

2023 Terms of Cover

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Effective as from 00:00 British Summer Time on 13 December 2023.

Claims Made Warning: The policy of insurance of which these Terms of Cover are a part is a “*claims made*” policy. It will respond to relevant Claims or Disciplinary Proceedings that are first made or brought against the Insured during the Period of Insurance or which are deemed to have been so made by reference to a notification of a Circumstance. This policy does **not** respond by reference to the date of the alleged incident giving rise to any Claim or Disciplinary Proceedings.

Insurance Act 2015 Warning: Attention is drawn to clauses 4.2, 4.3, 4.7 and 10 of the Terms of Cover, which may put the Insured in a worse position than it would be under the Insurance Act 2015.

BAR MUTUAL TERMS OF COVER 2023

1 INSURING CLAUSE

- 1.1 Subject to the provisions of these Terms of Cover, Bar Mutual shall indemnify the Insured against any and all Claims which are first made against the Insured during the Period of Insurance in respect of any and every description of Civil Liability whatsoever arising out of or in any way in connection with the Insured Practice whensoever and wheresoever the act or omission or other circumstances or event giving rise to such liability may have occurred.
- 1.2 Subject to the provisions of these Terms of Cover and provided that such Claim or potential Claim falls within the terms of clause 1.1, Bar Mutual shall indemnify the Insured against any costs or expenses incurred with the prior consent of Bar Mutual in any of the following situations:
- (i) as regards a Circumstance notified under sub-clause 5.1(i): in the investigation, defence and settlement of the potential Claim;
 - (ii) in the defence or settlement of the Claim;
 - (iii) in the conduct of any proceedings for indemnity, contribution or recovery relating to the Claim.
- 1.3 Subject to the provisions of these Terms of Cover and provided that the subject matter of Disciplinary Proceedings:
- (a) has given rise to a Claim which falls within the terms of clause 1.1, or
 - (b) is capable of giving rise to a Claim which would fall within the terms of clause 1.1,
- Bar Mutual shall indemnify the Insured against any costs or expenses incurred with the prior consent of Bar Mutual in any of the following situations:
- (i) as regards a Circumstance notified under sub-clause 5.1(i), in the investigation or defence of potential Disciplinary Proceedings;
 - (ii) in the defence of the Disciplinary Proceedings.
- 1.4 Subject to the provisions of these Terms of Cover, Bar Mutual shall indemnify the Insured against any Disciplinary Costs Order provided that the subject matter of the Disciplinary Proceedings to which the Disciplinary Costs Order relates has given rise to a Claim which falls within the terms of clause 1.1 or is capable of giving rise to a Claim which would fall within the terms of clause 1.1.
- 1.5 Notwithstanding anything to the contrary in these Terms of Cover, Bar Mutual, in its absolute and unfettered discretion (subject to the application of the criteria set out in Bar Mutual's Memorandum of Association) and on such terms as it may think fit, may indemnify the Insured in respect of any Circumstance, Claim or Disciplinary Proceedings or any loss, costs or expenses (whether or not arising from or involving any Circumstance, Claim or Disciplinary Proceedings), notwithstanding that the Insured is not entitled to be indemnified by Bar Mutual in respect of the same and/or notwithstanding that the same may fall outside the scope of or within the exclusions contained in any insurance which is afforded to the Insured by virtue of these Terms of Cover.
- 1.6 Provided that they comply with the provisions of these Terms of Cover as if they were

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themselves the Insured, an Insured's personal representatives shall be entitled to be indemnified by Bar Mutual in respect of all Claims or Disciplinary Proceedings on the same terms and to the same extent as the Insured (if alive) would have been entitled to be indemnified under these Terms of Cover.

- 1.7 Bar Mutual shall indemnify the Insured in accordance with clause 1.1 and 1.4 to the extent that the subject matter arises out of or in any way in connection with a Prior Practice, subject to a Limit of Cover of £500,000 where the Prior Practice was an Entity but was not at the time it ceased to exist a member of Bar Mutual.

2 LIMIT OF INDEMNITY/DEDUCTIBLE

- 2.1 Subject to the provisions of this clause, the liability of Bar Mutual shall be limited to:

- (i) the Limit of Cover, and in addition
- (ii) Defence Costs.

- 2.2 Only one Limit of Cover shall apply to all Claims and Disciplinary Proceedings which in the reasonable opinion of the Directors arise from or are attributable to

- (i) the same act or omission; or
- (ii) a series or group of related acts or omissions; or
- (iii) a series or group of similar acts or omissions; or
- (iv) the same originating cause.

- 2.3 If a sum in excess of the Limit of Cover has to be paid in order to dispose of any Claim or Disciplinary Proceedings, Bar Mutual's liability in respect of Defence Costs shall be in the same proportion as the Limit of Cover bears to the sum paid to dispose of the Claim or Disciplinary Proceedings. In the event of Bar Mutual having already indemnified the Insured in respect of Defence Costs, Bar Mutual shall be entitled to recover from the Insured such proportion of them as may exceed that proportion of the sum paid in order to dispose of the Claim or Disciplinary Proceedings as is represented by the Limit of Cover.

- 2.4 If a Claim or Disciplinary Proceedings becomes the subject of proceedings before any tribunal in the United States or Canada and is resolved (whether by judgment, settlement or otherwise) in accordance with the law of such jurisdiction, the additional cover afforded by clause 2.1(ii) shall not apply, and all Defence Costs shall be included within the Limit of Cover.

- 2.5 The indemnity provided by Bar Mutual under these Terms of Cover may be provided in its absolute discretion in any one or any combination of the following ways:

- (i) by payment in or towards satisfaction of the Claim or Disciplinary Proceedings and/or claimant's costs to or to the order of the claimant making the Claim or the bringing of Disciplinary Proceedings against the Insured;
- (ii) by payment in respect of the Claim or Disciplinary Proceedings and/or claimant's costs and/or Defence Costs to or to the order of the Insured against whom the Claim is made;
- (iii) by payment in or towards discharge of Defence Costs to or to the order of the legal advisers, adjusters or other persons by whom or in respect of whose services such costs and expenses were incurred.

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- 2.6 If VAT is payable upon any element of the indemnity provided by Bar Mutual to any Insured who is registered for VAT, such VAT shall be paid and accounted for by such Insured and not by Bar Mutual.
- 2.7 The Insured must pay the Deductible in the event that a Wasted Costs Order is made against the Insured. The Deductible is to be paid by the Insured to Bar Mutual at the conclusion of the Claim.
- 2.8 In the event that any Deductible becomes payable by the Insured and is paid by Bar Mutual in order to dispose of a Claim, the Insured shall reimburse Bar Mutual in respect thereof.

3 EXCLUSIONS

- 3.1 The liability of Bar Mutual under these Terms of Cover shall exclude:
- (i) any award of punitive, exemplary or multiple damages by any tribunal in the United States or Canada;
 - (ii) any costs and expenses incurred without the prior written consent of Bar Mutual;
 - (iii) any award requiring repayment, reduction or waiver of any fees in whole or in part ordered by the Legal Ombudsman, and any order in any court proceedings brought to enforce payment of any such award;
 - (iv) any fine ordered by the BSB or any panel established under the provisions of the BSB Handbook;
 - (v) Claims or Disciplinary Proceedings for bodily injury or death unless arising out of the provision of Legal Services to a client by the Insured;
 - (vi) Claims or Disciplinary Proceedings for loss of or physical damage to property unless
 - a) the property is property in the care of the Insured in connection with, but is not occupied or used by the Insured for the purposes of, the Insured Practice, or
 - b) the loss or physical damage arose out of the provision of Legal Services to a client by the Insured;
 - (vii) Claims or Disciplinary Proceedings arising out of any of the following:
 - a) lecturing in or teaching law or writing or editing law books articles or reports;
 - b) examining free of charge newspapers, periodicals, books, scripts and other publications for libel, breach of copyright, contempt of court and the like;
 - c) communicating to or in the press or any other media;
 - d) giving advice on legal matters free to a friend;
 - e) in relation to a barrister or Registered European Lawyer who is a director of a company or a trustee or governor of a charitable benevolent or philanthropic institution or a trustee of any private trust, giving to the other directors trustees or governors the benefit of the Insured's learning and experience on matters of general legal principle applicable to the affairs of the company institution or trust; or

- f) conveyancing, to the extent that this involves the provision of services going beyond the scope of reserved instrument activities (as defined in the Legal Services Act 2007) and ancillary legal advice.
- (viii) Claims or Disciplinary Proceedings arising out of any fraudulent or malicious act or omission on the part of the Insured, save that Bar Mutual
 - a) shall indemnify the Insured against Claims or Disciplinary Proceedings arising out of any fraudulent dishonest or malicious act on the part of the Insured's Clerk, Employee or any other servant or agent for which the Insured is liable in law, provided that the Insured establishes to the reasonable satisfaction of Bar Mutual that the Insured did not commit or condone the fraudulent dishonest or malicious act; and in any event
 - b) shall indemnify any Insured that did not commit or condone the fraudulent dishonest or malicious act;
- (ix) Claims or Disciplinary Proceedings against which the Insured is entitled to be indemnified under any other insurance, but only to the extent that the Insured is entitled to be and is so indemnified;
- (x) Claims or Disciplinary Proceedings arising out of any breach of any duty owed by the Insured as an employer to an employee, or as owner or occupier of any property;
- (xi) Claims or Disciplinary Proceedings in respect of trading debts incurred by the Insured;
- (xii) Claims or Disciplinary Proceedings in respect of any loss or damage directly or indirectly caused by ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (xiii) Claims or Disciplinary Proceedings arising out of any dispute between present or former members, pupils, Clerks or Employees of Chambers or any Entity or any Free Legal Advice Centre in respect of matters relating to or in any way connected with ownership, occupation, possession, management or administration of the Chambers or any Entity or of any property used in or for the purposes of the Chambers, any Entity or any Free Legal Advice Centre or the Insured Practice;
- (xiv) Claims or Disciplinary Proceedings against any Insured in their capacity as a director or officer of a body corporate, save to the extent that in the opinion of the Directors such liability results from the personal act or omission of the Insured and would otherwise fall within the provisions of these Terms of Cover;
- (xv) Claims or Disciplinary Proceedings in respect of any liability incurred under any express term of a contract, save to the extent that
 - (a) such liability would have arisen as a matter of law in the absence of such express term and would otherwise fall within the provisions of these Terms of Cover; or
 - (b) the contract is between the Insured Member and instructing solicitors or a client and, insofar as its terms concern a contractual liability of the Insured Member, is in a form previously approved by Bar Mutual.

In giving its approval, Bar Mutual shall be entitled to impose terms as

to the maximum amount to be indemnified in respect of such liability under these Terms of Cover or such other terms as it, in its absolute discretion, shall think fit. Bar Mutual may also withdraw such approval, provided always that not less than one month's notice of such withdrawal is given to Members.

- (xvi) Claims or Disciplinary Proceedings arising out of or in any way in connection with the supply of Legal Services as a Foreign Lawyer or European Lawyer, save to the extent specified in the Cover Note or any endorsement thereto. This exclusion does not apply where the Insured is providing Legal Services solely by reference to the Insured's expertise as a barrister qualified in England and Wales and not on the basis that the Insured is authorised to provide Legal Services in the system of law and/or in the jurisdiction in issue;
- (xvii) Claims or Disciplinary Proceedings arising out of or in any way in connection with the provision of Legal Services in a system of law and/or in a jurisdiction where such Legal Services may not be provided without authorisation and the Insured is not authorised to provide such Legal Services in that system of law and/or in that jurisdiction by either a competent professional, judicial or other body, unless the Insured has reasonable grounds for not having obtained such authorisation.
- (xviii) Claims or Disciplinary Proceedings against a Registered European Lawyer arising out of or in any way in connection with the provision of Legal Services as a European Lawyer before the Insured became a Registered European Lawyer, save to the extent specified in the Cover Note or any endorsement thereto;
- (xix) Claims or Disciplinary Proceedings arising out of or in any way connected with failure to comply with the following provisions of the BSB Handbook:
 - (a) the Continuing Professional Development Rules;
 - (b) the Practising Certificate Rules;
 - (c) Rules C76 to C78 of the BSB Handbook; and,
 - (d) Disciplinary Proceedings for failing to respond to Disciplinary Proceedings for breach of any of the foregoing.
- (xx) Claims or Disciplinary Proceedings arising out of any criminal offence committed or allegedly committed by the Insured or out of an enquiry conducted by Her Majesty's Revenue and Customs into the Insured's tax or VAT affairs;
- (xxi) any regulatory investigation, hearing, examination, inquiry or like proceeding by the Information Commissioner's Office (or equivalent body in any jurisdiction) or any fines or penalties imposed or levied against the Insured as a result of a Cyber Act or a Cyber Incident;
- (xxii) any costs or expenses of whatsoever nature incurred by the Insured to notify individual data subjects following the actual or suspected access to or acquisition of personal data or equivalent data in any jurisdiction resulting from a Cyber Act or a Cyber Incident. This includes, but is not limited to, the cost of crisis consultancy, legal advice and services, print and mailing, contact centre services and the provision of any identity/credit protection or product service;
- (xxiii) any action taken in order to control, prevent, suppress or remediate any Cyber Act or Cyber Incident;
- (xxiv) any cost or expense incurred by the Insured in respect of any loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any Data, including any amount pertaining to the value of such Data.

- 3.2 Bar Mutual shall be deemed not to provide cover and shall not be liable to pay any claim or provide any benefit under these Terms of Cover to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Bar Mutual to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Australia or United States of America.

4 AVOIDANCE, REPUDIATION, RESCISSION AND REIMBURSEMENT

- 4.1 Subject to the provisions of these Terms of Cover, Bar Mutual shall not be entitled to avoid, repudiate or rescind any insurance or any liability thereunder to the Insured or to claim damages against the Insured on any grounds whatsoever, including breach of the duty of fair presentation, or breach of condition or duty.

Fair Presentation

- 4.2 If an Insured has deliberately or recklessly failed to make a fair presentation of the risk, Bar Mutual shall be entitled to avoid the insurance and/or to refuse to indemnify the Insured. Alternatively, or in addition to the above, Bar Mutual shall be entitled to claim damages from the Insured, notwithstanding that no such right is provided under the Insurance Act 2015.

In the event that Bar Mutual avoids the insurance and/or refuses to indemnify the Insured, Bar Mutual may in its absolute discretion satisfy all or any part of any Claim made against the Insured responsible for such failure (including the claimant's costs) by paying the same to the claimant. In such circumstances, notwithstanding that no such right is provided under the terms of the Insurance Act 2015, Bar Mutual shall be entitled to recover any amount so paid from the Insured responsible for such fraud.

- 4.3 Where any failure to make a fair presentation that does not otherwise entitle Bar Mutual to avoid the insurance has resulted in Bar Mutual effecting the insurance for a lower consideration than would have been the case if a fair presentation had been made, the Insured Member shall pay to Bar Mutual such additional contribution as Bar Mutual would reasonably have required if the correct and full facts had been disclosed to it, notwithstanding that no such right is provided under the terms of the Insurance Act 2015.

Conditions and duties

- 4.4 Where any breach of these Terms of Cover has prejudiced Bar Mutual in its handling of any Claim or Disciplinary Proceedings against the Insured, the Insured responsible for such breach shall reimburse to Bar Mutual the difference between the sum paid by Bar Mutual in respect of the Claim or Disciplinary Proceedings and the sum which would have been payable in the absence of such prejudice.
- 4.5 Where in any Disciplinary Proceedings the Insured is convicted of a breach of the BSB Handbook or the Code of Conduct in circumstances where the Insured has been held to have committed an act or omission that is dishonest, fraudulent or malicious, Bar Mutual shall be entitled to recover from the Insured any costs and expenses that it has incurred in defending the Disciplinary Proceedings and any sum paid to indemnify the Insured against any costs order made against the Insured in any Disciplinary Proceedings.

Fraudulent Claims

- 4.6 Where the Insured notifies any Claim or Disciplinary Proceedings knowing the notification to be false or fraudulent, Bar Mutual shall be entitled to treat the contract of insurance as terminated with effect from the time of the fraudulent notification and Bar Mutual may recover from the Insured any sums paid in respect of the Claim or

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Disciplinary Proceedings and/or claim damages for any losses suffered as a result of the Claim or Disciplinary Proceedings.

- 4.7 In the event of a fraudulent notification of a Claim, Bar Mutual may in its absolute discretion, notwithstanding any such termination, satisfy all or any part of any Claim made, including any Claim made after the fraudulent notification, against the Insured responsible for such fraud (including the claimant's costs) by paying the same to the claimant. In such circumstances, notwithstanding that no such right is provided under the terms of the Insurance Act 2015, Bar Mutual shall be entitled to recover any amount so paid from the Insured responsible for such fraud.

5 NOTICE OF CLAIMS AND DISCIPLINARY PROCEEDINGS

- 5.1 The Insured shall give notice to Bar Mutual as soon as practicable of any
- (i) Circumstance that may subsequently give rise to a Claim or Disciplinary Proceedings against the Insured;
 - (ii) Claim that has been made against the Insured;
 - (iii) Disciplinary Proceedings commenced against the Insured.
- 5.2 Any Claim or Disciplinary Proceedings that may arise from any Circumstance notified to Bar Mutual in accordance with sub-clause 5.1(i) shall be deemed to have been made or commenced during the Period of Insurance in which the notice of the Circumstance was given to Bar Mutual.
- 5.3 Where the Insured had been aware of any Circumstance, Claim or Disciplinary Proceedings prior to the expiry of a Period of Insurance and gives notice of it to Bar Mutual within 28 days of the inception of the Period of Insurance that immediately follows the expired Period of Insurance, Bar Mutual shall treat any such Circumstance, Claim or Disciplinary Proceedings as having been notified to it during the expired Period of Insurance.
- 5.4 The Insured shall forward every letter, claim form, application and process to Bar Mutual immediately upon receipt, and shall in all cases upon request give to Bar Mutual such further information and render such assistance as it may reasonably require.
- 5.5 All such notices shall be given and all such documents forwarded to Bar Mutual at the address given in the Cover Note or at such other address as may be notified to the Insured.

6 CONDUCT AND SETTLEMENT OF CLAIMS AND DISCIPLINARY PROCEEDINGS

- 6.1 Bar Mutual shall be entitled to take over and conduct in the name of the Insured the defence of any Claim or Disciplinary Proceedings and is entitled to appoint such legal representatives to investigate and defend the Claim or Disciplinary Proceedings or, following the notification of a Circumstance pursuant to sub-clause 5.1(i), any potential Claim or Disciplinary Proceedings as it considers appropriate. The Insured shall co-operate with, and provide all reasonable assistance to, Bar Mutual in connection with any Circumstance, Claim or Disciplinary Proceedings notified pursuant to clause 5.
- 6.2 Neither Bar Mutual nor the Insured shall be required to contest or continue to defend any Claim or Disciplinary Proceedings unless a King's Counsel (appointed by agreement or by the Chair of the Bar Council in the absence of agreement) shall advise that, taking due account of the interests of both Bar Mutual and the Insured, such Claim or Disciplinary Proceedings should be contested or continue to be defended. Bar Mutual and the Insured agree to be bound by the opinion of the King's Counsel, which shall be treated as having been given as an expert and not as an arbitrator. Liability for the King's Counsel's fee for advising under this clause shall lie with the party against

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whose contention the King's Counsel advises.

- 6.3 The Insured shall not settle any Claim or Disciplinary Proceedings or surrender any right to claim indemnity, contribution or recovery in respect of a Claim, without the prior written consent of Bar Mutual. The Insured shall not admit liability for any Claim or incur any costs or expenses in connection therewith or incur any costs or expenses in connection with Disciplinary Proceedings without the prior written consent of Bar Mutual.
- 6.4 Subject to sub-clause 6.5, Bar Mutual shall take all reasonable steps to inform the Insured of any proposals for settlement and shall not admit liability for or settle any Claim or Disciplinary Proceedings without the prior written consent of the Insured.
- 6.5 Bar Mutual shall be entitled to settle any Claim without the prior written consent of the Insured if:
- (i) the Insured does not give written notice refusing their consent to a settlement recommended in writing by Bar Mutual within 28 days (or such shorter period as Bar Mutual may stipulate where the circumstances require) of the recommendation being sent to the Insured; or
 - (ii) it is not possible or permissible to obtain instructions from the Insured and where Bar Mutual believes in good faith that settlement is necessary to protect the interests of the Insured and/or Bar Mutual.
- 6.6 If the Insured refuses to consent to a settlement recommended in writing by Bar Mutual, Bar Mutual's liability in connection with the Claim or Disciplinary Proceedings shall not exceed the sum for which it could have been settled and the Defence Costs up to the date when such settlement could have been effected.
- 6.7 If the Insured offers to settle and/or settles any Claim or Disciplinary Proceedings, Bar Mutual shall be under no liability to indemnify the Insured in respect of that offer and/or settlement or to pay any costs or expenses incurred in connection with the same, unless
- (i) Bar Mutual approves the settlement, or
 - (ii) (a) the Insured has notified Bar Mutual in writing of the proposed terms of settlement; and
 - (b) Bar Mutual has given its written consent to the proposed terms of settlement or has failed within 28 days of receipt of the said notice to give written notice to the Insured objecting to the proposed terms of settlement.
- 6.8 If any payment is made by Bar Mutual in respect of a Claim against the Insured, Bar Mutual will be subrogated to all rights of the Insured of indemnity, contribution or recovery to the extent of that payment.

7 EXTENDED INDEMNITY PERIOD

- 7.1 Bar Mutual shall indemnify any Insured to the extent of at least the minimum Limit of Cover from time to time prescribed by the BSB in respect of Claims or Disciplinary Proceedings that are made or brought against the Insured during the period up to the sixth anniversary of the end of the Period of Insurance which arise out of any acts or omissions giving rise to Civil Liability or to such Disciplinary Proceedings that occurred prior to the end of the Period of Insurance, unless the Insured or a Successor Practice obtains insurance complying with the requirements imposed by the BSB for the period that immediately follows the Period of Insurance.

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- 7.2 Bar Mutual shall be entitled to require the payment of such additional contribution as it sees fit in consideration for the indemnity described in clause 7.1.
- 7.3 In the event that the Insured or a Successor Practice subsequently obtains insurance complying with the requirements imposed by the BSB from a source other than Bar Mutual during the period described in clause 7.1, any insurance provided by Bar Mutual pursuant to clause 7.1 shall cease with effect from the date of inception of such replacement insurance.
- 7.4 In the event that the Insured or a Successor Practice subsequently is unable to obtain insurance complying with the requirements imposed by the BSB from a source other than Bar Mutual within the period specified in the Cover Note, Bar Mutual shall indemnify that Insured or a Successor Practice in respect of any Claims made or Disciplinary Proceedings brought against the Insured arising out of any act or omission that occurred during the 30 day period referred to in the definition of "Period of Insurance".

8 EXTENDED INDEMNITY PERIOD FOR FREE LEGAL ADVICE CENTRES

- 8.1 In respect of Free Legal Advice Centres, Bar Mutual shall indemnify any Employed Barrister providing Legal Services through a Free Legal Advice Centre to the extent of the Limit of Cover in respect of Claims or Disciplinary Proceedings that are made against the Employed Barrister during the period up to the sixth anniversary of the end of the Period of Insurance arising out of any acts or omissions giving rise to Civil Liability or to such Disciplinary Proceedings that occurred prior to the end of the Period of Insurance.
- 8.2 Bar Mutual shall be entitled to require the payment of such additional contribution from the Free Legal Advice Centre as it sees fit in consideration for the indemnity described in clause 8.1

9 DISPUTES AND GOVERNING LAW

- 9.1 Any difference or dispute (other than one arising pursuant to clause 6.2) that may arise between Bar Mutual and the Insured out of or in connection with these Terms of Cover shall be referred to a sole agreed arbitrator (or in default of agreement to a sole arbitrator appointed by the Chair of the Bar Council), whose decision shall be final and binding. English law shall govern any contract of insurance of which these Terms of Cover shall form part and any arbitration arising pursuant to this clause.
- 9.2 These Terms of Cover are to be construed or rectified so as to comply with the requirements of any applicable minimum terms of cover published by the BSB and any provision in these Terms of Cover which is inconsistent with such minimum terms is to be severed or rectified so as to comply therewith, save to the extent that greater protection to the Insured is afforded under these Terms of Cover than that provided by the requirements of such minimum terms.

10 LATE PAYMENT OF CLAIMS

Upon its entry into force, Section 13A of the Insurance Act 2015 shall be excluded to the extent permitted in by Section 16A. As a result, these Terms of Cover, the Rules and/or any Cover Note between Bar Mutual and the Insured shall not be subject to any implied term that Bar Mutual will pay any sums due in respect of a Claim or Disciplinary Costs Order within a reasonable time save that, upon the entry into force of Section 13A, Bar Mutual may not deliberately or recklessly fail to do so.

11 INTERPRETATION

In these Terms of Cover (and unless the context otherwise requires), the following expressions have the following meanings:

Ad Hoc Judge	Serving as an ad hoc judge or tribunal member in an international tribunal.
Arbitration	An arbitration, adjudication, expert determination, or early neutral evaluation.
Arbitrator	Serving in an Arbitration as: <ul style="list-style-type: none">(i) an arbitrator or umpire; or(ii) a concilio-arbitrator; or(iii) an adjudicator; or(iv) an expert determiner; or(v) a neutral evaluator.
Bar Council	The General Council of the Bar of England and Wales.
Bar Mutual	Bar Mutual Indemnity Fund Ltd.
BSB	The Bar Standards Board
BSB Handbook	The Bar Standards Board Handbook, as amended from time to time.
Chambers	The place (as notified to the BSB pursuant to the BSB Handbook) at or from which a Self-Employed Barrister carries on practice.
Circumstance	An incident, occurrence, fact, matter, act or omission that may give rise to a Claim or Disciplinary Proceedings.
Civil Liability	For the purposes of these Terms of Cover, Civil Liability includes: <ul style="list-style-type: none">(i) any liability to pay wasted costs;(ii) any liability arising from a Cyber Act or a Cyber Incident.
Claim	A demand for, or an assertion of a right to, civil compensation, civil damages or wasted costs or an intimation of an intention to seek such compensation, damages or wasted costs.
Clerk	The clerk and junior clerks employed (whether under a contract of service or as an independent contractor) in the Chambers in connection with the Member's Insured Practice.
Code of Conduct	The Code of Professional and Ethical Conduct of the Chartered Institute of Arbitrators.
Computer System	Any computer, hardware, software, communications system, electronic device (including, but not limited to, any smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data

	storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.
Cover Note	The Cover Note issued by Bar Mutual in respect of any Period of Insurance, including where the context so requires a Cessation Cover Note, and any endorsement.
Cyber Act	An unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.
Cyber Incident	(a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or (b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.
Data	Information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.
Deductible	The amount of £350.00 (British pounds), applicable in relation to Wasted Costs Orders.
Defence Costs	Costs or expenses which fall within the terms of either clause 1.2 or clause 1.3.
Directors	The Directors for the time being of Bar Mutual.
Disciplinary Costs Order	Any adverse costs order made against the Insured in Disciplinary Proceedings or an agreement reached in Disciplinary Proceedings for the payment of costs by the Insured.
Disciplinary Proceedings	Any proceedings brought or charges made against the Insured alleging a breach of the BSB Handbook or the Code of Conduct (including any appeals or judicial review proceedings arising out of them), or any judicial process brought against the Insured, or any proceedings or charges brought or made against the Insured in a foreign jurisdiction alleging a breach of the disciplinary code applicable to the Insured in providing Legal Services in that jurisdiction, provided that: (i) such proceedings, charges or process were first brought or made within the Period of Insurance, and (ii) the subject-matter either has given rise to a Claim which falls within the terms of clause 1.1 or is capable of giving rise to a Claim which would fall within the terms of clause 1.1.
Employed Barrister	An Employed Barrister as defined by the BSB Handbook
Employee	Any person other than a Clerk who is employed (whether under a contract of employment or as an independent contractor) by the Insured or Chambers in connection with the Insured Practice, save where the Insured Member is an Entity and the person is a Self-Employed Barrister retained or instructed by or through the Insured Member.

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Entity	Any limited company, limited liability partnership or unlimited partnership regulated by the BSB.
European Lawyer	A person who is a national of a Member State and who is authorised in any Member State to pursue professional activities under any of the professional titles appearing in article 2(2) of the European Communities (Lawyer's Practice) Order 1999 other than the supply of Legal Services as a Self-Employed Barrister, a Registered European Lawyer or, in the case of an Entity, falling within the scope of the authorisation granted to it by the Bar Standards Board.
Foreign Lawyer	A person who, other than incidentally to their Insured Practice as a Self-Employed Barrister, a European Registered Lawyer or Entity falling within the scope of the authorisation granted to it by the Bar Standards Board, is a member, and entitled to practice as such, of a legal profession regulated within a jurisdiction outside England and Wales.
Insured	<p>Each of the following persons:</p> <ul style="list-style-type: none">(i) The Insured Member;(ii) Where the Insured Member is an Entity, the legally-qualified partners, directors and principals of that Entity;(iii) Where the Member is a Free Legal Advice Centre, the Employed Barristers providing Legal Services through that Free Legal Advice Centre;(iv) Any pupil of the Insured Member or any person falling within the scope of (ii) above, but only in respect of work performed in practice whilst a pupil of the Insured Member or any person falling within the scope of (ii) above;(v) Any former pupil of the Insured Member or any person falling within the scope of (ii) above who has not practised as a Self-Employed Barrister since completing that and any other pupillage, but only in respect of work performed in practice whilst a pupil of the Insured Member or any person falling within the scope of (ii) above;(vi) Any Clerk or Employee, but only in respect of matters occurring whilst in employment as a Clerk or Employee in connection with the Insured Practice of the Insured Member, or with the Insured Practice of any pupil or former pupil of the Insured Member to the extent and within the limits insured under paragraphs (iv) and (v) above;(vii) Any estate, personal representatives or insolvency practitioner of any of the above in respect of any Circumstance notified, Claim made or Disciplinary Proceedings brought during the Period of Insurance in respect of the Insured Practice.

Each of the Insured shall be severally insured by virtue of the issue of a Cover Note to the Insured Member and shall for all purposes in connection with these Terms of Cover be treated as separately insured hereunder as if under a separate insurance, so that (for example) no act or omission (including fraud) on the part of any one or more of the Insured shall prejudice the rights of or adversely affect any other(s) of the Insured or in any way derogate from the cover

granted to any other(s) of the Insured.

Insured Member	A Member or former Member of Bar Mutual to or in respect of whom a Cover Note has been issued for the relevant Period of Insurance.
Insured Practice	<ul style="list-style-type: none">(i) The supply of Legal Services as a Self-Employed Barrister, a Registered European Lawyer, a Free Legal Advice Centre or, in the case of an Entity, falling within the scope of the authorisation granted to it by the BSB;(ii) where specified in the Cover Note or any endorsement thereto and subject to any additional terms and conditions specified therein, the supply of Legal Services as a Foreign Lawyer or European Lawyer in any jurisdiction;(iii) acting as an Arbitrator;(iv) acting as a Mediator;(v) acting as a Legal Secretary;(vi) acting as an Ad Hoc Judge;(vii) employment and voluntary work at Advocate (formerly known as the Bar Pro Bono Unit) or at a law centre or legal advice centre or in relation to, or as honorary legal adviser to, a charity or other Voluntary Association;(viii) membership of any disciplinary tribunal or investigation committee;(ix) acting as an expert on matters of English law, European Union law, public international law, the law relating to international arbitration, or transnational law anywhere in the world;(x) any other practices and occupations as may be specified in the Cover Note or in any endorsement thereto.
Legal Ombudsman	An ombudsman under the scheme established under Part 6 of the Legal Services Act 2007.
Legal Secretary	Serving as a legal secretary or assistant to an Arbitrator, Mediator or a domestic or international tribunal.
Legal Services	Legal advice representation and drafting or settling any statement of case witness statement affidavit or other legal document, subject to the exclusions set out in clause 3.1(vii).
Limit of Cover	The sum of £500,000 each and every Claim or Disciplinary Proceedings, or, subject to clause 1.7 above, such other sum or sums (if any) as may be set out in the Cover Note.
Mediation	A mediation or conciliation.
Mediator	Serving as a mediator or conciliator in a Mediation.
Member	A person who is entitled to membership of Bar Mutual pursuant to Rule 1 of the Bar Mutual Rules.

BAR MUTUAL

Period of Insurance	The period (all dates inclusive) specified in the Cover Note. Where an Entity or a Successor Practice of an Entity is unable to obtain insurance complying with the requirements imposed by the BSB from a source other than Bar Mutual prior to the end date of the period specified in the Cover Note, the Period of Insurance shall be deemed to be extended by a further 30 days following that end date, unless that Entity or a Successor Practice of that Entity obtains insurance complying the requirements imposed by the BSB or the Insured Practice ceases.
Prior Practice	Each practice that was previously regulated by the BSB and has ceased to exist and to which the Insured is ultimately a Successor Practice. A practice shall not cease to exist by virtue of this definition merely by virtue of a minor change in the number or identity of partners or the directors, officers or shareholders of a limited company.
Registered European Lawyer	A European Lawyer registered as such by the BSB and by an Inn pursuant to a direction of the Joint Regulations Committee under Regulation 30 of the Consolidated Regulations and who supplies Legal Services from Chambers or via an Entity in England and Wales or as a sole practitioner in England and Wales and who (for the avoidance of any possible doubt) is not employed to supply Legal Services under a contract of employment or by virtue of an office under the Crown or in the institutions of the European Union.
Self-Employed Barrister	<p>A barrister who is a self-employed barrister as defined by the BSB Handbook. A barrister shall also be deemed to be a Self-Employed Barrister for the purposes of these Terms of Cover during any period of secondment provided always that:</p> <ul style="list-style-type: none">(i) prior to commencement of the secondment, the barrister was a self-employed practising barrister as defined by the BSB Handbook; and(ii) the total period of secondment does not exceed six months.
Successor Practice	A practice will be a Successor Practice where it has been held out expressly or by implication in any way whatsoever as a successor of a Prior Practice or where the Insured was the owner or one of the owners of the Prior Practice. More than one Successor Practice may exist.
Voluntary Association	A body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.
Wasted Costs Order	A court order made under section 51(6) of the Senior Courts Act 1981 or an equivalent order made by a tribunal.