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## Professional Indemnity Insurance Proposal Form Lawyers – Excess of Loss / Top-Up Insurance

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### IMPORTANT NOTICE

#### Your Duty of Disclosure

Before you enter into a contract of general insurance with any insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter you know or could reasonably be expected to know to be a matter relevant to the decision of the insurer whether to accept the risk and, if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of insurance.

Your duty however does not require disclosure of a matter:

- that diminishes the risk to be undertaken by the insurers;
- that is common knowledge;
- that the insurers know or, in the ordinary course of business as insurers, ought to know; or
- as to which compliance with your duty is waived by the insurers.

The requirement of full and frank disclosure of anything which may be material to the risk for which you seek cover (for example, claims, whether founded or unfounded), is of the utmost importance with this type of insurance.

If you do not understand any part of this Proposal Form, seek advice from your professional insurance adviser, as you will be bound by your answers and any the information provided by you.

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#### Non-Disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce their liability under the contract in respect of a claim. If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

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#### Claims Made Insurance

Top-Up Professional Indemnity insurance is written on a "claims made" basis. This means that the insurer indemnifies you for:

- claims first made against you during the period of insurance; and
- certain events of which you become aware during the Period of Insurance which could give rise to a future claim provided that you notify the Insurer during the Period of Insurance of the circumstances of such events.

The policy does **not** provide cover for any claims made against you during the Period of Insurance if at any time prior to commencement to the period of insurance you became aware of facts which might give rise to those Claims being made against you.

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#### Retroactive Date

The proposed insurance may be limited by a retroactive date. If so, the policy will not cover any claims or circumstances arising from any events, omissions or conduct prior to such retroactive date.

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#### Subrogation

Where you have prejudiced the insurers rights to recover a loss from another party, this may have the effect of excluding or limiting the insurers liability in respect of that loss.

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#### Change in Risk or Circumstances

You should advise the insurer(s) as soon as practicable of any material change in your business activities (as disclosed in the Proposal Form).

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#### Privacy

New privacy legislation took effect on 21<sup>st</sup> December 2001. The legislation regulates the way private sector organizations can collect, use, keep, secure and disclose personal information. We have developed a privacy policy that explains what sort of personal information we hold about you and what we do with that information. Please refer to our website for a copy of our Privacy Statement.

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#### Additional Notes

If there is insufficient space to adequately complete your answers, please provide further details on your letterhead, clearly identifying the question referenced.

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#### INSTRUCTIONS FOR COMPLETION:

- Gross Fee Income** means:
  1. All fees received or receivable by the Firm which have been earned from the provision of legal services; and
  2. Internal costs and disbursements charges to clients

**Gross Fee Income** excludes:

  3. Payments received by the Firm for third party disbursements or fees rendered by independent contractors to the firm
  4. Any GST or other taxes that the Firm collects.
- ii Include all requested underwriting information and attachments. Provide a complete response to all questions and attach additional pages if necessary.

**1. Applicant Details**

<b>Name of Applicant Firm:</b>			
<b>ABN:</b>			
<b>Year Applicant Firm Established:</b>			
<b>Address of Principal Office:</b>			
	<b>City:</b>	<b>State:</b>	<b>Postcode:</b>
<b>Website:</b>			
<b>Primary Contact Details:</b>	<b>Name:</b>		
	<b>Title:</b>		
	<b>Telephone:</b>		
	<b>Email:</b>		
<input type="checkbox"/> Sole Practitioner <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Other			

**2. Names of any Service / Administration companies associated with the Firm**

Company	ABN
▪	
▪	
▪	
▪	

Attach details of any additional firms on separate paper on your Firm's letterhead.

**3. State or Territory where Compulsory Professional Indemnity Insurance (CPPI) is arranged?**

NSW	VIC	QLD	SA	WA	ACT	TAS	NT
CPPI Premium (excl. GST and Stamp Duty) 2010/11    \$ _____				CPPI Excess 2010/11    \$ _____			

**4. Period of Insurance – Top-Up**

Top-Up Professional Indemnity	Start:		End:	
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**5. Number of Offices**

NSW	VIC	QLD	SA	WA	ACT	TAS	NT	Overseas

**6. Number of Staff by Category:**

Partners / Principals / Directors	Employed Lawyers / Senior Counsel / Consultants	All Other Staff	Total

**7. Mergers & Acquisitions**

Has the Applicant Firm been acquired by, merged with or acquired any other legal practice during the past five (5) years? If <b>Yes</b> please provide full details: _____ _____ _____	Yes <input type="checkbox"/> No <input type="checkbox"/>
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**8. Financial Services**

Do any of your activities require you to have an Australian Financial Services License?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If <b>Yes</b> , please provide details including AFS Licence number:	What fee income do you

_____	generate from these activities?
_____	
_____	
\$ _____	

**9. USA / Canada:**

Does the Firm have any past, present or prospective employees in the USA or Canada?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does your Firm have any assets in the USA or Canada?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is your Firm represented in any way in the USA or Canada or any territories or protectorates of either country?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes, what is the percentage of your Gross Fee Income to be earned from the USA or Canada or any territories or protectorates of either country?	_____ %
If Yes, what is the number of Principals resident in the USA or Canada or any territories or protectorates of either country?	_____

**10. Limit of Indemnity sought in excess of your compulsory cover of \$2.0Mn any one claim (please tick box):**

\$3.0Mn	\$8.0Mn	\$13.0Mn	\$18.0Mn	Other (Please Specify)

**11. Gross Fee Income (excluding GST)**

2009/10 (Actual)	2010/11 (Estimate)	2011/12 (Estimate)
\$ _____	\$ _____	\$ _____

**12. Breakdown of Gross Fee Income by area of expertise (based on 2008/09 Estimate):**

ADVOCACY	%	IMMIGRATION LAW	%
COMMERCIAL LAW – Excl. Mergers & Acquisitions	%	MEDIATION	%
COMMERCIAL LAW – MERGERS & ACQUISITIONS	%	PERSONAL INJURY	%
COMMERCIAL LITIGATION – PLAINTIFF	%	TAXATION LAW	%
COMMERCIAL LITIGATION - DEFENDANT	%	WILLS & ESTATES	%
PROPERTY - COMMERCIAL	%	CRIMINAL LAW	%
PROPERTY - RESIDENTIAL	%	INTELLECTUAL PROPERTY - Excl. Patent Infringement	%
EMPLOYMENT & INDUSTRIAL LAW	%	INTELLECTUAL PROPERTY - PATENT INFRINGEMENT	%
FAMILY LAW	%	OTHER	%
LOCAL GOVERNMENT AND PLANNING LAW	%	TOTAL	%

**13. Breakdown of Gross Fee Income by State / Location (based on 2008/09 Estimate)**

NSW	VIC	QLD	SA	WA	ACT	TAS	NT	Overseas
%	%	%	%	%	%	%	%	%

**14. Large Transactions**

Have you provided legal advice involving transactions valued at <b>over \$100 million</b> in the past 3 years? Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes", please indicate the <b>NUMBER</b> of transactions by type:					
	Property Related		Mergers & Acquisitions		Other	

**15. Claims:**

Has any claim been made, or has any liability been alleged against the Firm (including any Prior Practice) or have any matters been notified to your Insurers that may result in a claim against your Firm <u>that exceeds \$250,000</u> ?						Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes, please complete the following details and attach summary of claim from your Compulsory Professional Indemnity Insurer:						
Year of Notification	Name of Insurer	Name of Client	Nature of Claim	Amount Paid and Estimate of Potential Liability	Is File Closed?	
					Yes <input type="checkbox"/>	No <input type="checkbox"/>
					Yes <input type="checkbox"/>	No <input type="checkbox"/>
					Yes <input type="checkbox"/>	No <input type="checkbox"/>
					Yes <input type="checkbox"/>	No <input type="checkbox"/>

					Yes <input type="checkbox"/>	No <input type="checkbox"/>
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<b>After enquiry</b> , are any of <b>Lawyers</b> aware of any circumstances that might give rise to a claim against the Firm (including a Prior Practice) that has NOT been notified to your current or prior insurers Compulsory Layer and Top-Up Professional Indemnity Insurers?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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**16. Largest Clients**

Please provide details of the nature of work undertaken and fees generated from your 5 largest clients	Fees

**17. Risk Management**

<b>17.1.</b> Do you complete a detailed conflict of interest check before accepting a new client or appointment?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.2.</b> Do you have written guidelines on the acceptance of new clients and the scope of advice you will provide to them?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.3.</b> Is the acceptance of new clients authorised by a partner of the firm?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.4.</b> Do you use an engagement / appointment letter?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.5.</b> Do you use a termination / finalisation letter at the completion of each matter?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.6.</b> Do you have a centralised diary / follow-up system for controlling critical response dates for the delivery of professional services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.7.</b> Do you have written procedures for alternate partners / staff to provide services in the absence of the appointed solicitor/partner?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.8.</b> Do you have a panel of specialist firms to whom you refer if you are requested to provide advice outside the usual scope of professional services offered by your firm? 17.8.1. If <b>Yes</b> how often is this panel reviewed? _____	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.9.</b> Have you made written enquiry prior to completing this Top-Up Professional Indemnity proposal: 17.9.1. Of the principal? Yes <input type="checkbox"/> No <input type="checkbox"/> Of professional staff? Yes <input type="checkbox"/> No <input type="checkbox"/> 17.9.2. If <b>No</b> , please ensure this is completed <u>prior</u> to completing the Declaration below.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.10.</b> Is the <b>whole</b> firm currently accredited with any Quality Standards?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.11.</b> Do you have a written Administration, Operation and Procedures Manual? If <b>Yes</b> to 17.11, does your practice conduct practice audits / reviews to ensure that the Administration, Operation and Procedures Manual is adhered to? Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>17.12.</b> Have you had a practice procedural review / audit completed by an external consultant in the last 3 years? If <b>Yes</b> does the practice now subscribe to the recommendations made by the external consultant in respect of practice procedures and management? Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Declaration:**

I, the undersigned, AFTER INQUIRY, declare as follows:

- I am authorised on behalf of the Applicant Firm to sign this Proposal Form.
- I have read this Proposal Form and the accompanying documents and acknowledge the contents of same to be true and complete.
- I understand that, up until a contract of insurance is entered into, I am under a continuing obligation to immediately inform Underwriters of any change in the particulars or statements contained in this Application Form or accompanying documents.
- I have received the Important Notice at the beginning of this Proposal Form and I have read and understood the contents therein; and
- I understand that the submission of this Proposal Form does not bind either the Underwriters or the Firm specified in Question 1 to enter into a binding contract of insurance

**Name of Applicant Firm:** \_\_\_\_\_

Signed: Partner, Principal or Director: \_\_\_\_\_

Date: \_\_\_\_\_