

**Civil Liability Professional  
Indemnity Insurance**



**Australian Mediation Association  
Members' Master Policy**

**Table of Contents**

	Page
<b>Notices</b> .....	1
<b>Introduction</b> .....	5
<b>Definitions</b> .....	5
Act of Terrorism .....	5
Adverse Publicity Event .....	5
Claim.....	5
Documents .....	5
Excess .....	5
Fidelity Claim.....	5
Fidelity Excess .....	5
Inquiring Body .....	5
Inquiry Costs.....	5
Insured .....	6
Insured Costs .....	6
Insured Member .....	6
Insurer .....	6
Limit of Indemnity .....	6
North America .....	6
Peak Body .....	6
Period of Insurance.....	6
Policy.....	6
Principal.....	6
Professional Services.....	6
Public Relations Expenses .....	6
Retroactive Date .....	6
Run Off Period.....	6
Schedule .....	6
<b>Insurance Preamble</b> .....	7
<b>Insuring Clause</b> .....	7
<b>Limit of Indemnity</b> .....	7
<b>Insured Costs</b> .....	7
<b>Additional Insured Members</b> .....	7
<b>Excess</b> .....	8
<b>Aggregation of Claims and Fidelity Claims</b> .....	8

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

<b>Insurance Clarification</b> .....	8
Libel or Slander .....	8
Intellectual Property .....	8
Contractual Liability.....	9
Trade Practices Act.....	9
Sub-contractors and Consultants.....	9
<b>Automatic Extensions</b> .....	9
Principals' Previous Business .....	9
Continuous Cover .....	10
Lost Documents .....	10
Inquiry Costs.....	11
Dishonesty of Employees.....	11
Two Automatic Reinstatements .....	11
Fidelity .....	12
Joint Venture Liability .....	12
Public Relations Expenses.....	13
Compensation for Court Attendance.....	13
<b>Optional Extension</b> .....	13
Run Off Period .....	13
<b>Exceptions</b> .....	15
Prior Claims or Known Circumstances.....	15
Asbestos .....	15
Directors and Officers Liability.....	15
Trading Debts.....	15
Dishonest, Fraudulent or Criminal Acts .....	15
Employers Liability .....	16
Radioactivity .....	16
War.....	16
Subrogation Waiver.....	16
Assumption of Liability .....	16
Fines, Penalties, Punitive or Aggravated Damages.....	16
Liquidated Damages .....	16
Terrorism.....	16
Controlling or Financial Interests .....	17
Absence of Agreement to Mediate.....	17

**Civil Liability Professional  
Indemnity Insurance**



**Australian Mediation Association  
Members' Master Policy**

**General Conditions** ..... 17

- Claims Notifications ..... 17
- No Admission of Liability ..... 17
- Claims Conduct ..... 18
- Claims Settlement ..... 18
- Assisting with Claims ..... 18
- Other Insurance ..... 18
- Governing Law ..... 18
- Authorisation ..... 18
- Cancellation ..... 19
- Severability and Non Imputation ..... 19
- Payment of Premium ..... 19
- Material Change ..... 19
- Goods and Services Tax ..... 20
- Territorial and Jurisdictional Limits of Cover ..... 20

**Civil Liability Professional  
Indemnity Insurance**



**Australian Mediation Association  
Members' Master Policy**

This page has been left intentionally blank

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Notices

These notices do not form part of the Policy. A reference to 'you' means to each Insured Member.

### Master Policy Notice

#### Shared limit amongst all the Insured:

This Professional Indemnity Policy for the Members of the Australian Mediation Association is a Master Policy. The Limit of Indemnity of \$10,000,000 in the aggregate is shared by all the Insured during the Period of Insurance. This means that if the Limit of Indemnity and any reinstatement of the Limit of Indemnity under the Two Automatic Reinstatements Automatic Extension are exhausted by Claims against some of the Insured then there will be no cover remaining.

The Policy provides Inquiry Costs cover, which is subject to a limit of \$500,000 in the aggregate, and is shared by all the Insured during the Period of Insurance. This means that if the Inquiry Costs limit is exhausted by some of the Insured then there will be no cover remaining.

The Policy provides Fidelity Cover, which is subject to a limit of \$50,000 in the aggregate, and is shared by all the Insured during the Period of Insurance. This means that if the Fidelity limit is exhausted by some of the Insured then there will be no cover remaining.

All other policy limits and sub-limits are shared by all the Insured during the Period of Insurance.

#### Inclusion of new Insureds mid-term:

ZAS Insurance Management Pty Ltd ABN 82 112 445 548 trading as Southbank Insurance Brokers can request the inclusion of additional Insureds during the Period of Insurance. This does not increase the Limit of Indemnity, provide any additional reinstatements of the Limit of Indemnity or increase any sub-limits. Therefore, the cover for existing Insureds may be reduced.

We do not need to obtain the consent of any Insured prior to agreeing to extend the Policy to include new Insureds during the Period of Insurance.

#### ZAS Insurance Management Pty Ltd ABN 82 112 445 548 trading as Southbank Insurance Brokers acts as your agent:

ZAS Insurance Management Pty Ltd ABN 82 112 445 548 trading as Southbank Insurance Brokers acts as agent for each Insured under this Policy for the purposes of binding cover, accepting notices from us, requesting that new Insureds be added to the Policy mid-term, and for varying the Policy terms.

#### Insured Member Period of Cover:

The Period of Cover applicable to each Insured is specified in the Policy Schedule issued to the applicable Insured or their affiliated Insured Member. The Period of Cover represents the period during the Period of Insurance where such an Insured is covered under this Policy.

### Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance, 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 general insurance.

Your duty, however, does not require disclosure of any matter:

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

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Non-disclosure

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

### Claims Made and Notified Basis of Coverage

The Professional Indemnity Insurance Policy is issued on a 'Claims made and Notified' basis.

This means that the Insuring Clause responds to:

- a) claims first made against you during the period of cover and notified to the insurer during the period of cover, provided that you were not aware at any time prior to the commencement of the period of cover of circumstances which would have put a reasonable person in your position on notice that a claim may be made against him/her; and
- b) written notification of facts pursuant to section 40(3) of the Insurance Contracts Act 1984. The facts that you may decide to notify, are those which might give rise to a claim against you. Such notification must be given as soon as reasonably practicable after you become aware of the facts and prior to the expiry of the period of cover. If you give written notification of facts the policy will respond even though a claim arising from those facts is made against you after the period of cover has expired. For your information, s40(3) of the Insurance Contracts Act 1984 is set out below;

"S40(3) Where the insured gave notice in writing to the insurer of *facts* that might give rise to claim against the insured as soon as was reasonably practicable after the insured became aware of those *facts* but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim when made by reason only that it was made after the expiration of the period of the insurance cover provided by the contract."

When the period of cover expires, no new notification of facts can be made on the expired policy even though the event giving rise to the claim against you may have occurred during the period of cover.

### Retroactive Date

You will not be entitled to indemnity under your new policy in respect of any claim resulting from an act, error or omission occurring or committed by you prior to the retroactive date, where one is specified in the policy terms offered to you.

### Subrogation Waiver

Our policy contains a provision that has the effect of excluding or limiting our liability in respect of a liability incurred solely by reason of an Insured entering into a deed or agreement excluding, limiting or delaying the legal rights or of recovery against another.

### Privacy Statement

The Privacy Act 1988 (Cth) (as amended) requires us to inform you that:

#### **Purpose of collection**

We collect personal information (this is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained and which relates to a natural living person) from or about you, for the purposes of:

- ▼ identifying you when you do business with us;
- ▼ establishing your requirements and providing you with the appropriate product or service including evaluating your application for insurance and any request for amendment to any insurance provided;
- ▼ setting up, issuing, administering and managing the insurance provided following acceptance of an application;
- ▼ assessing and investigating and, if covered, managing claims made in relation to any insurance you have with us or other companies within the Suncorp group; and

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

- ▼ understanding your needs and improving our financial products and services, including training and developing our staff and representatives.

We may use and disclose your personal information for a secondary purpose related to those purposes listed above, where you would reasonably expect us to sue or disclose your personal information for that secondary purpose. In the case of sensitive information, any secondary purpose, use or disclosure will be directly related to the purposes listed above.

### Disclosure

When necessary and in connection with the purposes listed above, we may disclose your personal information to, and/or receive some personal information from:

- ▼ other companies within the Suncorp group;
- ▼ intermediaries including your agent, adviser, a broker, a representative acting on your behalf, other Australian Financial Services Licensees or our authorised representatives and our agents;
- ▼ government bodies, law enforcement or statutory bodies, other insurance companies, reinsurers, financial institutions, insurance and claims reference providers, credit agencies, loss assessors, financiers or investigative service providers;
- ▼ mailing houses, , customer research organisations;
- ▼ legal and other professional advisers; and
- ▼ other service providers, hospitals, medical and health professionals.

### Marketing purposes

We would like to use and disclose your personal information to keep you up to date with the range of products and services available from Suncorp. Generally, our companies in the Suncorp group will use and disclose your personal information for Suncorp's marketing purposes. We may also use your personal information for the purpose of marketing other products and services of third parties we think may be of interest to you. If you do not want us to use and disclose your personal information for the purpose of marketing products and services to you, you should contact us and tell us. Please contact us on the details provided on the last page of this Proposal Form.

### Disclosure of personal information overseas

Our business is trans-Tasman and therefore we will have instances where for the purposes detailed above we may send your personal information to other companies in Suncorp who are in either in Australia or New Zealand. There are also other instances where we may have to send your personal information overseas or collect personal information from overseas. These instances include:

- ▼ when you have asked us to do so;
- ▼ when we are authorised or required by law to do so;
- ▼ when we have outsourced a business activity or function to an overseas service provider with whom we have a contractual arrangement;
- ▼ certain electronic transactions; or
- ▼ it is necessary in order to facilitate a transaction on your behalf.

### Consequences if information is not provided

If you do not provide us with the information we need we will be unable to administer your policy or manage any claim under your policy.

### Access

You can request access to the personal information we hold about you by contacting a Vero office at one of the addresses shown on the last page of this Proposal Form. In some circumstances we are able to deny your request to your personal information, such as when it is unlawful to give it to you. If we deny your request for access, we will tell you why.

### Privacy Statement Issued

Vero Insurance Limited – registered office Level 18, 36 Wickham Terrace, Brisbane, Queensland 4000.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### **General Insurance Code of Practice**

Vero Insurance Limited (Vero) has adopted the General Insurance Code of Practice which has been developed by the Insurance Council of Australia. The Code is designed to promote good relations and good insurance practice between insurers, intermediaries and consumers.

The Code sets out what insurers must do when dealing with the insured. Please contact Vero for more information about the Code, if required.

### **Our Complaints Handling Procedures**

#### **Resolving your complaints**

If you think we have let you down in any way, or our service is not what you expect (even if through one of our agents or representatives), please tell us so we can help. You can tell us by phone, in writing or in person.

Should you tell us in writing it will help to send us the full details of your complaint together with any supporting documents and an explanation of what you want us to do. If you would like to come in to talk to us face to face, please call and we will arrange an appointment for a meeting.

#### **What we will do to resolve your complaint**

When you first let us know about your complaint or concern the person trying to resolve your complaint will listen to you, consider the facts and contact you to resolve your complaint as soon as possible, usually within 24 hours.

If you are not satisfied with this person's decision on your complaint, then it will be referred to the relevant Operational Manager, who will contact you within 5 working days.

Should you not be satisfied with the Operational Manager's decision, then it will be referred to the General Manager (or their delegate). We will send you our final decision within 15 working days from the date you first made your complaint.

#### **What if you are not satisfied with our final decision?**

We expect our procedures will deal fairly and promptly with your complaint. However if you are not satisfied with our final decision there are external dispute remedies such as mediation, arbitration or legal action.



## Australian Mediation Association Members' Master Policy

### Introduction

Please read this Policy carefully to ensure that it meets your requirements. It is written on a Claims made and notified basis, which means that, subject to the Continuous Cover clause, it will only respond to Claims first made against an Insured and notified to the Insurer during the Period of Cover.

Any word or expression to which a specific meaning has been attached shall bear that specific meaning wherever it may appear.

### Definitions

For the purpose of this Policy:

**"Act of Terrorism"** means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government or to put the public, or any section of the public, in fear.

**"Adverse Publicity Event"** means an event which, in the reasonable opinion of a Principal of an Insured Member, might cause the reputation of that Insured Member to be seriously affected by adverse or negative publicity.

**"Claim"** means any demand made by a third party upon the Insured for compensation, however conveyed, including a writ, statement of claim, application or other legal or arbitral process.

**"Documents"** means deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature (excluding any bearer bonds, coupons, bank or currency notes or other negotiable instruments) which is the property of the Insured or for which the Insured is responsible.

**"Excess"** means the amount shown in the Schedule and represents the first amount which is payable by each Insured in respect of any compensation, claimant's costs and expenses or Insured Costs arising out of or in respect of any one Claim made against the Insured or in respect of any Inquiry Costs arising out of any one notice.

**"Fidelity Claim"** means loss of money or goods belonging to or held in trust by an Insured Member caused directly by any act, or series of related acts of fraud or dishonesty committed by any employee of the Insured Member in connection with the Professional Services and discovered and notified to the Insurer during the Period of Cover.

**"Fidelity Excess"** means the amount specified as the Fidelity Excess in the Schedule and represents the first amount which is payable by the Insured in respect of loss of money or goods.

**"Inquiring Body"** means a court, tribunal or legally constituted industry or professional board.

**"Inquiry Costs"** means necessary and reasonable legal costs and expenses incurred by an Insured arising out of any notice requiring the Insured's attendance at an inquiry or hearing held before an Inquiring Body.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

**"Insured"** means:

- i. an Insured Member; and/or
- ii. any past and/or present employee of an Insured Member, but only in his or her capacity as such; and/or
- iii. any past and/or present Principal of an Insured Member, but only in his or her capacity as such; and/or
- iv. the estate, heirs, legal representatives or legal assigns of any natural person insured under this Policy in the event of the death or legal incapacity of such person.

**"Insured Costs"** means all necessary and reasonable costs and expenses incurred by the Insurer, or by an Insured with the Insurer's prior written consent, in defending, investigating or settling any Claim or Claims (not being Inquiry Costs or claimant's costs and expenses).

**"Insured Member"** means the legal entity or entities or the natural persons specified as an Insured Member by endorsement.

**"Insurer"** means Vero Insurance Limited ABN 48 005 297 807

**"Limit of Indemnity"** means the Limit of Indemnity as shown in the Schedule.

**"North America"** means the United States of America and Canada and in each case its territories and protectorates.

**"Peak Body"** means the Australian Mediation Association Pty Limited ABN 51 118 576 337.

**"Period of Cover"** means the Period of Cover as shown in the endorsement issued to the applicable Insured or their affiliated Insured Member.

**"Period of Insurance"** means the Period of Insurance as shown in the Schedule.

**"Policy"** means the Schedule, the terms of this policy and any endorsements.

**"Principal"** means a sole practitioner, a partner of a firm or a director of a company.

**"Professional Services"** means the professional business described in the Schedule, and no other, of the applicable Insured Member.

**"Public Relations Expenses"** means the reasonable costs, charges, fees and expenses of a public relations firm or consultant engaged to prevent or limit the adverse effects of or negative publicity from an Adverse Publicity Event, which an Insured Member may engage with the prior written consent of the Insurer, but only during the first thirty days immediately following the Adverse Publicity Event.

**"Retroactive Date"** means the Retroactive Date shown in the Schedule.

**"Run Off Period"** means the period of time specified in the endorsement giving effect to the Run Off Optional Extension, commencing from the date upon which the Insured Member ceased to conduct the Professional Services.

**"Schedule"** means the current Schedule issued by the Insurer to the applicable Insured Member.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Insurance Preamble

Each Insured and the Insurer agree that the Insurer will provide insurance on the terms of this Policy.

### **Insuring Clause**

The Insurer will indemnify an Insured against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against such Insured and notified to the Insurer during the Period of Cover resulting from the conduct of the Professional Services but not in respect of any such Claim or Claims resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

### **Limit of Indemnity**

The liability of the Insurer for compensation and claimant's costs and expenses in respect of all Claims first made against every Insured and notified to the Insurer during the Period of Insurance shall not exceed the Limit of Indemnity in the aggregate, irrespective of the number of Insureds. The Limit of Indemnity is shared between all the Insured.

All other Policy limits and sub-limits are shared between all the Insured during the Period of Insurance, irrespective of the number of Insureds.

### **Insured Costs**

The Insurer will, in addition to the Limit of Indemnity, pay Insured Costs for Claims covered under this Policy, provided that if the total amount of compensation and claimant's costs and expenses required to dispose of the Claim or Claims exceeds the Limit of Indemnity, the liability of the Insurer for such Insured Costs shall be only that proportion which the Limit of Indemnity bears to the total amount of compensation and claimant's costs and expenses required to dispose of the Claim or Claims.

### **Additional Insured Members**

The Insurer may in its absolute discretion agree to a request from the Peak Body to extend the Policy to include additional Insureds during the Period of Insurance.

Any extension of the Policy to include additional Insureds during the Period of Insurance does not increase the Limit of Indemnity or provide any additional reinstatements of the Limit of Indemnity, and does not increase any other Policy limit or sub-limit.

The Insurer does not need to obtain the consent of any Insured prior to agreeing to extend the Policy to include new Insureds during the Period of Insurance.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Excess

The Insured is liable for the amount of any compensation, claimant's costs and expenses or Insured Costs that are collectively less than the Excess for each Claim. The Excess is deducted from compensation, claimant's costs and expenses payable before the application of the Limit of Indemnity.

The Insured is liable for the amount of any Inquiry Costs that is less than the Excess for each notice. The Excess is deducted from Inquiry Costs payable before the application of the aggregate limit stated in paragraph (e) of the Inquiry Costs Automatic Extension.

The Insurer has no liability for the amount of compensation, claimant's costs and expenses, Insured Costs or Inquiry Costs that is less than the Excess for each Claim or notice.

The Insured agrees that the Excess must be retained by the Insured and is to remain uninsured.

### Aggregation of Claims and Fidelity Claims

In respect of each Insured Member and each Insured who is affiliated with such Insured Member:

- (a) all Claims arising out of, based upon, attributable to or in respect of a single act, error or omission or series of acts, errors or omissions consequent upon or attributable to one source or original cause shall be considered to be a single Claim and shall attract one Excess;
- (b) for the purposes of the Inquiry Costs Automatic Extension, all notices arising out of, based upon, attributable to or in respect of any one inquiry or hearing shall be considered to be a single notice and shall attract one Excess.
- (c) for the purposes of the Fidelity Extension, all Fidelity Claims sustained as a result of the same or causally related acts, causes or events will be deemed to be one Fidelity Claim regardless of when such act, cause or event occurred.

### Insurance Clarification

For the purposes of clarifying the scope of cover under the Insuring Clause of this Policy, the Insuring Clause includes civil liability for:

#### Libel or Slander

Libel or Slander, provided that:

1. the libel or slander is committed by the Insured in the course of carrying on their Professional Services; and
2. the Insured did not intend to publish the libel and slander with express malice.

#### Intellectual Property

Infringement of rights of intellectual property, provided that the act, error or omission by the Insured is unintentional and is committed in the course of carrying on the Professional Services.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Contractual Liability

Contractual liability, provided that:

1. the Insurer will not be liable for any liability assumed by the Insured under any express warranty, guarantee, hold harmless agreement, indemnity clause or the like unless such liability would have attached to the Insured in the absence of such agreement; and
2. where a Claim is an alleged breach of contract the Insurer will not reduce their liability by the mere fact that contributory negligence is not available as a defence.

### Trade Practices Act

Claims made under the Trade Practices Act, provided that the Insurer will not indemnify the Insured for Claims made where such Claim arises:

1. under the penal or criminal provisions of any of the Trade Practices Act 1974 (Cwth), the Fair Trading Act 1987 (NSW), or similar legislation in other States; or
2. from conduct of the Insured which is fraudulent or intended to mislead or deceive.

However the Insurer will only exclude such Claims where it is established by final adjudication that the Insured breached the penal or criminal provisions of the Acts, or where the conduct was established by final adjudication to be fraudulent or intended to mislead or deceive.

### Sub-contractors and Consultants

Acts, errors or omissions of sub-contractors and consultants, provided that the Insurer will only indemnify the Insured for its civil liability in connection with the Professional Services provided by the sub-contractor and/or consultant. Indemnity will not extend to the sub-contractor and/or consultant who committed the act, error or omission.

### Automatic Extensions

These Automatic Extensions are subject to all the terms of the Policy, unless otherwise stated. The total of all payments made under the Automatic Extensions will be part of and not in addition to the Limit of Indemnity, unless otherwise stated.

### Principals' Previous Business

This Policy is extended to cover Claims made against any past and / or present Principal of an Insured Member and notified to the Insurer during the Period of Cover resulting from the conduct of the Professional Services whilst such Principal was a sole practitioner, partner or director of a firm prior to becoming a Principal of the Insured Member.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Continuous Cover

Where an Insured:

1. first became aware of facts or circumstances that might give rise to a Claim, prior to the Period of Cover; and
2. had not notified the Insurer of such facts or circumstances prior to the Period of Cover,

then the Prior Claims or Known Circumstances exception will not apply to any notification during the Period of Cover of any Claim resulting from such facts or circumstances, provided that:

- (a) there is an absence of fraudulent non-compliance with the Insured's duty of disclosure and an absence of fraudulent misrepresentation by the Insured in respect of such facts or circumstances; and
- (b) the Insured has been continuously insured, without interruption at the time of the notification of the Claim to the Insurer, under a professional indemnity policy issued by the Insurer and was insured by the Insurer at the time when the Insured first became aware of such facts or circumstances; and
- (c) the Insurer may reduce its liability under the Policy to the extent of any prejudice the Insurer may suffer in connection with the Insured's failure to notify the facts or circumstances giving rise to a Claim prior to the Period of Cover.

### Lost Documents

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

Provided that:

- (a) such loss or damage is sustained during the Period of Cover while the Documents are either in transit or in the custody of the Insured or of any person to whom the Insured has entrusted them in the course of the normal conduct of the Professional Services; and
- (b) the amount of any claim for such costs and expenses shall be supported by bills and accounts which shall be subject to approval by a solicitor to be nominated by the Insurer with the consent of the Insured or if such consent is withheld, by the President of the Law Society of whatever State where the Policy was issued; and
- (c) the Insurer shall not be liable in respect of loss or damage caused by riot or civil commotion.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### **Inquiry Costs**

The Insurer may, if it considers it reasonable to do so, indemnify the Insured for Inquiry Costs. Provided that:

- (a) the notice requiring the Insured's attendance at the inquiry or hearing is first received by the Insured and notified to the Insurer during the Period of Cover; and
- (b) such attendance arises directly from conduct allegedly committed by the Insured in carrying on their Professional Services; and
- (c) such indemnity is subject to the written consent of the Insurer prior to the incurring of the Inquiry Costs; and
- (d) regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity; and
- (e) the total liability of the Insurer under this clause shall not exceed \$100,000 during the Period of Insurance.

### **Dishonesty of Employees**

The Insurer will, notwithstanding the Dishonest, Fraudulent or Criminal Acts Exception, indemnify an Insured Member against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured Member and notified to the Insurer during the Period of Cover resulting from any dishonest, fraudulent, criminal or malicious act or omission by any employee occurring or committed in connection with the Professional Services.

The Insurer will in addition pay Insured Costs on the basis already set out in this Policy.

Provided that nothing in this Automatic Extension shall require the Insurer to indemnify any employee who has perpetrated any such dishonest, fraudulent, criminal or malicious act or omission or who by act or omission has condoned any such act or omission.

### **Two Automatic Reinstatements**

The Insurer agrees, in the event of exhaustion (or partial exhaustion) of the Limit of Indemnity solely by reason of indemnity for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against every Insured and notified to the Insurer during the Period of Insurance, to reinstate (or partially reinstate in the case of partial exhaustion) the Limit of Indemnity in respect of compensation and claimant's costs and expenses.

Provided that:

1. the Insurer's liability for any single Claim will not exceed the Limit of Indemnity; and
2. the aggregate liability of the Insurer under this Policy will not exceed the sum of the Limit of Indemnity and, in the event of exhaustion or partial exhaustion of the Limit of Indemnity, two reinstatements of the Limit of Indemnity, save that the Insurer will in addition pay Insured Costs on the basis already set out in this Policy.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Fidelity

The Insurer will, notwithstanding the Dishonest, Fraudulent or Criminal Acts Exception, indemnify an Insured Member for Fidelity Claims provided that:

- (a) no person committing or condoning such fraud or dishonesty shall be entitled to indemnity;
- (b) the Insured must take all reasonable steps to prevent further loss immediately after the discovery of , or after there is reasonable cause for suspicion of, any fraud or dishonesty;
- (c) if the Insurer so requests the Insured shall take all reasonable steps to effect recovery from the person or persons committing or condoning such fraud or dishonesty;
- (d) the following will be deducted from any amount payable under this Policy:
  - (i) any monies which but for such fraud or dishonesty would be payable by the Insured Member to the person or persons committing or condoning such act;
  - (ii) any monies held by the Insured Member and belonging to such person or persons; and
  - (iii) any monies recovered following action as described in (c) above;
- (e) the Insured Member is liable for the amount of any loss of money or goods that is less than the Fidelity Excess for each Fidelity Claim. The Fidelity Excess is deducted from loss of money or goods before the application of the aggregate limit stated in paragraph (g) of this Automatic Extension. The Insurer has no liability for the amount of loss of money or goods that is less than the Fidelity Excess for each Fidelity Claim. The Insured Member agrees that the Fidelity Excess must be retained by the Insured Member and is to remain uninsured;
- (f) the Insurer shall not be liable in respect of any Fidelity Claim for loss of money or goods arising from fraud or dishonesty committed by any person after the discovery in relation to that person of reasonable cause for suspicion of fraud or dishonesty; and
- (g) the total liability of the Insurer for all Fidelity Claims under this Extension will not exceed \$50,000 in the aggregate during the Period of Insurance.

### Joint Venture Liability

The Insurer will indemnify the Insured against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured and notified to the Insurer during the Period of Cover resulting from the Insured's participation in any joint venture in connection with the Professional Services.

Provided that:

1. the indemnity given shall only relate to the Insured's proportion of any liability incurred by such joint venture; and
2. the Insured's income derived from participation in such joint venture shall have been included in the calculation of income furnished by the Insured for the purposes of calculating the premium for this Policy.

The Insurer will in addition pay Insured Costs on the basis already set out in this Policy.



# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Public Relations Expenses

The Insurer will indemnify the Insured Member for Public Relations Expenses incurred by the Insured Member in respect of an Adverse Publicity Event that first occurs and is notified to the Insurer during the Period of Cover.

The total liability of the Insurer under this Automatic Extension will not exceed \$100,000 in the aggregate during the Period of Insurance.

The Insured Member is liable for an excess of the first \$1,000 of Public Relation Expenses, for each Adverse Publicity Event. The excess is deducted from Public Relation Expenses before the application of the aggregate limit stated in this Automatic Extension. The Insurer has no liability for the amount of Public Relation Expenses that is less than the excess for each Adverse Publicity Event. The Insured Member agrees that the excess must be retained by the Insured Member and is to remain uninsured.

### Compensation for Court Attendance

The Insurer will pay compensation to an Insured Member in the event that legal advisers, acting on behalf of the Insured and with the prior written consent of the Insurer, require any employee or Principal of such Insured Member to attend court as a witness in connection with a Claim covered under this Policy, but only in circumstances where the Insured Member actually pays the employee or Principal for his/her (their) time. Such compensation by the Insurer will be at the rate of \$250 per person for each day on which attendance is required subject to a maximum of \$10,000 for all persons per Claim.

### Optional Extension

This Optional Extension is subject to all the terms of the Policy.

### Run Off Period

- (a) The Insurer may at its discretion, offer to provide cover during the Run Off Period on the terms specified in this Optional Extension, if the Insured Member is a sole practitioner and ceases to conduct the Professional Services during the Period of Cover.
- (b) Before the Insurer may exercise its discretion the Insured Member must prior to expiry of the Period of Cover provide to the Insurer a signed and dated declaration (in the form provided by the Insurer) stating the date on which the Insured Member ceased to conduct the Professional Services and stating that, after enquiry:
  - i. the Insured Member does not know of, nor has previously notified any insurer of, any Claim or any inquiry or hearing before an Inquiring Body that may be covered by this Policy, or of any facts or circumstances that may result in any Claim or any inquiry or hearing before an Inquiring Body that may be covered by this Policy; and
  - ii. the Insured Member has not been subject to any disciplinary action or proceedings in connection with the Professional Services, and does not have a criminal conviction (other than for a traffic offence); and

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

- iii. the Insured Member has not been expelled or suspended as a member of the Australian Mediation Association of Australia.
- (c) If the Insurer offers to provide cover during the Run Off Period, it may require the Insured Member to comply with additional conditions, including a requirement to pay an additional premium that the Insurer considers appropriate. The Insured Member must notify the Insurer as to whether or not it agrees to the additional conditions. If the Insured Member does not agree to the additional conditions, the Insurer is not liable to provide any cover during the Run Off Period.
- (d) If the Insurer agrees to provide cover during the Run Off Period, it will indemnify the Insured Member and any Insured affiliated with such Insured Member, against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured and notified to the Insurer during the Run Off Period resulting from the conduct of the Professional Services but not in respect of any such Claim or Claims resulting from any act, error or omission occurring or committed after the date declared by the Insured Member to be the date on which the Insured Member ceased to conduct the Professional Services. The Insurer will in addition pay Insured Costs during the Run Off Period on the basis already set out in this Policy.
- (e) The total of all payments made under this Optional Extension will be part of and not in addition to the Limit of Indemnity. The Limit of Indemnity is not increased during the Run Off Period, and continues to be shared by all the Insured during the Period of Insurance and each Run Off Period provided to each Insured. The liability of the Insurer under this Optional Extension for compensation and claimant's costs and expenses in respect of all Claims first made against the Insured and notified to the Insurer during the Period of Insurance and any Run Off Period combined, shall not exceed the Limit of Indemnity in the aggregate.
- (f) Where this Optional Extension applies, any Claim made and notified to the Insurer during the Run Off Period will be deemed to have been first made and notified to the Insurer during the Period of Cover.
- (g) The entitlement to purchase cover during the Run Off Period lapses upon expiry of the Period of Cover.
- (h) The Insured Member must pay any additional premium for cover during the Run Off Period that is required by the Due Date. The Due Date is on or before thirty days after the Insurer agrees to provide cover during the Run-Off Period or such other time that the Insurer agrees in writing. If the Insured Member fails to pay the premium by the Due Date, no Run-Off Period is provided to that Insured Member or to any Insured affiliated with such Insured Member.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Exceptions

#### Section 1

##### **Prior Claims or Known Circumstances**

The Insurer shall not be liable in respect of:

- (a) any Claim first made against the Insured prior to the inception of the Period of Cover; or
- (b) any Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Insured Costs directly or indirectly arising from or in respect of any facts or circumstances which:
  - (i) the Insured Member knew, prior to the inception of the Period of Cover, might give rise to a Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Insured Costs which might be covered under this Policy; or
  - (ii) a reasonable person in the Insured Member's position would have thought, prior to the inception of the Period of Cover, might give rise to a Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Insured Costs which might be covered under this Policy; or
  - (iii) were or could have been notified under any insurance that was in force prior to the inception of the Period of Cover.

#### Section 2

The Insurer shall not be liable in respect of any Professional Services, Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Insured Costs:

##### **Asbestos**

arising directly or indirectly from or in respect of asbestos, asbestos fibres or derivatives of asbestos.

##### **Directors and Officers Liability**

arising directly or indirectly from or in respect of the Insured's functions and duties as a director and/or officer of the Insured or any legal entity, corporation or other incorporated body.

##### **Trading Debts**

arising directly or indirectly from or in respect of any trading debt incurred, or any guarantee in respect of such debt given, by the Insured.

##### **Dishonest, Fraudulent or Criminal Acts**

arising directly or indirectly from or in respect of any dishonest, fraudulent, criminal or malicious act or omission by the Insured.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Employer's Liability

arising directly or indirectly from or in respect of:

- (a) the death, bodily injury, disease or illness of any Insured arising out of or in the course of or in respect of his/her employment; or
- (b) a breach of any obligation owed by an Insured to an Insured.

### Radioactivity

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

### War

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

### Subrogation Waiver

arising directly or indirectly from or in respect of any liability which is incurred or affected by reason of the Insured at any time entering into a deed or agreement excluding, limiting or delaying the Insured's legal rights of recovery against another.

### Assumption of Liability

arising directly or indirectly from or in respect of any liability which is assumed by the Insured outside the normal course of the Professional Services.

### Fines, Penalties, Punitive or Aggravated Damages

arising directly or indirectly from or in respect of fines or penalties including civil penalties, punitive or aggravated damages.

### Liquidated Damages

arising directly or indirectly from or in respect of liquidated damages imposed upon the Insured by contract or agreement, except to the extent that the Insured would have been liable for that damage in the absence of any such contract or agreement.

### Terrorism

arising directly or indirectly from or in respect of:

- (a) any Act of Terrorism; or
- (b) any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Controlling or Financial Interests

arising directly or indirectly from or in respect of work undertaken for or on behalf of any company related to any Insured which for the purposes of this Policy includes:

- (a) any other Insured; or
- (b) any subsidiary of an Insured; or
- (c) any company of which an Insured has or has held at least a 20% financial interest and has had or has board representation on that company.

### Absence of Agreement to Mediate

arising directly or indirectly from on in respect of any mediation or arbitration for which the Insured did not obtain an Agreement to Mediate (or equivalent agreement) in the form prescribed by the Law Society (or equivalent body) of the State or Territory in which the mediation or arbitration took place, that was agreed and executed by all participants prior to the commencement of the mediation or arbitration.

### General Conditions

#### Claims Notifications

Every Claim made against the Insured shall be notified to the Insurer as soon as practicable and in any event prior to expiry of the Period of Insurance, and every letter, demand writ summons and legal process pertaining to such Claim shall be forwarded to the Insurer as soon as practicable after receipt.

All Claim notifications to the Insurer must be sent to:

Vero Insurance Limited

Liability & Profin Notification Centre

Locked Bag 25, Australia Square Post Office, NSW, 1215

Phone: 02 9295 4345

Fax: 02 9295 4445

Email: [liabilityprofin@vero.com.au](mailto:liabilityprofin@vero.com.au)

It is the Insured's responsibility to ensure that such notification has been forwarded to and has been received by the Liability & Profin Notification Centre.

#### No Admission of Liability

No admission, offer, promise or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Insurer.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Claims Conduct

The Insurer shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any Claim and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim.

### Claims Settlement

Should the Insured object to a proposal by the Insurer to settle or compromise any Claim and wish to contest or litigate the matter, then the Insured may so elect, provided that the Insurer's liability in respect of any such Claim so contested or litigated shall not exceed the amount for which, but for such election, it could have been settled or compromised by the Insurer, together with costs and expenses payable in accordance with the terms of this Policy and incurred up to the time of such election, but subject always to the Excess and to the Limit of Indemnity.

### Assisting with Claims

The Insured shall give all such assistance as the Insurer may reasonably require but none of them shall be required to contest any legal proceedings if it objects to doing so unless a Senior Counsel or a person of similar authority (appointed by mutual agreement between the Insured and the Insurer and paid for by the Insurer) shall advise such proceedings could be contested to the extent that there is a reasonable probability of success.

### Other Insurance

If at the time any Claim arises under this Policy there is any other insurance in force covering the same liability the Insured shall promptly notify to the Insurer full details of such other insurance, including the identity of the insurer and the policy number, and such further information as the Insurer may reasonably require.

### Governing Law

The Policy will be governed in accordance with law of the State or Territory of Australia in which the Policy was issued. Any disputes relating to interpretation will be submitted to the exclusive jurisdiction of the courts of Australia.

### Authorisation

The Insured and the Insurer agree that the Peak Body acts as agent for the Insured Members for the purposes of binding cover, accepting notices from the Insurer, adding any Insured Member to the Policy as an Insured and varying the Policy terms.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Cancellation

Neither the Peak Body nor any Insured may cancel this Policy.

An Insured Member may cancel its interest in this Policy at any time in writing to the Insurer. Upon receipt of such request, the Insurer will retain a short period premium for that Insured Member calculated on its short term rates for the time it has been on risk for that Insured Member, and the Insured Member will receive a refund of any balance of the premium actually paid by that Insured Member.

The Insurer may remove an Insured Member's interest in this Policy in accordance with the Insurance Contracts Act by giving notice in writing to that Insured Member of the date from which such cancellation is to take effect.

The Insurer may cancel this Policy in accordance with the Insurance Contracts Act 1984 by giving notice in writing to the Peak Body and each Insured Member of the date from which such cancellation is to take effect.

### Severability and Non Imputation

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

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

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

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

### Payment of Premium

The Insurer will specify the premium applicable to each Insured Member for the Period of Cover. Each Insured Member must pay its own premium by the Due Date. The Due Date is on or before ninety days after the inception date of the Period of Cover specified in the Schedule or such other time that the Insurer agrees in writing. If an Insured Member fails to pay the premium by the Due Date, the Insurer is entitled to cancel that Insured Member's interest in the Policy in accordance with the Insurance Contracts Act 1984.

### Material Change

An Insured must notify the Insurer as soon as reasonably practicable of any material change in the risk insured by this Policy. The Insurer is entitled to amend the terms of this Policy and/or charge an additional premium based on the Insurer's assessment of any change in the risk insured by this Policy.

# Civil Liability Professional Indemnity Insurance



## Australian Mediation Association Members' Master Policy

### Goods and Services Tax

As part of the premium, the Insurer will charge the Insured an amount on account of GST.

The Insured must inform the Insurer of the extent to which it is entitled to an input tax credit for that GST amount each time that it notifies a Claim under this Policy. No payment will be made to the Insured for any GST liability that it may incur on the settlement of a Claim if it does not inform the Insurer of its entitlement or correct entitlement to an input tax credit.

Despite the other terms of this Policy, the Insurer's liability to the Insured will be calculated taking into account any input tax credit to which the Insured is entitled for any acquisition which is relevant to the Claim, or to which it would have been entitled had it made a relevant acquisition.

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

### Territorial and Jurisdictional Limits of Cover

This Policy provides cover for:

- (a) any liability at law resulting from the conduct of the Professional Services anywhere in the world, except for any liability at law resulting from:
  - (i) the conduct of the Professional Services within North America; or
  - (ii) the provision of professional services to persons in North America as part of the conduct of the Professional Services; or
  - (iii) any act, error or omission occurring within North America.

and

- (b) Claims made anywhere in the world, except for those Claims;
  - (i) brought in a court of law, arbitration, tribunal, forum or other body entitled to impose enforceable orders against the Insured in North America; or
  - (ii) arising from the enforcement of any judgment, order or award in respect of any action brought in any court of law, arbitration, tribunal or other judicial body in North America.

End of wording