of that insured *firm* but which remains unpaid.

THE ARP RUN-OFF POLICY

ARP RUN-OFF POLICY

Indemnity Period 2011/2012

1. INTERPRETATION

1.1 In this contract, the following expressions shall have the following meanings:

“**1995 Act**” means the Consumer Credit Act 1995 (as amended);

“**1997 Act**” means the Central Bank Act 1997 (as amended);

“**Additional Self Insured Excess**” has the meaning ascribed to it in clause 5.1;

“**Amount Insured**” means the aggregate limit of liability of the Insurer pursuant to this contract as set out in clause 3.1;

“**ARP**” means the Assigned Risks Pool;

“**ARP Eligible Firm**” has the meaning ascribed to it in the Regulations;

“**Assigned Risks Pool**” has the meaning ascribed to it in the Regulations;

“**Circumstance**” means an incident, fact, occurrence, matter, act or omission that may give rise to a Claim in the context of civil liability;

“**Claim**” means a request or demand for, or an assertion of a right to, or an intimation of an intention to seek:

- (a) civil compensation of any nature;
- (b) civil damages of any nature; or
- (c) any award to be made pursuant to the provisions of the Solicitors Acts 1954 to 2008 for compensation or restitution to clients or any other obligations that may be imposed on solicitors to compensate or make restitution to clients by statute from time to time;

but for the avoidance of doubt, the term “**Claim**” does not include any claim for payment of costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in paragraph (c) of this definition where the Coverage excludes the Insurer’s liability to indemnify the Insured in respect of such costs;

“**Claimant**” means a person or entity that has made or may make a Claim (including a Claim for contribution or indemnity);

“**Coverage**” means this arrangement for indemnification;

“**Coverage Period**” means the period for which this Coverage affords cover as set out in clause 6.10;

“**Defence Costs**” mean legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the consent of the Insurer in relation to a Claim including without limitation the costs of:

- (a) defending any proceedings; or
- (b) conducting any proceedings for indemnity, contribution or recovery; or
- (c) investigating, reducing, avoiding or compromising any actual or potential Claim;

but the term “**Defence Costs**” does not include:

- (i) any internal overhead expenses of the Insured or the Insurer or the cost of any Insured’s time, or
- (ii) any costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in paragraph (c) under the definition of “Claim” where the Coverage excludes the Insurer’s liability to indemnify the Insured in respect of such costs;

“**Direction**” shall have the meaning ascribed to it in clause 9.3;

“**Employee**” means any person, other than a Principal, employed or otherwise engaged in the Firm’s Practice, including, without limitation, solicitors, registered lawyers, other lawyers, trainee solicitors, consultants, associates, locum staff members, persons seconded to work in the Firm’s Practice or persons seconded by the Firm to work elsewhere, office and clerical staff or otherwise;

“**Financial Institution**” means any of the following:

- (a) a credit institution as defined in section 2(1) of the 1995 Act;
- (b) a credit institution that is the holder of an authorisation for the purposes of Article 4(1) of Directive 2006/48/EC;
- (c) a retail credit firm authorised pursuant to section 31 of the 1997 Act;
- (d) a home reversion firm authorised pursuant to section 31 of the 1997 Act;
- (e) any other party that engages on a professional basis in the business of providing financial accommodation of any nature to another person;
- (f) any assignee of debt from an entity that has been engaged in the business of providing financial accommodation of any nature to another person, including without limitation, NAMA,

but, for the avoidance of doubt, does not include a Minister of the Government in the exercise of the functions, powers or duties of his office;

“**Firm**” means:

- (a) the Partnership (as constituted as at the commencement of the Coverage Period) which, or sole practitioner who, contracted with the Insurer to provide the Coverage, and
- (b) the Partnership referred to in paragraph (a) as constituted from time to time, whether prior to or during the Coverage Period;

“**Firm’s Practice**” means the practice carried on by the Firm, and includes the business of any trustee, nominee, service or administration company owned by the Principals of the Insured;

“**Indemnity Period**” means the period of one (1) year starting on 1 December 2011;

“**Insured**” means:

- (a) the Firm;
- (b) each trustee, nominee, service or administration company owned by the Firm and/or the Principals of the Firm from time to time;

- (c) each director, officer or employee of any such company as is referred to in paragraph (b) above from time to time;
- (d) each Principal or former Principal of the Firm from time to time;
- (e) each Employee or former Employee of the Firm from time to time; or
- (f) the estate or legal personal representatives of any deceased former Principal or Employee of the Firm.

“Insurer” means the insurers participating in the Special Purpose Fund in respect of the Indemnity Period;

“Investment Advice” has the meaning ascribed to such term in the Regulations;

“Investment Business Service” has the meaning ascribed to such term in the Regulations;

“Law Society” means the Law Society of Ireland;

“Legal Services” means services of a legal or financial nature and includes any part of such services, and for the avoidance of doubt, includes (without limitation):

- (a) any Investment Business Services or Investment Advice provided by a Firm;
- (b) acting as personal representative or trustee;
- (c) acting as notary public;
- (d) acting as commissioner for oaths;
- (e) acting as liquidator or receiver;
- (f) acting as company secretary;
- (g) acting as director of any company owned by the Principals of a Firm that provides trustee, nominee, administration or other services;
- (h) acting as arbitrator or mediator; and
 - (i) acting on a pro bono basis.

“Minimum Terms and Conditions” has the meaning ascribed thereto in the Regulations;

“NAMA” means the National Asset Management Agency;

“Operative Date” means 1 December 2011;

“Partner” means a partner in the Firm;

“Partnership” means an unincorporated firm;

“Phoenix Firm” has the meaning ascribed to such term in the Regulations;

“PII Committee” means the professional indemnity insurance committee constituted under the Regulations;

“Practice” means a business (which term includes any gainful occupation) or any part thereof consisting of the provision of Legal Services from an establishment in the State and where

such Legal Services (as they involve the provision of legal advice) relate to the law of the State (including European Union law as it forms part of the law of the State);

“Preceding Practice” means each practice to which the Firm’s Practice is a Succeeding Practice;

“Principal” means:

- (a) the sole practitioner of the Firm and includes a sole practitioner who employs or employed one (1) or more solicitors or registered lawyers; and
- (b) every Partner of the Firm and every person held out as a Partner of a Firm where the Firm carries on business as a Partnership during the Indemnity Period;

“Qualifying Insurance” has the meaning ascribed to it in the Regulations;

“Regulations” mean the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011, as the same may be amended from time to time;

“Run-off Cover” has the meaning ascribed to it in the Regulations;

“Run-off Cover Rules” has the meaning ascribed to it in the Regulations;

“Self-Insured Excess” means the aggregate amount of the Standard Self Insured Excess and any Additional Self Insured Excess which the Insured is required by the terms of this contract to pay to the Claimant in the event of a Claim;

“SPF Manager” means any person (including any body corporate, partnership or unincorporated body) from time to time appointed by the PII committee to manage the Special Purpose Fund, and includes any replacement to such a person appointed from time to time;

“Special Purpose Fund” has the meaning ascribed thereto in the Regulations;

“Standard Self Insured Excess” has the meaning ascribed to it in clause 5.1;

“Succeeding Practice” means a Practice that satisfies any one (1) or more of the following conditions in relation to another Practice (such other practice being a Preceding Practice for these purposes):

- (a) it is expressly held out as being a successor to the practice or part thereof of the Preceding Practice; or
- (b) it is conducted by a Partnership that has a majority of Principals that are identical to those persons that were Principals of any partnership that conducted the Preceding Practice; or
- (c) it is conducted by a sole practitioner who was the sole practitioner conducting the Preceding Practice; or
- (d) it is conducted by a Partnership in which the sole practitioner conducting the Preceding Practice is a partner and where no other person has been held out as a successor to the Preceding Practice; or
- (e) the Partnership which, or sole practitioner who, conducts the practice has assumed the liabilities of the Preceding Practice;

but notwithstanding the foregoing a practice shall not be treated as a Succeeding Practice for the purposes of this contract pursuant to paragraphs (b), (c), (d) or (e) if another practice is or was held out by the owner of that other practice as the Succeeding Practice;

“Working Day” means every day, not including a Saturday, Sunday or public holiday, on which banks generally are open for the transaction of normal banking business in the State.

1.2 In this contract, unless the context otherwise requires:

1.2.1 words and expressions shall have the same meaning and shall be construed consistently with the same words and expressions in the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011;

1.2.2 the Interpretation Act 2005 shall apply for the purpose of interpreting this contract as it applies to the interpretation of an act of the Oireachtas, except insofar as it may be inconsistent with the Solicitors Acts 1954 to 2008, the Regulations or with this contract;

1.2.3 a reference to any directive, statute, statutory provision, statutory instrument or other similar instrument includes:

- (a) any subordinate legislation made under it, and
- (b) any provision which it has superseded or re-enacted (with or without modification) or amended, and any provision superseding it or re-enacting it (with or without modification) or amending it either before, at or after the date of commencement of this contract;
- (c) the singular includes the plural, and vice versa;
- (d) words denoting any gender include all genders and words denoting the singular include the plural and vice versa;
- (e) any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two (2) or more of the foregoing;
- (f) references to a “company” include any body corporate;
- (g) headings are inserted for convenience only and shall not affect the interpretation of this contract; and
- (h) references to awareness of the Insured shall be limited to the actual knowledge of a Principal of the Firm, or any solicitor or registered lawyer employed by the Firm.

2. **SCOPE OF COVER**

2.1 The Insured

The persons insured under this Coverage include all those persons and entities which are set out in clause 1 of this contract under the definition of **“Insured”**.

2.2 **Civil Liability**

The Insurer will indemnify each Insured against civil liability incurred by an Insured arising from any provision of Legal Services prior to the cessation of the Firm’s Practice provided that:

- (a) a Claim in respect of such civil liability is
 - (i) first made against the Insured during the Coverage Period; and

- (ii) notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or
- (b) a Claim in respect of such liability is first made during or after the Coverage Period and:
 - (i) arises from Circumstances first notified to the Insurer during the Coverage Period; or
 - (ii) arises from Circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of the Circumstances during the Coverage Period.

2.3 Defence Costs

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

- (a) any Claim referred to in clauses 2.2 and 2.4; and
- (b) any Circumstance referred to in clauses 2.2 and 2.4;

and such Defence Costs will be met by the Insurer as and when they are determined, due and payable.

2.4 Preceding Practice

2.4.1 The Insurer will indemnify each Insured against civil liability to the extent that such liability arises from any provision of Legal Services in connection with a Preceding Practice where such services were provided prior to the cessation of the Firm's Practice, provided that

- (a) a Claim in respect of such liability is:
 - (i) first made against an Insured during the Coverage Period; and
 - (ii) notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or
- (b) a Claim in respect of such liability is first made during or after the Coverage Period and
 - (i) arises from Circumstances first notified to the Insurer during the Coverage Period; or
 - (ii) arises from Circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of such circumstances during the Coverage Period.

2.4.2 The cover contemplated in this clause 2.4 includes:

- (a) each Partnership or sole practitioner who carried on the Preceding Practice;
- (b) each trustee, nominee, service or administration company owned by the persons referred to in paragraph (a) from time to time;
- (c) each director or officer of any such company as is referred to in paragraph (b) above from time to time;

- (d) each Principal and former Principal of any Partnership referred to in paragraph (a);
- (e) each Employee and former Employee of any Partnership or sole practitioner or company referred to in paragraph (a) and (b); and
- (f) the estate or legal personal representatives of any person referred to in this clause 2.4.2 who is deceased or legally incapacitated.

3. **LIMIT OF INSURANCE COVER**

3.1 Limit of liability for Claims

3.1.1 The Insurer's liability for Claims in the Indemnity Period shall be limited to an aggregate amount of €1,500,000 (one million five hundred thousand euro). This is not a limit on each underwriter but the maximum liability of all underwriters taken together.

3.1.2 If a Claim is made that would otherwise exceed the limit of liability established by clause 3.1.1, whether on its own or in aggregate with prior or concurrent Claims, the Insurer will be liable only for the amount of such Claim that does not exceed the limit.

3.2 **Cover for Defence Costs**

The limit on the Amount Insured set out in clause 3.1.1 does not apply to Defence Costs.

3.3 **Proportionate liability for Defence Costs**

Notwithstanding clause 3.2, liability for Defence Costs in relation to a Claim that exceeds the Amount Insured is limited to the proportion of such Defence Costs that the Amount Insured bears to the total amount paid or payable to dispose of the Claim.

3.4 **No retrospective dates**

The Coverage shall not exclude or limit the liability of the Insurer in respect of Claims arising from incidents, occurrences, facts, matters, acts and/or omissions that occurred prior to the commencement of this contract.

3.5 **No other limits**

The Coverage does not apply any monetary exclusions or limits except as provided for by clauses 3.1 and 3.3. For the avoidance of doubt, this clause 3.5 shall not be construed to prevent an Insured and the SPF manager (on behalf of the Insurer) from agreeing that the cover shall provide for a Self-Insured Excess.

4. **PREMIUM**

No premium shall be payable by an ARP Run-off Eligible Firm for Run-off Cover.

5. **SELF-INSURED EXCESS**

5.1 **Self-Insured Excess**

The Self Insured Excess applicable to the Coverage shall comprise of the following:

5.1.2 a self insured excess equal to the self insured excess applicable to ARP coverage held by the ARP Run-off Eligible Firm immediately prior to its entry into the ARP Run-off as set out in Schedule 1 (the "**Standard Self Insured Excess**"); and

- 5.1.3 an additional self insured excess (if any) as determined by the SPF Manager (for and on behalf of the Insurer) in accordance with the run-off rules as set out in Schedule 1 (the “**Additional Self Insured Excess**”).

The Insured will bear the first amount of each and every Claim up to the amount of the Self-Insured Excess.

5.2 **Effect of Self-Insured Excess**

5.2.1 The Self-Insured Excess does not reduce or limit the Amount Insured.

5.2.2 The Self-Insured Excess does not apply to Defence Costs.

5.3 **Payment of Self-Insured Excess to Claimant**

In the event that an amount which is within the Self-Insured Excess is not paid by an Insured to a Claimant within 30 (thirty) Working Days of its becoming due, the Insurer must redress the default on the part of the Insured and make payment thereof to the Claimant provided that in such circumstances the total aggregate liability of the Insurer in respect of Claims and in respect of any amount within the Self-Insured Excess required to be paid by the Insurer in accordance with this clause 5.3 shall not exceed €1,500,000. The Insurer shall be entitled to recover any amount paid which is within the Self-Insured Excess from the Insured.

5.4 **One Claim**

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

6. **SPECIAL CONDITIONS**

6.1 **No cancellation**

6.1.1 Subject to clause 6.2, this contract cannot be cancelled unless:

- (a) the Firm has obtained replacement Qualifying Insurance in accordance with the Minimum Terms and Conditions in force on the date of cancellation of this contract;
- (b) the Qualified Insurer or Qualified Insurers under the replacement Qualifying Insurance have confirmed in writing to the Firm and to the SPF Manager that they are providing Qualifying Insurance on the basis that the Firm’s Practice is to be treated as a continuation of the Firm’s Practice prior to the cessation thereof and that accordingly they will be liable for any Claims against the Firm arising from matters that occurred prior to the cessation; and
- (c) the Qualified Insurer or Qualified Insurers under the replacement Qualifying Insurance have provided any required confirmations of coverage to the Law Society; or
- (d) the Firm ceases to be an ARP Run-off Eligible Firm.

6.1.2 Cancellation of this contract shall not prejudice the rights and obligations of the Insurer and the Insured accrued under this contract prior to the date of cancellation.

6.2 **Phoenix Firms**

6.2.1 The SPF Manager may cancel this contract forthwith where, pursuant to Regulation 3(m) of the Regulations, the PII Committee decides to treat another firm as a Phoenix Firm to the Firm.

6.2.2 The SPF Manager shall honour and discharge any amount due and owing in respect of any Claim or Circumstance notified to the SPF Manager within the period from the commencement of this contract until its cancellation by the SPF Manager pursuant to clause 6.2.1 but the SPF Manager shall be entitled to recover any amount so paid from the Firm or from those persons who were Principals of the Firm immediately prior to the date it ceased practice.

6.3 **No avoidance or repudiation**

The Insurer is not entitled to avoid or repudiate this contract on any grounds whatsoever including, without limitation, where there has been non-disclosure or misrepresentation by the Insured, whether such non-disclosure or misrepresentation is or is alleged to be innocent, negligent or fraudulent.

6.4 **Rights of Insurer**

In any situation where the Insurer becomes aware that there has been fraudulent non-disclosure or fraudulent misrepresentation to the Insurer in connection with the placement or renewal of the Coverage, the Insurer may refer the conduct of any relevant Principal of the Firm to the Law Society to permit the Law Society to take action against that Principal under the Solicitors Acts 1954 to 2008 or otherwise.

6.5 **No set off**

Any indemnity amount payable to the Insured by the Insurer under this contract must be paid only to the relevant Claimant or as the Claimant may direct. The Insurer is not entitled to set off against any such indemnity amount any payment owing to the Insurer by the Insured.

6.6 **No other policy to bar recovery**

Subject to clause 7.4, rights of recovery available to the Insured under a policy of insurance will not bar recovery in respect of any Claim under this contract.

6.7 **Notification of Claims**

The Insured shall report or notify any Claim or Circumstance required to be reported or notified pursuant to this contract to the SPF Manager (acting on behalf of the Insurer) as soon as is reasonably practicable after becoming aware of such a Claim or Circumstance.

Every Principal of the Insured shall be responsible for ensuring that the Insured makes any notifications or reports required pursuant to this contract.

6.8 **Additional information**

The Firm shall provide to the SPF Manager such information as the SPF Manager may from time to time in its discretion reasonably require to deal efficiently and effectively with the Firm's membership of the Run-Off Fund.

6.9 **No denial or reduction**

Subject to clause 2.2, the Insurer shall not on any grounds whatsoever, including but not limited to the following:

6.9.1 any failure to notify a Claim or Circumstance within a prescribed period; or

6.9.2 any breach of any term or condition of this contract;

be entitled to reduce or deny its liability under this contract, except in circumstances where a prescribed exclusion contemplated by clause 7 applies.

6.10 Coverage Period

The Coverage Period shall commence on the expiry of the ARP Coverage held by the Firm on the date it ceases practice and shall continue until the end of the Indemnity Period unless otherwise cancelled in accordance with the terms of this contract.

6.11 Contesting Liability

The Insured shall not be required against its wish to contest the issue of liability in any legal or arbitration proceedings arising from any Claim unless a solicitor or a member of the Irish Bar (as mutually agreed upon between the Insured and the SPF Manager (acting on behalf of the Insurer), or failing agreement, to be appointed by the Chairman of the Bar Council of Ireland) shall advise that such proceedings or arbitration should be contested.

7. EXCLUSIONS

7.1 No other exclusions

The liability of the Insurer under this contract shall not be excluded or limited on any basis whatsoever save where and to the extent that any Claim or related Defence Cost is proved to have arisen from one (1) or a number of the matters set out in this clause 7.

7.2 Death or bodily injury

The Insurer is not liable to indemnify any Insured for causing death or bodily injury save that the Insurer is liable for psychological injury or emotional distress (including but not limited to stress-related claims).

7.3 Property

The Insurer is not liable to indemnify for any act or omission of any Insured which results in or contributes to damage to, or destruction or physical loss of any property of any kind whatsoever, other than property in the care, custody or control of any Insured in connection with the Firm's Practice and not occupied or used in the course of the Firm's Practice, unless such liability is occasioned by the Insured being in breach of professional duty in the performance of or failure to perform Legal Services.

7.4 Previous cover

The Insurer is not liable to indemnify any Insured in respect of claims where another professional indemnity insurance contract for a period earlier than the Coverage Period entitles the Insured to be indemnified in respect of the same Claim. Save as specified in this clause 7.4, the Coverage shall comply with clause 6.6.

7.5 Fraud or dishonesty

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

7.6 Trading debts

The Insurer is not liable to indemnify any Insured against any trading loss or personal debt incurred by the Insured.

7.7 **Partnership Agreement**

The Insurer is not liable to indemnify any Insured against any actual or alleged breach or other relief in respect of disputes relating to the membership of and rights and obligations relating to membership of the Firm or disputes relating to or arising out of the partnership agreement between any two (2) or more persons comprising or formerly comprising the Firm.

7.8 **Solicitors Acts**

Save as specifically provided in this clause, the Insurer is not liable to indemnify any Insured against any loss occurring as a result of any process or proceedings brought against the Insured by or on behalf of the Law Society or any other person so entitled to ensure compliance with, or consequent on the breach (or alleged breach) by the Insured of any provisions of the Solicitors Acts 1954 to 2008 or any regulations made thereunder or in respect of misconduct (including, for the avoidance of doubt, any costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in sub-clause (c) of the definition of "Claim"). However, the Insurer will indemnify each Insured for any awards made under the provisions of the Solicitors Acts 1954 to 2008 for compensation or restitution to clients or any other obligations that may be imposed on solicitors or registered lawyers by statute from time to time to compensate or make restitution to clients.

7.9 **Insured acting as their own lawyer**

The Insurer is not liable to indemnify any Insured against any liability arising in respect of a transaction where the Insured has acted as his or her own lawyer save and except where another solicitor or registered lawyer in the Firm has bona fide acted at arm's length for the Insured concerned in respect of any such transaction or where the Claim is by a bona fide third party in respect of such transaction.

7.10 **Claims/Exposure to risk outside Ireland**

The Insurer is not liable to indemnify any Insured against any loss occurring or any liability arising in connection with:

7.10.1 any part of the Firm's Practice carried on from offices of the Firm located outside the Republic of Ireland; or

7.10.2 any advice given or action taken or omitted to be taken by the Insured in relation to any law other than the law of the Republic of Ireland (for this purpose the law of the Republic of Ireland includes European Union law where the same forms part of the law of the Republic of Ireland).

7.11 **Employment**

The Insurer is not liable to indemnify any Insured against any Claim or Circumstance arising out of:

7.11.1 a wrongful dismissal; or

7.11.2 any other alleged or actual breach, or any other relief in respect of any contract of employment (including but not limited to a stress-related claim brought by an Employee against the Firm where such claim arises out of the employment relationship between that Employee and the Firm) where such dismissal or breach is alleged or such relief is sought against the Insured.

7.12 **Contracts**

The Insurer is not liable to indemnify any Insured against:

7.12.1 wrongful termination by the Insured of; or

7.12.2 any other actual or alleged breach by the Insured of; or

7.12.3 any other relief claimed against the Insured in respect of;

any contract for supply to or use by the Insured of services and/or materials and/or equipment and/or other goods.

7.13 **Directors' liability**

The Insurer is not liable to indemnify any natural person in their capacity as a director or officer of a company, other than an administration, nominee, service or trustee company in respect of which coverage is otherwise required to be extended pursuant to this contract, except that:

7.13.1 this contract shall cover any liability of that person which arises from a breach of duty in the performance of or failure to perform Legal Services; and

7.13.2 this contract shall cover each Insured against any vicarious or joint liability.

7.14 **War, Terror, Asbestos, Radiation**

The Insurer is not liable to indemnify any Insured in respect of losses directly or indirectly caused by:

7.14.1 war, riot, civil commotion and other hostilities;

7.14.2 terrorism;

7.14.3 asbestos or any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos; or

7.14.4 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 assembly or nuclear component thereof

provided that in each case any such exclusion or endorsement does not exclude or limit any liability of the Insurer to indemnify the Insured against civil liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) Legal Services or failure to discharge or fulfil any duty incidental to the Firm's Practice.

7.15 **Financial Institutions**

The Insurer is not liable to indemnify any Insured in respect of Claims made by Financial Institutions (regardless of whether the Financial Institution is a client of the Firm).

8. **GENERAL CONDITIONS**

In the event of any inconsistency between the general conditions in this clause 8 and the special conditions set out at clause 6, the special conditions will prevail.

8.1 Reimbursement

- 8.1.1 Any Insured who committed or condoned an innocent or negligent non-disclosure or misrepresentation or other innocent or negligent breach of the terms and conditions of this contract will reimburse the Insurer to the extent that is just and equitable, having regard to the prejudice caused to the Insurer's interests by such non-disclosure, misrepresentation or breach, provided that no Insured shall be required to make any such reimbursement to the extent that any such breach of the terms or conditions of this contract was in order to comply with any applicable rules or codes laid down from time to time by the Law Society.
- 8.1.2 Any Insured who committed or condoned a dishonest or fraudulent non-disclosure or misrepresentation or other dishonest or fraudulent breach of the terms and conditions of this contract will be required to indemnify the Insurer in full in respect of any sums paid by it in or in connection with the discharge of any Claim.
- 8.1.3 No non-disclosure, misrepresentation, breach, dishonesty, act or omission will be imputed to a company unless it was committed or condoned by, in the case of a company, all directors and officers of that company.
- 8.1.4 Any right of reimbursement contemplated by this clause 8.1 against any Employee, each former Employee, and each person who becomes an Employee of the Firm during the Coverage Period, or their personal representatives, is limited to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interests by that person having committed or condoned (whether knowingly or recklessly) dishonesty or any fraudulent act or omission.

8.2 Reimbursement of Defence Costs

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

8.3 Reimbursement of the Self-Insured Excess

Those persons who are Principals of the Firm at any time during the Coverage Period will reimburse the Insurer for any Self-Insured Excess paid by the Insurer on an Insured's behalf.

8.4 Reimbursement of monies paid pending dispute resolution

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

8.5 Claims Reports

The Insurer will provide a report (a "**Claims Report**") to the Firm within a reasonable time from receiving a request to do so, setting out (as applicable), as at the date specified in the Claims Report:

- 8.5.1 a summary of each Claim of which the Insurer is aware made against the Firm under this contract;
- 8.5.2 the amount reserved by the Insurer against each Claim;
- 8.5.3 the basis on which each such amount is calculated (for example, whether the figure represents a loss actually incurred, an estimate of probable maximum loss, or any other basis of reserving);
- 8.5.4 whether or not each such amount includes Defence Costs;

8.5.5 whether each such amount includes or is in excess of the amount of any excess or deductible that may apply in relation to such Claim, and the amount of any such excess or deductible; and

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

In providing Claims Reports, the Insurer shall use its reasonable endeavours to provide all of the information set out in this clause 8.5, but shall not be required to provide any part of that information to the extent that doing so would not be reasonably practicable having regard to the manner in which Claims information is stored on the computer systems of the Insurer.

9. **DISPUTE RESOLUTION**

9.1 **Arbitration**

All disputes and differences arising under or in connection with this contract shall be referred to the decision of a sole arbitrator to be agreed between the parties or, failing agreement between the parties within 14 (fourteen) days of either party having made a request in writing to the other party to concur in the appointment of an arbitrator, a person to be nominated by the Chairman for the time being (or failing the Chairman any other member of the Committee) of the Chartered Institute of Arbitrators (Irish Branch) upon the application of either party.

Every or any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2010 or any act or statutory provision amending same and shall be an arbitration conducted in Dublin, Ireland in the English language and governed by the Arbitration Act 2010.

9.2 **Related Disputes**

Any dispute between the Insured and the Insurer as to any Claim or Circumstance under the Coverage shall be heard and determined in conjunction with any other related dispute between any insured party and that party's insurer.

9.3 **Conduct of Claims**

Pending the resolution of any coverage dispute and without prejudice to any issue in dispute, the Insurer shall if so directed by the Law Society conduct any Claim against the Insured, advance Defence Costs to the Insured and if appropriate compromise and/or pay any Claim against the Insured, such a direction by the Law Society to be known as a Direction. The Society may make such a Direction if it is satisfied, in its absolute discretion, that:

9.3.1 the party requesting the Direction has taken all reasonable steps to resolve the dispute with the other party;

9.3.2 there is a reasonable prospect that the coverage dispute will be resolved or determined in the Insured's favour; and

9.3.3 it is fair and equitable in all the circumstances for such Direction to be given.

The Insured shall be required to afford reasonable co-operation to the Insurer in relation to the handling of any Claim against the Insured, subject to the Insurer agreeing to meet the Insured's reasonable costs of such co-operation, and the Insurer shall be entitled to recover from the Insured by way of damages a sum equal to the Insurer's loss arising from or connected with the Insured's failure to co-operate.

For the avoidance of doubt, the Insurer shall not refuse to pay any claim, or cancel, terminate or avoid the Coverage, due to the Insured's failure to co-operate.

Schedule 1

Insured:

Coverage Period:

Standard Self Insured Excess:

Additional Self Insured Excess:

THE ARP PREMIUM SCHEDULE

ARP PREMIUM SCHEDULE FOR 2011/2012

Pursuant to the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (the “**Regulations**”) the Professional Indemnity Insurance Committee has determined that the following terms shall apply to the determination of premium levels in respect of *firms* which obtain or are granted coverage in the *assigned risk pool* for the indemnity period commencing 1 December 2011 in accordance with the Regulations.

For the avoidance of doubt, undefined italicised terms herein shall have the meaning ascribed to such terms by the Regulations.

1. Method for calculation of the ARP premium

Subject to the minimum annual premium below, the *initial ARP premium* is calculated by identifying the fee band appropriate to the average Gross Fees (as defined below) of the insured *firm* for the last three financial years. Where the Gross Fees are €500,000 or less, the *initial ARP premium* is calculated at a rate of 20% of the Gross Fees (subject to the minimum annual premium). The *initial ARP premium* will not be less than the minimum annual premium. Where the Gross Fees of the insured *firm* are €500,001 or more, the *initial ARP premium* is calculated as the sum of:

- (a) the maximum premium for the previous fee band; plus
- (b) the marginal rate on fees applied to the amount of fees that exceed the ceiling of the previous fee band.

A minimum annual premium of €10,000 will apply to *firms* which have been both *claims* free for the five years preceding the start of an *indemnity period* and have average Gross Fees below €30,000. In respect of all other *firms*, a minimum annual premium of €15,000 will apply irrespective of the level of Gross Fees or the period of time spent in the *ARP* during an *indemnity period*.

Fee Bands	Margin al rate on fees	Calculation of maximum premium for fee band (Calculation of example premium)	Maximum premium for fee band	Minimum rate on fee for fee band
1 €0 to €500,000 eg if fees €100,000	20%	20% x €500,000 = €100,000 20% x €100,000 = €20,000	€100,000	20%
2 €500,001 to €1,500,000 eg if fees €1,000,000	15%	€100,000 (maximum premium for fee band 1) plus (15% x €1,000,000 = €150,000) = €250,000 €100,000 plus (15% x €500,000 = €75,000) = €175,000	€250,000	16.66%
3 €1,500,001 to €3,000,000 eg if fees €2,250,000	9%	€250,000 maximum premium for fee band 2) plus (9% x €1,500,000 = €135,000) = €385,000 €250,000 plus (9% x €750,000 = €67,500) = €317,500	€385,000	12.83%
4 €3,000,001 + eg if fees €10,000,000	5%	- €385,000 plus (5% x €7,000,000) = €350,000 = €735,000	-	-

2. **Definition of Gross Fees**

Gross Fees means all professional fees of the insured *firm* including remuneration, retained commission and income of any sort whatsoever of the insured firm and notarial fees where a solicitor notary operates a notarial practice in conjunction with a solicitor's practice, but excluding only:

- (a) any amount charged in respect of value added tax;
- (b) the reimbursement of disbursements;
- (c) interest;
- (d) dividends;
- (e) rents;
- (f) income and capital profits from other investments made by the insured *firm*.

Gross Fees will be verified by the *firm's* reporting accountants or another accountant approved by the *SPF manager*.

Where the insured *firm* has been in existence for less than 12 months as of the date of proposal to the *ARP*, the Gross Fees shall be the insured *firm's* best estimate of the Gross Fees likely to be received during its first 12 months of practice. However, where the expiry date of the *indemnity period* precedes the completion date of the first 12 months of practice, the Gross Fees shall be the insured firm's best estimate of the Gross Fees likely to be received during the period commencing with the starting date of the *practice* and ending with the expiry date of the *indemnity period*.

In the event that the estimated amount of Gross Fees differs from the actual amount of Gross Fees for the relevant *indemnity period*, the *initial ARP premium* shall be adjusted by reference to the actual amount of Gross Fees (to be verified by the *firm's* reporting accountants or another accountant approved by the *SPF manager*).

3. **Self-insured excesses for 2011/2012**

The *self-insured excess* for each and every *claim* shall be calculated by multiplying the relevant number of *principals* by €5,500, subject to a maximum of €275,000 for each and every *claim*. The relevant number of *principals* is the number of *principals* as at the inception date of the *policy*.

4. **Method for calculation of the ARP default premium**

The *ARP default premium* shall be an amount equal to the *initial ARP premium* plus an additional default charge of 20% of the amount concerned. In the event that the *SPF manager* does not have sufficient information to calculate the *initial ARP premium* in respect of a *defaulting firm*, the *initial ARP premium* shall be calculated on the basis of the *SPF manager's* best estimate until such time as sufficient information has been provided by the *defaulting firm*.

5. **Loading for claims or findings of risk management audit**

The *initial ARP premium* and *ARP default premium* calculated in accordance with the foregoing provisions are minimum amounts only.

The *SPF manager* will be given the power to impose *additional ARP premium* without limit following examination of the *claims* history of the *firm* or the findings of the *risk management audit*.

The *SPF manager* will exercise this power in consultation with two *qualified insurers* to be identified as follows:

- (a) From the period of 1 December in each *indemnity period* until such time as the *SPF manager* has calculated each *qualified insurers'* Initial Estimated Proportionate Participation (calculated in accordance with Schedule 2 of the *qualified insurers'* *agreement* in place between each *qualified insurer* and the *Law Society* in respect of the relevant *indemnity period*), the two *qualified insurers* that the *SPF manager* shall reasonably determine, at his discretion, as being the two *qualified insurers* most likely to have the largest Initial Estimated Proportionate Participation in respect of that *indemnity period*.
- (b) From the date on which the *SPF manager* has calculated each *qualified insurers'* Initial Estimated Proportionate Participation, the two *qualified insurers* with the largest Initial Estimated Proportionate Participation in respect of that *indemnity period*.

6. Cancellation

Where a firm enters the *assigned risks pool* during any *indemnity period*, but subsequently arranges *qualifying insurance* outside the *assigned risks pool* before the end of that *indemnity period*, a return premium shall become due to the insured *firm* concerned. The return premium shall be calculated on the following basis:

Calendar month of indemnity period in which cancellation is effective	Percentage of ARP Premium to be returned
First calendar month	80%
Second or third calendar month	60%
Fourth, fifth or sixth calendar month	30%
Seventh, eighth or ninth calendar month	15%
Tenth, eleventh or twelfth calendar month	Nil

Where such a firm arranges *qualifying insurance* outside the *assigned risks pool* with effect from 1 December in that *indemnity period*, the entire *ARP premium* shall be returned to the firm.

There shall be no return premium due to the insured *firm* in the event that any *claims*, or *circumstances* that may give rise to *claims*, have been notified to the *SPF manager* during the *indemnity period* concerned. Furthermore, in the event that the *assigned risk pool* insurers are called upon to deal with a claim that was first made against the insured *firm* during the *indemnity period* concerned, but which claim the insured *firm* failed to notify to the *SPF manager*, the amount of the return premium shall be repaid to the *SPF manager*. The *SPF manager* may set off any return premium due to the insured *firm* against any part of the *ARP premium* which is due in respect of that insured *firm* but which remains unpaid.

THE RUN OFF POLICY

RUN-OFF POLICY

Indemnity Period 2011/2012

1. INTERPRETATION

1.1 In this contract, the following expressions shall have the following meanings:

"1995 Act" means the Consumer Credit Act 1995 (as amended);

"1997 Act" means the Central Bank Act 1997 (as amended);

"Additional Self Insured Excess" has the meaning ascribed to it in clause 5.1;

"Amount Insured" means the aggregate limit of liability of the Insurer pursuant to this contract as set out in clause 3.1;

"Circumstance" means an incident, fact, occurrence, matter, act or omission that may give rise to a Claim in the context of civil liability;

"Claim" means a request or demand for, or an assertion of a right to, or an intimation of an intention to seek:

- (a) civil compensation of any nature;
- (b) civil damages of any nature; or
- (c) any award to be made pursuant to the provisions of the Solicitors Acts 1954 to 2008 for compensation or restitution to clients or any other obligations that may be imposed on solicitors to compensate or make restitution to clients by statute from time to time;

but for the avoidance of doubt, the term **"Claim"** does not include any claim for payment of costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in paragraph (c) of this definition where the Coverage excludes the Insurer's liability to indemnify the Insured in respect of such costs;

"Claimant" means a person or entity that has made or may make a Claim (including a Claim for contribution or indemnity);

"Commercial Property Regulations" means the Solicitors (Professional Practice, Conduct and Discipline – Commercial Property Transactions) Regulations 2010;

"Coverage" means this arrangement for indemnification;

"Coverage Period" means the period for which this Coverage affords cover as set out in clause 6.10;

"Defence Costs" mean legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the consent of the Insurer in relation to a Claim including without limitation the costs of:

- (a) defending any proceedings; or
- (b) conducting any proceedings for indemnity, contribution or recovery; or
- (c) investigating, reducing, avoiding or compromising any actual or potential Claim;

but the term **"Defence Costs"** does not include:

- (i) any internal overhead expenses of the Insured or the Insurer or the cost of any Insured's time, or
- (ii) any costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in paragraph (c) under the definition of "Claim" where the Coverage excludes the Insurer's liability to indemnify the Insured in respect of such costs;

"Direction" shall have the meaning ascribed to it in clause 9.3;

"Employee" means any person, other than a Principal, employed or otherwise engaged in the Firm's Practice, including, without limitation, solicitors, registered lawyers, other lawyers, trainee solicitors, consultants, associates, locum staff members, persons seconded to work in the Firm's Practice or persons seconded by the Firm to work elsewhere, office and clerical staff or otherwise;

"Financial Institution" means any of the following:

- (a) a credit institution as defined in section 2(1) of the 1995 Act;
- (b) a credit institution that is the holder of an authorisation for the purposes of Article 4(1) of Directive 2006/48/EC;
- (c) a retail credit firm authorised pursuant to section 31 of the 1997 Act;
- (d) a home reversion firm authorised pursuant to section 31 of the 1997 Act;
- (e) any other party that engages on a professional basis in the business of providing financial accommodation of any nature to another person;
- (f) any assignee of debt from an entity that has been engaged in the business of providing financial accommodation of any nature to another person, including without limitation, NAMA,

but, for the avoidance of doubt, does not include a Minister of the Government in the exercise of the functions, powers or duties of his office;

"Firm" means:

- (a) the Partnership (as constituted as at the commencement of the Coverage Period) which, or sole practitioner who, contracted with the Insurer to provide the Coverage, and
- (b) the Partnership referred to in paragraph (a) as constituted from time to time, whether prior to or during the Coverage Period;

"Firm's Practice" means the practice carried on by the Firm, and includes the business of any trustee, nominee, service or administration company owned by the Principals of the Insured;

"Indemnity Period" means the period of one (1) year starting on 1 December 2011;

"Insured" means:

- (a) the Firm;
- (b) each trustee, nominee, service or administration company owned by the Firm and/or the Principals of the Firm from time to time;

- (c) each director, officer or employee of any such company as is referred to in paragraph (b) above from time to time;
- (d) each Principal or former Principal of the Firm from time to time;
- (e) each Employee or former Employee of the Firm from time to time; or
- (f) the estate or legal personal representatives of any deceased former Principal or Employee of the Firm.

“Insurer” means the insurers participating in the Special Purpose Fund in respect of the Indemnity Period;

“Investment Advice” has the meaning ascribed to such term in the Regulations;

“Investment Business Service” has the meaning ascribed to such term in the Regulations;

“Law Society” means the Law Society of Ireland;

“Legal Services” means services of a legal or financial nature and includes any part of such services, and for the avoidance of doubt, includes (without limitation):

- (a) any Investment Business Services or Investment Advice provided by a Firm;
- (b) acting as personal representative or trustee;
- (c) acting as notary public;
- (d) acting as commissioner for oaths;
- (e) acting as liquidator or receiver;
- (f) acting as company secretary;
- (g) acting as director of any company owned by the Principals of a Firm that provides trustee, nominee, administration or other services;
- (h) acting as arbitrator or mediator; and
- (i) acting on a pro bono basis.

“Minimum Terms and Conditions” has the meaning ascribed thereto in the Regulations;

“NAMA” means the National Asset Management Agency;

“Operative Date” means 1 December 2011;

“Partner” means a partner in the Firm;

“Partnership” means an unincorporated firm;

“Phoenix Firm” has the meaning ascribed to such term in the Regulations;

“PII Committee” means the professional indemnity insurance committee constituted under the Regulations;

“Practice” means a business (which term includes any gainful occupation) or any part thereof consisting of the provision of Legal Services from an establishment in the State and where

such Legal Services (as they involve the provision of legal advice) relate to the law of the State (including European Union law as it forms part of the law of the State);

“Preceding Practice” means each practice to which the Firm’s Practice is a Succeeding Practice;

“Principal” means:

- (a) the sole practitioner of the Firm and includes a sole practitioner who employs or employed one (1) or more solicitors or registered lawyers; and
- (b) every Partner of the Firm and every person held out as a Partner of a Firm where the Firm carries on business as a Partnership during the Indemnity Period;

“Qualifying Insurance” has the meaning ascribed to it in the Regulations;

“Regulations” mean the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011, as the same may be amended from time to time;

“ROF” means the run-off fund;

“ROF Eligibility Criteria” has the meaning ascribed to it in the Regulations;

“Run-off Cover” has the meaning ascribed to it in the Regulations;

“Run-off Cover Rules” has the meaning ascribed to it in the Regulations;

“Self-Insured Excess” means the aggregate amount of the Standard Self Insured Excess and any Additional Self Insured Excess which the Insured is required by the terms of this contract to pay to the Claimant in the event of a Claim;

“SPF Manager” means any person (including any body corporate, partnership or unincorporated body) from time to time appointed by the PII committee to manage the Special Purpose Fund, and includes any replacement to such a person appointed from time to time;

“Special Purpose Fund” has the meaning ascribed thereto in the Regulations;

“Standard Self Insured Excess” has the meaning ascribed to it in clause 5.1;

“Succeeding Practice” means a Practice that satisfies any one (1) or more of the following conditions in relation to another Practice (such other practice being a Preceding Practice for these purposes)

- (a) it is expressly held out as being a successor to the practice or part thereof of the Preceding Practice; or
- (b) it is conducted by a Partnership that has a majority of Principals that are identical to those persons that were Principals of any partnership that conducted the Preceding Practice; or
- (c) it is conducted by a sole practitioner who was the sole practitioner conducting the Preceding Practice; or
- (d) it is conducted by a Partnership in which the sole practitioner conducting the Preceding Practice is a partner and where no other person has been held out as a successor to the Preceding Practice; or
- (e) the Partnership which, or sole practitioner who, conducts the practice has assumed the liabilities of the Preceding Practice;

but notwithstanding the foregoing a practice shall not be treated as a Succeeding Practice for the purposes of this contract pursuant to paragraphs (b), (c), (d) or (e) if another practice is or was held out by the owner of that other practice as the Succeeding Practice;

“**Working Day**” means every day, not including a Saturday, Sunday or public holiday, on which banks generally are open for the transaction of normal banking business in the State.

1.2 In this contract, unless the context otherwise requires:

- (a) words and expressions shall have the same meaning and shall be construed consistently with the same words and expressions in the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011;
- (b) the Interpretation Act 2005 shall apply for the purpose of interpreting this contract as it applies to the interpretation of an act of the Oireachtas, except insofar as it may be inconsistent with the Solicitors Acts 1954 to 2008, the Regulations or with this contract;
- (c) a reference to any directive, statute, statutory provision, statutory instrument or other similar instrument includes:
 - (i) any subordinate legislation made under it, and
 - (ii) any provision which it has superseded or re enacted (with or without modification) or amended, and any provision superseding it or re enacting it (with or without modification) or amending it either before, at or after the date of commencement of this contract;
- (d) the singular includes the plural, and vice versa;
- (e) words denoting any gender include all genders and words denoting the singular include the plural and vice versa;
- (f) any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two (2) or more of the foregoing;
- (g) references to a “company” include any body corporate;
- (h) headings are inserted for convenience only and shall not affect the interpretation of this contract; and
- (i) references to awareness of the Insured shall be limited to the actual knowledge of a Principal of the Firm, or any solicitor or registered lawyer employed by the Firm.

2. **SCOPE OF COVER**

2.1 **The Insured**

The persons insured under this Coverage include all those persons and entities which are set out in clause 1 of this contract under the definition of “**Insured**”.

2.2 **Civil Liability**

The Insurer will indemnify each Insured against civil liability incurred by an Insured arising from any provision of Legal Services prior to the cessation of the Firm’s Practice provided that:

2.2.1 a Claim in respect of such civil liability is

- 2.2.2 first made against the Insured during the Coverage Period; and
- 2.2.3 notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or
- 2.2.4 a Claim in respect of such liability is first made during or after the Coverage Period and:
 - (a) arises from Circumstances first notified to the Insurer during the Coverage Period; or
 - (b) arises from Circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of the Circumstances during the Coverage Period.

2.3 **Defence Costs**

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

2.3.1 any Claim referred to in clauses 2.2 and 2.4; and

2.3.2 any Circumstance referred to in clauses 2.2 and 2.4;

and such Defence Costs will be met by the Insurer as and when they are determined, due and payable.

2.4 **Preceding Practice**

2.4.1 The Insurer will indemnify each Insured against civil liability to the extent that such liability arises from any provision of Legal Services in connection with a Preceding Practice where such services were provided prior to the cessation of the Firm's Practice, provided that

- (a) a Claim in respect of such liability is:
 - (i) first made against an Insured during the Coverage Period; and
 - (ii) notified to the Insurer during the Coverage Period or within three (3) Working Days immediately following the end of the Coverage Period; or
- (b) a Claim in respect of such liability is first made during or after the Coverage Period and
 - (i) arises from Circumstances first notified to the Insurer during the Coverage Period; or
 - (ii) arises from Circumstances first notified to the Insurer within three (3) Working Days immediately following the end of the Coverage Period provided that the Insured was aware of such circumstances during the Coverage Period.

2.4.2 The cover contemplated in this clause 2.4 includes:

- (a) each Partnership or sole practitioner who carried on the Preceding Practice;
- (b) each trustee, nominee, service or administration company owned by the persons referred to in paragraph (a) from time to time;

- (c) each director or officer of any such company as is referred to in paragraph (b) above from time to time;
- (d) each Principal and former Principal of any Partnership referred to in paragraph (a);
- (e) each Employee and former Employee of any Partnership or sole practitioner or company referred to in paragraph (a) and (b); and
- (f) the estate or legal personal representatives of any person referred to in this clause 2.4.2 who is deceased or legally incapacitated.

3. LIMIT OF INSURANCE COVER

3.1 Limit of liability for Claims

3.1.1 The Insurer's liability for Claims in the Indemnity Period shall be limited to an aggregate amount of €1,500,000 (one million five hundred thousand euro). This is not a limit on each underwriter but the maximum liability of all underwriters taken together.

3.1.2 If a Claim is made that would otherwise exceed the limit of liability established by clause 3.1.1, whether on its own or in aggregate with prior or concurrent Claims, the Insurer will be liable only for the amount of such Claim that does not exceed the limit.

3.2 Cover for Defence Costs

The limit on the Amount Insured set out in clause 3.1.1 does not apply to Defence Costs.

3.3 Proportionate liability for Defence Costs

Notwithstanding clause 3.2, liability for Defence Costs in relation to a Claim that exceeds the Amount Insured is limited to the proportion of such Defence Costs that the Amount Insured bears to the total amount paid or payable to dispose of the Claim.

3.4 No retrospective dates

The Coverage shall not exclude or limit the liability of the Insurer in respect of Claims arising from incidents, occurrences, facts, matters, acts and/or omissions that occurred prior to the commencement of this contract.

3.5 No other limits

The Coverage does not apply any monetary exclusions or limits except as provided for by clauses 3.1 and 3.3. For the avoidance of doubt, this clause 3.5 shall not be construed to prevent an Insured and the SPF manager (on behalf of the Insurer) from agreeing that the cover shall provide for a Self-Insured Excess.

4. PREMIUM

No premium shall be payable by an ROF Eligible Firm for Run-off Cover.

5. SELF-INSURED EXCESS

5.1 Self Insured Excess

The Self Insured Excess applicable to the Coverage shall comprise of the following:

5.1.1 a self insured excess equal to the self insured excess applicable to the Qualifying Insurance held by the Firm at the time it ceased practice as set out in Schedule 1 (the “**Standard Self Insured Excess**”);

5.1.2 an additional self insured excess (if any) as determined by the SPF Manager (for and on behalf of the Insurer) in accordance with the run-off rules as set out in Schedule 1 (the “**Additional Self Insured Excess**”).

The Insured will bear the first amount of each and every Claim up to the amount of the Self-Insured Excess.

5.2 **Effect of Self-Insured Excess**

5.2.1 The Self-Insured Excess does not reduce or limit the Amount Insured.

5.2.2 The Self-Insured Excess does not apply to Defence Costs.

5.3 **Payment of Self-Insured Excess to Claimant**

In the event that an amount which is within the Self-Insured Excess is not paid by an Insured to a Claimant within 30 (thirty) Working Days of its becoming due, the Insurer must redress the default on the part of the Insured and make payment thereof to the Claimant provided that in such circumstances the total aggregate liability of the Insurer in respect of Claims and in respect of any amount within the Self-Insured Excess required to be paid by the Insurer in accordance with this clause 5.3 shall not exceed €1,500,000. The Insurer shall be entitled to recover any amount paid which is within the Self-Insured Excess from the Insured.

5.4 **Financial Institutions**

The Insurer shall not be required to pay any amount that is within the Additional Self-Insured Excess in respect of claims made by Financial Institutions.

5.5 **One Claim**

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

6. **SPECIAL CONDITIONS**

6.1 **No cancellation**

6.1.1 Subject to clause 6.2, this contract cannot be cancelled unless:

- (a) the Firm has obtained replacement Qualifying Insurance in accordance with the Minimum Terms and Conditions in force on the date of cancellation of this contract;
- (b) the Qualified Insurer or Qualified Insurers under the replacement Qualifying Insurance have confirmed in writing to the Firm and to the SPF Manager that they are providing qualifying insurance on the basis that the Firm's Practice is to be treated as a continuation of the Firm's Practice prior to the cessation thereof and that accordingly they will be liable for any Claims against the Firm arising from matters that occurred prior to the cessation; and
- (c) the Qualified Insurer or Qualified Insurers under the replacement Qualifying Insurance have provided any required confirmations of coverage to the Law Society; or
- (d) the Firm ceases to be a ROF Eligible Firm.

6.1.2 Cancellation of this contract shall not prejudice the accrued rights and obligations of the Insurer and the Insured under this contract prior to the date of cancellation.

6.2 **Phoenix Firms**

6.2.1 The SPF Manager may cancel this contract forthwith where, pursuant to Regulation 3(m) of the Regulations, the PII Committee decides to treat another firm as a Phoenix Firm to the Firm.

6.2.2 The SPF Manager shall honour and discharge any amount due and owing in respect of any Claim or Circumstance notified to the SPF Manager within the period from the commencement of this contract until its cancellation by the SPF Manager pursuant to clause 6.2.1 but the SPF Manager shall be entitled to recover any amount so paid from the Firm or from those persons who were Principals of the Firm immediately prior to the date it ceased practice.

6.3 **No avoidance or repudiation**

The Insurer is not entitled to avoid or repudiate this contract on any grounds whatsoever including, without limitation, where there has been non-disclosure or misrepresentation by the Insured, whether such non-disclosure or misrepresentation is or is alleged to be innocent, negligent or fraudulent.

6.4 **Rights of Insurer**

In any situation where the Insurer becomes aware that there has been fraudulent non-disclosure or fraudulent misrepresentation to the Insurer in connection with the placement or renewal of the Coverage, the Insurer may refer the conduct of any relevant Principal of the Firm to the Law Society to permit the Law Society to take action against that Principal under the Solicitors Acts 1954 to 2008 or otherwise.

6.5 **No set off**

Any indemnity amount payable to the Insured by the Insurer under this contract must be paid only to the relevant Claimant or as the Claimant may direct. The Insurer is not entitled to set off against any such indemnity amount any payment owing to the Insurer by the Insured.

6.6 **No other policy to bar recovery**

Subject to clause 7.4, rights of recovery available to the Insured under a policy of insurance will not bar recovery in respect of any Claim under this contract.

6.7 **Notification of Claims**

The Insured shall report or notify any Claim or Circumstance required to be reported or notified pursuant to this contract to the SPF Manager (acting on behalf of the Insurer) as soon as is reasonably practicable after becoming aware of such a Claim or Circumstance.

Every Principal of the Insured shall be responsible for ensuring that the Insured makes any notifications or reports required pursuant to this contract.

6.8 **Additional Information**

The Firm shall provide to the SPF Manager such information as the SPF Manager may from time to time in its discretion reasonably require to deal efficiently and effectively with the Firm's membership of the Run-Off Fund.

6.9 **No denial or reduction**

Subject to clause 2.2, the Insurer shall not on any grounds whatsoever, including but not limited to the following:

6.9.1 any failure to notify a Claim or Circumstance within a prescribed period; or

6.9.2 any breach of any term or condition of this contract;

be entitled to reduce or deny its liability under this contract, except in circumstances where a prescribed exclusion contemplated by clause 7 applies.

6.10 **Coverage Period**

The Coverage Period shall commence on the expiry of the Qualifying Insurance held by the Firm on the date it ceases practice and shall continue until the end of the Indemnity Period unless otherwise cancelled in accordance with the terms of this contract.

6.11 **Contesting Liability**

The Insured shall not be required against its wish to contest the issue of liability in any legal or arbitration proceedings arising from any Claim unless a solicitor or a member of the Irish Bar (as mutually agreed upon between the Insured and the SPF Manager (acting on behalf of the Insurer), or failing agreement, to be appointed by the Chairman of the Bar Council of Ireland) shall advise that such proceedings or arbitration should be contested.

7. **EXCLUSIONS**

7.1 **No other exclusions**

The liability of the Insurer under this contract shall not be excluded or limited on any basis whatsoever save where and to the extent that any Claim or related Defence Cost is proved to have arisen from one (1) or a number of the matters set out in this clause 7.

7.2 **Death or bodily injury**

The Insurer is not liable to indemnify any Insured for causing death or bodily injury save that the Insurer is liable for psychological injury or emotional distress (including but not limited to stress-related claims).

7.3 **Property**

The Insurer is not liable to indemnify for any act or omission of any Insured which results in or contributes to damage to, or destruction or physical loss of any property of any kind whatsoever, other than property in the care, custody or control of any Insured in connection with the Firm's Practice and not occupied or used in the course of the Firm's Practice, unless such liability is occasioned by the Insured being in breach of professional duty in the performance of or failure to perform Legal Services.

7.4 **Previous cover**

The Insurer is not liable to indemnify any Insured in respect of claims where another professional indemnity insurance contract for a period earlier than the Coverage Period entitles the Insured to be indemnified in respect of the same Claim. Save as specified in this clause 7.4, the Coverage shall comply with clause 6.6.

7.5 **Fraud or dishonesty**

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

7.6 **Trading debts**

The Insurer is not liable to indemnify any Insured against any trading loss or personal debt incurred by the Insured.

7.7 **Partnership Agreement**

The Insurer is not liable to indemnify any Insured against any actual or alleged breach or other relief in respect of disputes relating to the membership of and rights and obligations relating to membership of the Firm or disputes relating to or arising out of the partnership agreement between any two (2) or more persons comprising or formerly comprising the Firm.

7.8 **Solicitors Acts**

Save as specifically provided in this clause, the Insurer is not liable to indemnify any Insured against any loss occurring as a result of any process or proceedings brought against the Insured by or on behalf of the Law Society or any other person so entitled to ensure compliance with, or consequent on the breach (or alleged breach), by the Insured, of any provisions of the Solicitors Acts 1954 to 2008 or any regulations made thereunder or in respect of misconduct (including, for the avoidance of doubt, any costs incurred by an Insured in defending or resisting proceedings seeking an award against that Insured of the nature described in sub-clause (c) of the definition of “**Claim**”). However, the Insurer will indemnify each Insured for any awards made under the provisions of the Solicitors Acts 1954 to 2008 for compensation or restitution to clients or any other obligations that may be imposed on solicitors or registered lawyers by statute from time to time to compensate or make restitution to clients.

7.9 **Insured acting as their own lawyer**

The Insurer is not liable to indemnify any Insured against any liability arising in respect of a transaction where the Insured has acted as his or her own lawyer save and except where another solicitor or registered lawyer in the Firm has bona fide acted at arm's length for the Insured concerned in respect of any such transaction or where the Claim is by a bona fide third party in respect of such transaction.

7.10 **Claims/Exposure to risk outside Ireland**

The Insurer is not liable to indemnify any Insured against any loss occurring or any liability arising in connection with:

7.10.1 any part of the Firm's Practice carried on from offices of the Firm located outside the Republic of Ireland; or

7.10.2 any advice given or action taken or omitted to be taken by the Insured in relation to any law other than the law of the Republic of Ireland (for this purpose the law of the Republic of Ireland includes European Union law where the same forms part of the law of the Republic of Ireland).

7.11 **Employment**

The Insurer is not liable to indemnify any Insured against any Claim or Circumstance arising out of:

7.11.1 a wrongful dismissal; or

7.11.2 any other alleged or actual breach, or any other relief in respect of any contract of employment (including but not limited to a stress-related claim brought by an Employee against the Firm where such claim arises out of the employment relationship between that Employee and the Firm) where such dismissal or breach is alleged or such relief is sought against the Insured.

7.12 Contracts

The Insurer is not liable to indemnify any Insured against:

7.12.1 wrongful termination by the Insured of; or

7.12.2 any other actual or alleged breach by the Insured of; or

7.12.3 any other relief claimed against the Insured in respect of;

any contract for supply to or use by the Insured of services and/or materials and/or equipment and/or other goods.

7.13 Directors' liability

The Insurer is not liable to indemnify any natural person in their capacity as a director or officer of a company, other than an administration, nominee, service or trustee company in respect of which coverage is otherwise required to be extended pursuant to this contract, except that:

7.13.1 this contract shall cover any liability of that person which arises from a breach of duty in the performance of or failure to perform Legal Services; and

7.13.2 this contract shall cover each Insured against any vicarious or joint liability.

7.14 War, Terror, Asbestos, Radiation

The Insurer is not liable to indemnify any Insured in respect of losses directly or indirectly caused by:

7.14.1 war, riot, civil commotion and other hostilities;

7.14.2 terrorism;

7.14.3 asbestos or any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos; or

7.14.4 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 assembly or nuclear component thereof

provided that in each case any such exclusion or endorsement does not exclude or limit any liability of the Insurer to indemnify the Insured against civil liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) Legal Services or failure to discharge or fulfil any duty incidental to the Firm's Practice.

7.15 Undertakings to Financial Institutions in respect of Commercial Property Transactions

Certain capitalised terms in this clause are defined in clause 8.16.

7.15.1 Undertakings to Financial Institutions in respect of Commercial Property Transactions before 1 December 2009

The Insurer is not liable to indemnify any insured in respect of Claims arising directly or indirectly as a result of the provision by the Insured of a Relevant Undertaking in the course of a Commercial Property Transaction, before 1 December 2009, to a Financial Institution or to any director, officer, employee, agent or advisor of a Financial Institution, where:

- (a) the Relevant Undertaking was given by the Insured (acting either for a client borrower alone, or for a client borrower and a Financial Institution jointly) in connection with the provision by the relevant Financial Institution of financial accommodation to the Insured's client to permit that client to effect the relevant Commercial Property Transaction; and
- (b) such Claims are made by a Financial Institution; and
- (c) to the extent that the Insurer can demonstrate any civil liability or related Defence Costs arise from any dishonest, fraudulent, criminal or malicious act or omission by that Insured, or any acts or omissions which were done by that Insured knowing them to be wrongful.

For the avoidance of doubt, nothing in this clause 7.15.1 shall be construed to permit liability to be excluded in circumstances where any Relevant Undertaking is provided to a Financial Institution in the course of the Insured's sole representation of that Financial Institution as the Insured's own client

7.15.2 Undertakings to Financial Institutions in respect of Commercial Property Transactions on or after 1 December 2009 but before 1 December 2010

The Insurer is not liable to indemnify any Insured in respect of Claims arising directly or indirectly as a result of the provision by the Insured of a Relevant Undertaking in the course of a Commercial Property Transaction, on or after 1 December 2009, to a Financial Institution or to any director, officer, employee, agent or advisor of a Financial Institution, where the Relevant Undertaking was given by the Insured (acting either for a client borrower alone, or for a client borrower and a Financial Institution jointly) in connection with the provision by the relevant Financial Institution of financial accommodation to that Insured's client to permit that client to effect the relevant Commercial Property Transaction.

For the avoidance of doubt nothing in this clause 7.15.2 shall be construed to permit liability to be excluded in circumstances where any Relevant Undertaking is provided to a Financial Institution in the course of the Insured's sole representation of that Financial Institution as the Insured's own client.

7.15.3 Undertakings in breach of the Commercial Property Regulations on or after 1 December 2010

The Insurer is not liable to indemnify any Insured in respect of Claims arising directly or indirectly as a result of any Insured acting in breach of the Commercial Property Regulations.

7.16 Interpretation of Clause 7.15

For the purposes of clause 7.15 the following terms have the following meanings:

"Accountable Trust Receipt" has the meaning ascribed thereto in the Commercial Property Regulations;

"Certificate of Title" has the meaning ascribed thereto in the Commercial Property Regulations;

“Commercial Development” has the meaning ascribed thereto in the Commercial Property Regulations;

“Commercial Property Transaction” has the meaning ascribed thereto in the Commercial Property Regulations;

“Relevant Person” has the meaning ascribed thereto in the Commercial Property Regulations;

“Relevant Undertaking” has the meaning ascribed thereto in the Commercial Property Regulations;

“Representative” has the meaning ascribed thereto in the Commercial Property Regulations;

“Residential Property” has the meaning ascribed to such term in the Commercial Property Regulations;

“Residential Property Transaction” has the meaning ascribed thereto in the Commercial Property Regulations;

“Solicitor” has the meaning assigned to it in Section 3 of the Solicitors (Amendment) Act, 1994 and includes two (2) or more Solicitors acting in partnership or association; and

“Undertaking” has the meaning ascribed to such term in the Commercial Property Regulations.

7.17 **Misrepresentation and Non-Disclosure**

The Insurer is not liable to indemnify the Insured in respect of any Claim by a Financial Institution in circumstances where the Insurer can demonstrate (and for the avoidance of doubt, the burden of proof in this regard shall rest with the Insurer) that any Insured was guilty of any material misrepresentation or material non-disclosure in placing the Coverage, save that liability shall not be excluded on the grounds of innocent misrepresentation or innocent non-disclosure on the part of the Insured. For the avoidance of doubt, the effect of this clause 7.17 shall be that no such Claims shall be valid as against the Insurer.

8. **GENERAL CONDITIONS**

In the event of any inconsistency between the general conditions in this clause 8 and the special conditions set out at clause 6, the special conditions will prevail.

8.1 **Reimbursement**

8.1.1 Any Insured who committed or condoned an innocent or negligent non-disclosure or misrepresentation or other innocent or negligent breach of the terms and conditions of this contract will reimburse the Insurer to the extent that is just and equitable, having regard to the prejudice caused to the Insurer’s interests by such non-disclosure, misrepresentation or breach, provided that no Insured shall be required to make any such reimbursement to the extent that any such breach of the terms or conditions of this contract was in order to comply with any applicable rules or codes laid down from time to time by the Law Society.

8.1.2 Any Insured who committed or condoned a dishonest or fraudulent non-disclosure or misrepresentation or other dishonest or fraudulent breach of the terms and conditions of this contract will be required to indemnify the Insurer in full in respect of any sums paid by it in or in connection with the discharge of any Claim.

8.1.3 No non-disclosure, misrepresentation, breach, dishonesty, act or omission will be imputed to a company unless it was committed or condoned by, in the case of a company, all directors and officers of that company.

8.1.4 Any right of reimbursement contemplated by this clause 8.1 against any Employee, each former Employee, and each person who becomes an Employee of the Firm during the Coverage Period, or their personal representatives, is limited to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interests by that person having committed or condoned (whether knowingly or recklessly) dishonesty or any fraudulent act or omission.

8.2 Reimbursement of Defence Costs

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

8.3 Reimbursement of the Self-Insured Excess

Those persons who are Principals of the Firm at any time during the Coverage Period will reimburse the Insurer for any Self-Insured Excess paid by the Insurer on an Insured's behalf.

8.4 Reimbursement of monies paid pending dispute resolution

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

8.5 Claims Reports

The Insurer will provide a report (a "**Claims Report**") to the Firm within a reasonable time from receiving a request to do so, setting out (as applicable), as at the date specified in the Claims Report:

8.5.1 a summary of each Claim of which the Insurer is aware made against the Firm under this contract;

8.5.2 the amount reserved by the Insurer against each Claim;

8.5.3 the basis on which each such amount is calculated (for example, whether the figure represents a loss actually incurred, an estimate of probable maximum loss, or any other basis of reserving);

8.5.4 whether or not each such amount includes Defence Costs;

8.5.5 whether each such amount includes or is in excess of the amount of any excess or deductible that may apply in relation to such Claim, and the amount of any such excess or deductible; and

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

In providing Claims Reports, the Insurer shall use its reasonable endeavours to provide all of the information set out in this clause 8.5, but shall not be required to provide any part of that information to the extent that doing so would not be reasonably practicable having regard to the manner in which Claims information is stored on the computer systems of the Insurer.

9. DISPUTE RESOLUTION

9.1 Arbitration

All disputes and differences arising under or in connection with this contract shall be referred to the decision of a sole arbitrator to be agreed between the parties or, failing agreement between the parties within 14 (fourteen) days of either party having made a request in writing to the other party to concur in the appointment of an arbitrator, a person to be nominated by

the Chairman for the time being (or failing the Chairman any other member of the Committee) of the Chartered Institute of Arbitrators (Irish Branch) upon the application of either party.

Every or any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2010 or any act or statutory provision amending same and shall be an arbitration conducted in Dublin, Ireland in the English language and governed by the Arbitration Act 2010.

9.2 Related Disputes

Any dispute between the Insured and the Insurer as to any Claim or Circumstance under the Coverage shall be heard and determined in conjunction with any other related dispute between any insured party and that party's insurer.

9.3 Conduct of Claims

Pending the resolution of any coverage dispute and without prejudice to any issue in dispute, the Insurer shall if so directed by the Law Society conduct any Claim against the Insured, advance Defence Costs to the Insured and if appropriate compromise and/or pay any Claim against the Insured, such a direction by the Law Society to be known as a Direction. The Society may make such a Direction if it is satisfied, in its absolute discretion, that:

9.3.1 the party requesting the Direction has taken all reasonable steps to resolve the dispute with the other party;

9.3.2 there is a reasonable prospect that the coverage dispute will be resolved or determined in the Insured's favour; and

9.3.3 it is fair and equitable in all the circumstances for such Direction to be given.

The Insured shall be required to afford reasonable co-operation to the Insurer in relation to the handling of any Claim against the Insured, subject to the Insurer agreeing to meet the Insured's reasonable costs of such co-operation, and the Insurer shall be entitled to recover from the Insured by way of damages a sum equal to the Insurer's loss arising from or connected with the Insured's failure to co-operate.

For the avoidance of doubt, the Insurer shall not refuse to pay any Claim, or cancel, terminate or avoid the Coverage, due to the Insured's failure to co-operate.

SCHEDULE 1

Insured:

Coverage Period:

Excesses:

Premium:

THE RUN OFF COVER RULES

RUN-OFF COVER RULES

Indemnity Period 2011/2012

Pursuant to the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (the “**Regulations**”) the Professional Indemnity Insurance Committee has determined that, pursuant to Regulation 5(g) of the Regulations, the following terms and conditions shall apply to the *run-off cover* offered to *firms* for the *indemnity period* or part thereof commencing 1 December 2011.

For the avoidance of doubt, undefined italicised terms herein shall have the meaning ascribed to such terms by the Regulations.

1. The Run-off Fund

The *ROF* shall be a constituent part of the *SPF* in the *indemnity period* commencing on 1 December 2011 and shall be contributed to by the *qualified insurers* in proportion to their market share as calculated in accordance with Schedule 2 of *the qualified insurers agreement*. It shall provide *run-off cover* to *ROF eligible firms* and to *ARP eligible firms*.

2. Notice of Closure

A *firm* which intends to cease *practice* shall provide the *SPF manager* with a written notice of its intention to cease *practice* by whichever is the earliest of the following:

- (i) at least 60 days prior to ceasing *practice*; or
- (ii) at least 60 days prior to the expiry of its *coverage period*.

Notice of closure can be provided by the *firm* to the *SPF manager* in the form of the Notice of Closure Form at Schedule 1 or in any written form provided that it includes the information contained in the Notice of Closure Form.

The *firm* shall provide to the *SPF manager* its most recent completed proposal form and its most recent policy of *qualifying insurance* with such notice of closure.

3. Period of Cover

Run-off cover in respect of each *firm* shall commence at the expiry of the *coverage period* during which the *firm* ceases *practice* or on the date of expiry of its *ARP coverage*, as the case may be.

4. Paying for Run-off Cover

No *run-off firm* shall be required to pay a premium for *run-off cover*.

5. Self-insured Excess

The *ROF cover* issued to *ROF eligible firms* shall have a self-insured excess equal to the self-insured excess applicable to the *qualifying insurance* held by the *firm* at the time it ceased *practice*.

ARP run-off cover issued to an *ARP run-off eligible firm* shall have a self-insured excess equal to the self-insured excess applicable under the *ARP coverage*.

The *SPF manager* shall pay any amount that is within the self-insured excess of any *firm's run-off cover* to a claimant but shall be entitled to recover any amount so paid from the *firm*.

6. Additional self-insured excess

Firms obtaining *run-off cover* through the *ROF* will not be required to bear any additional excess for *run-off cover* provided they meet the following obligations:

- (i) notification of closure to the *SPF manager* in accordance with Clause 2 above;

- (ii) compliance with the *close of practice guidelines* as published by the *PII committee*;
- (iii) satisfaction of the *minimum common risk management standard*; and
- (iv) fully co-operate with the *SPF manager* in the conduct of claims and notify any claim or circumstances required to be notified to the *SPF manager* within the period prescribed in Clause 8 of these rules.

Where a *firm* fails to comply with the obligations set out in Clause 6(i) and/or Clause 6(iii), the additional self-insured excess set out opposite that obligation in Schedule 2 shall apply to that *firm's run-off cover* in respect of its failure to comply with that obligation.

Where, in the opinion of the *SPF manager*, a *firm* fails to comply with the obligations set out in Clause 6(ii) and/or Clause 6(iv), the *SPF manager* shall determine the additional self-insured excess to apply to that *firm's run-off cover* in respect of its failure to comply with that obligation. The additional self-insured excess to apply to a *firm's run-off cover* in respect of its failure to comply with its obligations in Clause 6(ii) and/or Clause 6(iv) shall in each case not exceed the maximum amount set out opposite that obligation in Schedule 2.

The maximum additional self-insured excess that may apply to any one *firm's run-off cover* in respect of its failure to comply with its obligations in Clauses 6(i) to 6(iv) is €90,000.

The additional self-insured excess to apply to any one *firm's run-off cover*, as determined in accordance with this Clause 6, shall be applied by the *SPF manager* on an aggregate basis.

The additional self-insured excess to apply to any one *firm's run-off cover*, as determined in accordance with this Clause 6, shall apply to that *firm's run-off cover* in each *indemnity period* in which that *firm* holds *run-off cover* from the *ROF* unless otherwise determined by the *SPF manager*, at its discretion, following a review carried out by the *SPF manager* in accordance with this Clause 6.

Where the *SPF manager* has imposed an additional self-insured excess pursuant to a failure to meet the obligations in Clause 6(ii) and/or Clause 6(iv), the *SPF manager* shall review the *firm's* compliance with these obligations on a regular basis in order to determine, at its discretion, whether there should be any revision of the additional self-insured excess amount. Any changes to be made shall be at the discretion of the *SPF manager*.

The *SPF manager* shall not be required to pay any amount that is within the additional self-insured excess in respect of claims made by *financial institutions*.

7. Risk management audits

The *ROF* shall be responsible for the cost and expenses of the *firm's risk management audit*.

The *SPF manager* shall pay, on behalf of the *qualified insurers*, the costs of the first *risk management audit*.

The *SPF manager* shall pay, on behalf of the *qualified insurers*, the costs of any further *risk management audit* carried out in relation to the *practice* of a *firm*. However, the *firm* shall be required to indemnify the *SPF manager* on demand in respect of any costs, fees, expenses, losses or liabilities incurred by the *SPF manager* in relation to the conduct of that *risk management audit* or to reimburse the *SPF manager* thereafter. Every principal of that *firm* shall be responsible for ensuring that the *firm* discharges its liabilities to the *SPF manager*.

Risk management auditors shall be appointed by the *SPF management committee* on such terms as may be determined by the *SPF management committee*.

8. Claims

Every *firm* that holds *run-off cover* must notify any claim or circumstance to the *SPF manager* as soon as is reasonably practicable after the *principal* of the *firm*, or any solicitor or registered lawyer employed by the *firm* at the time it ceased practice first becoming aware of such claim.

Any interested party may notify a claim or circumstance on behalf of a *run-off firm* to the *SPF manager* and neither the *SPF manager* nor any *qualified insurer* may dispute the validity of such notification solely on the grounds that it was not made directly by the *firm*.

Every *firm* that holds *run-off cover* must confirm to the *SPF manager* at the end of each *indemnity period* that they are not aware of any claims or circumstances which have not been reported.

9. Provision of additional information

Every *run-off firm* shall provide to the *SPF manager* such information as the *SPF manager* may from time to time in its discretion reasonably require to deal efficiently and effectively with that *firm's* membership of the *run-off fund*.

10. Cancellation of run-off cover

Subject to Clause 11, *run-off cover* cannot be cancelled, except on terms agreed between the *SPF manager* and the *firm* where the following conditions are met:

- (a)
 - i) The *firm* shall obtain replacement qualifying insurance in accordance with the minimum terms and conditions on the date of cancellation of the relevant *run-off cover*;
 - ii) The *qualified insurer* under the replacement *qualifying insurance* shall confirm in writing to the *firm* and to the *SPF manager* that they are providing *qualifying insurance* on the basis that the *firm's practice* is to be treated as a continuation of the *firm's practice* prior to the cessation thereof and that the *qualified insurer* shall be liable for any claims against the *firm* arising from matters that occurred prior to the cessation and that accordingly they will be liable for any claims against the *firm* arising from matters that occurred prior to the cessation; and
 - iii) The *qualified insurer* under the replacement insurance shall provide any required confirmations of coverage to the *Law Society* pursuant to the Regulations; or
- (b) The *firm* ceases to be a ROF Eligible Firm.

11. Phoenix Firms

Run-off cover held by a *run-off firm* may be cancelled by the *SPF Manager* where, pursuant to Regulation 3(m) of the Regulations, the *PII Committee* decides to treat another firm as a *phoenix firm* to the *run-off firm*.

In the event of such cancellation, the *SPF manager* shall honour and discharge any amount due and owing in respect of any claim or circumstance notified to the *SPF Manager* within the period from the commencement of the *run-off cover* until its cancellation by the *SPF Manager* pursuant but the *SPF Manager* shall be entitled to recover any amount so paid from the *run-off firm* or from those persons who were *principals* of the *run-off firm* immediately prior to the date it ceased practice.

Where the *PII Committee* decides to treat another firm as a *phoenix firm* to a *run-off firm* the former *principals* for the *run-off firm* shall procure that the *phoenix firm* establishes and maintains professional indemnity insurance which includes cover in accordance with the *minimum terms and conditions* for claims made against the *run-off firm* from the date it ceased practice. A *phoenix firm* shall not be in compliance with its requirement to establish and maintain *qualifying insurance* with a *qualified insurer* pursuant to the Regulations where it fails to comply with this requirement.

12. Management of the ROF

The *SPF manager* shall be responsible for managing and administering the *ROF* and its duties shall include, but shall not be limited to, the following:

- i) Issue *run-off cover* and related documentation to *firms* in the *ROF* on behalf of the *qualified insurers* participating in the *ROF*;
- ii) Receive notice of, negotiate, settle and pay claims on behalf of all *qualified insurers* participating in the *ROF*;
- iii) Conduct any claims against a *firm* in the *ROF*, advance *defence costs* and, if appropriate, compromise and pay any such claim in the normal course on behalf of each relevant *qualified insurer*; and
- iv) Do all things necessary and incidental to any of the above and any other such things as may be necessary from time to time to facilitate the operation of the *ROF*.

13. Reporting to qualified insurers

The *SPF manager* shall, on or about the end of each calendar quarter (or within 10 working days of the end of each such quarter) provide a bordereau to each *qualified insurer* participating in the *ROF* setting out the claims made or notified in respect of that *indemnity period* (including claims made in respect of *financial institutions*) and the establishment, administration and management costs and expenses incurred by the *SPF manager* relating to that *indemnity period*. The obligation to report on those matters will remain so long as any claims made on the *ROF* incepting in that *indemnity period* remain outstanding.

14. Reporting to the Law Society

The *SPF manager*, acting as an agent for the *qualified insurers*, will provide such data to the *Law Society* as the *Law Society* may request from time to time in relation to the *run-off cover*, *firms* in the *ROF*, *run-off firms* where the *SPF manager* has arranged cover through the *ROF* and *defaulting run-off firms* in respect of which the *SPF manager* has arranged cover through the *ROF*.

15. Disclosure of information from the Law Society to the qualified insurers

The *Law Society* may establish an information service to disclose certain information to the *qualified insurers* in such a manner as it may, in its absolute discretion, deem fit, including the following:

- i) On or before 31st January in each *indemnity period*, provide a *qualified insurer* with details of the identity of *run-off firms* which maintained insurance with that *qualified insurer* in the prior indemnity period.
- ii) Provide *qualified insurers* with the details of the identity of any *run-off firm* which has had all of its principals suspended or struck off the roll.

SCHEDULE 1

Notice of Closure Form

Dear Sirs

Pursuant to Regulation 8(a) of the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (the "**Regulations**") , we hereby give notice of our intention to cease practice on *[insert date]*.

We hereby confirm that this notice is given at least 60 days prior to the earliest to occur of the following:

- (a) the cessation of the firm's practice; or
- (b) the expiry of the policy of professional indemnity insurance or ARP coverage held by the firm.

We further confirm that no person who is a principal of the firm at the time it ceases practice shall carry on a practice which is largely similar to the practice of the firm or which has succeeded the practice of the firm such that it could be treated as a phoenix firm pursuant to Regulation 3(m) of the Regulations.

We enclose with this notice the firm's most recently completed proposal form for professional indemnity insurance and most recent policy of professional indemnity insurance.

Yours faithfully

SCHEDULE 2

Self Insured Excess

	Obligation:	Maximum Additional Excess per Indemnity Period
1.	<p>Provide the <i>SPF manager</i> with a written notice of its intention to cease <i>practice</i> to include such information as contained in the Notice of Closure Form at Appendix 1 of these terms.</p> <p>This notice must be accompanied by the following: (i) the <i>firm's</i> most recent completed proposal form; and (ii) the policy of <i>qualifying insurance</i> held by the <i>firm</i> at the time it ceased <i>practice</i>.</p>	€15,000
2.	Comply with the <i>close of practice guidelines</i> as published by the <i>PII committee</i> .	€30,000
3.	Satisfaction of the minimum common risk management standard. published in accordance with the Regulations.	€15,000
4.	Fully co-operate with the <i>SPF manager</i> in the conduct of claims and notify any claim or circumstances required to be notified to the <i>SPF manager</i> within the period prescribed in Clause 8 of these rules.	€30,000

**TERMS OF REFERENCE FOR THE SPF MANAGEMENT
COMMITTEE**

THE SPECIAL PURPOSE FUND (THE “SPF”)

Terms Of Reference For The SPF Management Committee

The SPF Management Committee has been established by the Professional Indemnity Insurance Committee to the Law Society in accordance with Regulation 19 of the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (the “**Regulations**”). These terms of reference, as may be amended by the Law Society from time to time at its discretion, set out the principal duties and obligations of the SPF Management Committee. If there is any inconsistency between these terms of reference and the Regulations, the Regulations shall have precedence.

1 MEMBERSHIP

- 1.1 The number of members of the SPF Management Committee shall be five (5).
- 1.2 No business shall be transacted at any meeting of the SPF Management Committee unless a quorum is present at the start of and throughout such meeting. Two (2) members of the SPF Management Committee, at least one being a representative of the Law Society, shall constitute a quorum.
- 1.3 The members of the SPF Management Committee shall be appointed by the Law Society and shall comprise, in respect of each indemnity period, the SPF Manager, two (2) representatives of the Law Society and one (1) representative of each of the two (2) qualified insurers with the largest relevant premium income for that indemnity period as calculated in accordance with Schedule 2 of the Qualified Insurers Agreement or in circumstances where it is not possible to calculate which qualified insurers have the largest relevant premium income, one (1) representative of each of the two (2) qualified insurers that the Law Society shall reasonably determine, at its discretion, as being the two (2) qualified insurers most likely to have the largest relevant premium income in respect of that indemnity period.
- 1.4 Each member of the SPF Management Committee may appoint any person willing to act, whether or not he or she is a member of the SPF Management Committee, to be an alternate member and may remove from office an alternate member so appointed by him. A person may act as an alternate for more than one member.
- 1.5 An alternate member shall be entitled to receive notice of all meetings of the SPF Management Committee, to attend and vote at any such meeting at which the member appointing him is not personally present, and generally to perform all the functions of his appointer as a member in his absence but shall not be entitled to receive any remuneration for his services as an alternate member of the SPF Management Committee.
- 1.6 Any member who is appointed as an alternate member for another member of the SPF Management Committee shall be entitled to an additional vote at a meeting of the SPF Management Committee for each member for whom he or she acts as alternate member as distinct from the vote to which he or she is entitled in his or her own capacity as a member of the SPF Management Committee, but he or she shall count as only one person for the purpose of determining whether a quorum is present.

2 SECRETARY

- 2.1 The SPF Manager or a named representative of the SPF Manager, such representative as being agreed with the Law Society, shall preside as chairman of the SPF Management Committee.
- 2.2 The secretary of the SPF Management Committee shall be the SPF Manager or such other person or body corporate appointed by the SPF Manager to act as secretary of the SPF Management Committee for such period and on such terms as to remuneration or otherwise as the SPF Manager sees fit.

3 PROCEEDINGS AT MEETINGS

- 3.1 The members may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. Where there is an equality of votes, the chairman shall have a second or casting vote. On a show of hands, every member present in person or represented by alternate, shall have one vote.
- 3.2 The Law Society and/or the SPF Management Committee may invite any person it thinks appropriate to attend any of its meetings but such invitees shall have no right to vote at such meetings.
- 3.3 For the purposes of these terms of reference, the contemporaneous linking together by telephone or other means of audio communication of a number of members not less than the quorum shall be deemed to constitute a meeting of the SPF Management Committee, provided that:
- 3.3.1 each of the members taking part in the meeting is able to speak, be heard and to hear each of the other members taking part;
 - 3.3.2 at the commencement of the meeting each member acknowledges his presence and at he accepts that the conversation shall be deemed to be a meeting of the SPF Management Committee; and
 - 3.3.3 a member may not cease to take part in the meeting by disconnecting his or her telephone or other means of communication unless he or she has previously obtained the express consent of the chairman of the meeting, and a member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the chairman of the meeting to leave the meeting as aforesaid.
- 3.4 A minute of the proceedings at such meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairman of the SPF Management Committee.
- 3.5 Unless otherwise agreed and subject to clause 3.6, all meetings of the SPF Management Committee shall be convened with at least 10 days' notice, specifying the time, date, place and agenda of the meeting. A member may waive notice of any meeting either prospectively or retrospectively.
- 3.6 A meeting of the SPF Management Committee may be convened to consider a matter of immediate material importance with 48 hours' notice or such shorter notice period as unanimously agreed by all members of the SPF Management Committee provided however that all practicable steps shall be taken when convening any such meeting to find a suitable convenient time at which each member can attend.

4 FREQUENCY OF MEETINGS

At least four (4) meetings shall be held each year. These meetings shall be convened quarterly at the offices of the Law Society (or such other venue as unanimously agreed by all members of the SPF Management Committee) by the secretary of the SPF Management Committee. Additionally, any of the members of the SPF Management Committee may require the SPF Manager to convene a meeting if he or she considers that such a meeting is necessary or appropriate.

5 DUTIES

- 5.1 The SPF Management Committee shall be responsible for exercising the functions vested in the SPF Management Committee by or under the Regulations including, but not limited to, the following:

- 5.1.1 Determining the minimum common risk management standard or any equivalent where it has not already been published by the Law Society;
 - 5.1.2 Selecting and appointing the risk management auditor to conduct a risk management audit in accordance with the Regulations;
 - 5.1.3 Determining, in its absolute discretion, the timing and intervals of the risk management audits to be conducted by a risk management auditor during a firm's membership of the assigned risks pool;
 - 5.1.4 Directing that a firm no longer be treated as an ARP eligible firm where that firm fails to comply with any provision of Regulation 15 of the Regulations;
 - 5.1.5 Directing, at its discretion, that any successor firm no longer be treated as an ARP eligible firm where the predecessor firm fails to comply with any provision of Regulation 15 of the Regulations;
 - 5.1.6 Designating the format of the proposal form and the undertaking to be submitted to the Law Society by a firm seeking to obtain ARP coverage; and
 - 5.1.7 Providing a copy of the risk management audit report to the firm concerned and inviting such firm to provide any written response to them within ten (10) working days.
- 5.2 In addition to the duties and obligations set out at 5.1, upon receiving the written response of a firm the subject of a risk management audit report or failing any such written response after the expiry of the relevant time period for such firm to provide a written response, the SPF Management Committee:
- 5.2.1 Shall provide the firm concerned with a written direction indicating which of the risk management audit recommendations are to be binding on the firm and whether the opinion of the risk management auditor as to whether the firm is in compliance with the minimum common risk management standard is to be binding on the firm;
 - 5.2.2 May require any principal of such firm to attend before it to respond to such questions and to provide such information or to produce such documents regarding the management of the practice of the firm as may appear appropriate to the SPF Management Committee;
 - 5.2.3 May direct the firm concerned to comply with such measures within such time period as the SPF Management Committee may deem appropriate and reasonable to avoid or mitigate the risk of claims in respect of civil liability arising from the practice of the firm;
 - 5.2.4 May instruct any risk management auditor to assist and supervise the firm concerned or any principal of the firm or any solicitor or registered lawyer employed by the firm and to report to the SPF Management Committee as appropriate in relation to compliance by the firm, principal, solicitor or registered lawyer concerned with any measures directed by the SPF Management Committee pursuant to Regulation 16(e)(i) of the Regulations;
 - 5.2.5 May commission any further inquiry into the affairs of the firm concerned to be made as may appear appropriate and necessary to the SPF Management Committee in order to permit the SPF Management Committee properly to assess the prevailing state of management of that firm; and
 - 5.2.6 May conclude that the circumstances of the state of management of the firm concerned as disclosed by a risk management audit report, or by any subsequent report or investigation are such that it is not appropriate and reasonable that the firm should be provided or continue to be provided with ARP coverage and deciding, on not less than two (2) working days notice in writing to the firm concerned, to declare

that the firm in question shall no longer be an ARP eligible firm and shall be treated thenceforth as a defaulting firm.

- 5.3 The SPF Management Committee shall also be responsible for exercising any functions delegated to it by the Professional Indemnity Insurance Committee (the "**PII Committee**") pursuant to Regulation 18 of the Regulations.

6 REPORT OF THE SPF MANAGEMENT COMMITTEE

The SPF Management Committee shall provide a quarterly report to the PII Committee summarising its activities and the decisions it has taken in the previous quarter. The SPF Management Committee shall receive and consider any comments that the PII Committee may have on any such report.

7 MINUTES

- 7.1 Minutes of each meeting of the SPF Management Committee shall be taken and the secretary of the SPF Management Committee shall circulate the minutes of each meeting to all members of the SPF Management Committee

