

BEAZLEY MEDICAL MALPRACTICE INSURANCE

This Insurance contains some particularly important conditions which the Insured must satisfy or the Insured could lose some or all of the cover provided. Because these are particularly important, the Underwriters want to draw the Insured's attention to them and they will highlight them in bold and capital letters within the Policy. We ask that the Insured reads the terms of the Policy herein very carefully.

The Underwriter's draw the Insured's attention to the Exclusions set out in Clauses V, VI and VII of the Policy.

The Underwriter's also draw the Insured's attention to Clause XXXII which sets out the Insured's pre-contractual duties, the Insured should read this section carefully.

It is a condition of this Policy that the Insured must pay the premium when it is due, including when any instalment is due. If the Insured fails to do so, then the Insured's cover will be suspended on 7 written day's notice from the Underwriters.

Should anything in this Policy be inconsistent with the Consumer Insurance Contracts Act 2019 ("the Act") then the terms of the Act will prevail and the relevant provision will be read in a manner which is consistent with the requirements of the Act.

NOTICE: This Policy provides coverage on a Claims Made and Reported Basis. Except to such extent as may otherwise be provided herein, this insurance applies only to those **Claims** which are first made against the **Insured** and reported in writing to the Underwriters during the **Policy Period** or **Extended Reporting Period** (if applicable). **Damages** and **Claims Expenses** shall be applied against the deductible. **Claims Expenses** under this **Policy** shall reduce and may exhaust the Limits of Liability. As above, please review the coverage afforded under this Insurance **Policy** carefully and discuss the coverage hereunder with your insurance agent or broker.

In consideration of the payment of premium, the Underwriters agree with the **Named Insured** to provide the insurance coverage where specified as purchased in Item 3 of the Schedule, as follows:

I. **INSURING AGREEMENTS**

Subject to the Limit of Liability, exclusions, conditions, limitations and other terms of this **Insurance**, the Underwriters agree:

A. Medical Malpractice

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of a **Malpractice Incident** which occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

B. Professional Indemnity

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of financial loss to third parties caused by any negligent act, error or omission committed by the **Insured** in or about the conduct of the **Insured's Business** and which occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

C. Public/General Liability

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of **Bodily Injury** and/or **Property Damage** caused by an **Accident** in connection with the **Insured's Business** which occurred on or after the Retroactive Date stated in Item 8. of the Schedule and before the end of the **Policy Period**.

D. Product Liability

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of **Bodily Injury** and/or **Property Damage** caused by an **Accident** in the course of the **Insured's Business** and in relation to the **Insured's Products** which occurred on or after the Retroactive Date stated in Item 8. of the Schedule and before the end of the **Policy Period**.

E. Loss of Documents

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of the destruction, irrevocable damage or loss of any **Documents**, the property of or entrusted to the **Insured**, occurring during the **Policy Period** and in or about the conduct of the **Insured's Business**.

The Underwriters will indemnify the **Insured** all costs and expenses incurred by the **Insured** with the written consent of Underwriters in replacing or restoring such **Documents**, provided such costs and expenses are supported by bills and accounts.

F. Breach of Professional Confidentiality

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of a breach of professional confidentiality in or about the conduct of the **Insured's Business** which occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

G. Libel and Slander

To pay on behalf of the **Insured Damages** and **Claims Expenses** which the **Insured** shall become legally obligated to pay in respect of any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or any **Extended Reporting Period** (if applicable) arising out of libel and/or slander committed on or after the **Retroactive Date** and before the end of the **Policy Period** without malice by reason of words written or uttered by the **Insured** in or about the conduct of the **Insured's Business**.

In the event of a **Claim** the **Insured** shall, upon the reasonable request of the Underwriters, issue an apology and expression of regret, the form and content of which are to be approved by the Underwriters. If on receipt of such a request from the Underwriters the **Insured** refuses to issue such an apology and expression of regret, the Underwriters shall not be liable to defend or pay on behalf of the **Insured Damages, Claims Expenses** or any other costs incurred after the date of such refusal.

H. Inquest Costs

To indemnify the **Insured** the costs of legal representation at any **Inquest** occurring and notified in writing to the Underwriters during the **Policy Period**, involving the **Insured** and in respect of unexpected deaths occurring and notified in writing to the Underwriters during the **Policy Period** and which may give rise to a **Claim** under Insuring Agreement I.A., (Medical Malpractice) of this Policy.

II. **DEFINITIONS**

Words in bold face type shall have the meanings defined below or as the context may require.

- A. **Accident** means an event or happening, including continuous or repeated exposure to substantially the same general harmful conditions, which involves one or more persons or entities;
- B. **Bodily Injury** means physical injury (including death at any time resulting therefrom), mental injury, mental illness, mental anguish, shock, sickness, disease or disability;
- C. **Business** means the ordinary course of practice of the professional or occupational activities of the business as stated in Item 10. of the Schedule.
- D. **Circumstance** means any complaint, criticism, problem, act, error, omission or event happening on or after the **Retroactive Date** but prior to the end of the **Policy Period**, which appears likely to the **Insured** to result in a **Claim**.
- E. **Claim** means a written notice received by any **Insured** during the **Policy Period** or **Extended Reporting Period** of an intention to hold the **Insured** responsible for compensation in **Damages** including the service of legal proceedings, or the institution of arbitration or mediation or similar proceedings, or a written request to toll or waive a statute of limitation against any of the **Insureds**.

Multiple **Claims** arising from the same or a series of related or repeated **Malpractice Incidents**, acts, errors, or omissions, **Accidents**, libel, slander, loss of **Documents**, breaches of professional confidentiality, other incidents or events or from any continuing **Malpractice Incidents**, acts, errors, omissions, **Accidents**, libel, slander, loss of **Documents**, breaches of professional confidentiality, other incidents or events shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

- F. **Claims Expenses** means reasonable legal and necessary experts' fees, costs and expenses incurred in the defence of a **Claim** that have been specifically consented to by the Underwriters. **Claims Expenses** do not include:
 - 1. remuneration, salaries, wages, overhead, fees or benefits of any **Insured**; or
 - 2. costs of complying with any regulatory orders, settlements, judgments, or any non-monetary, injunctive, declaratory or administrative relief.
- G. **Computer System** means any computer, hardware, software, communications system, electronic device (including, but not limited to, any smart phone, laptop, tablet or 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.

H. **Cyber Act** means any actual or alleged unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, or the threat or hoax thereof, regardless of time and place, involving access to, processing of, disclosure of, use of, suspension of or operation of any **Computer System** or **Data**.

I. **Cyber Incident** means:

- a. any actual or alleged error, omission or accident, or series of related errors, omissions or accidents, involving any **Computer System**;
- 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**; or
- c. any actual or alleged violation of any Privacy Law in relation to **Data**.

J. **Damages** means a monetary judgment, award or settlement, otherwise covered by this **Policy** and subject to the Limit of Liability, which an **Insured** is legally obliged to pay as a result of a **Claim**, including interest (unless punitive in nature) and a claimant's legal costs (if taxed, or agreed by the Underwriters).

Damages do not include:

1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**;
2. return or offset of fees, charges or commissions charged by or owed to an **Insured** for goods or services already provided or contracted to be provided;
3. fines, sanctions, restitution, taxes, or penalties, whether pursuant to any civil or criminal law or statute;
4. costs incurred by the **Insured** to correct, re-perform or complete any services in or about the **Insured's Business**;
5. discounts, coupons, prizes, awards or other incentives offered to the **Insured's** customers or clients;
6. liquidated damages to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such liquidated damages agreement;
7. damages deemed uninsurable by law;
8. the costs of complying with orders or agreements for equitable relief, injunctive relief, declarative relief or any other relief or recovery other than a monetary judgment, award or settlement; or
9. punitive, exemplary (except in Scotland) or multiplied portions of compensation, whether imposed by law or comprising a portion or all of any monetary judgment, award or settlement.

K. **Data** means any information, facts, concepts or code that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer System**.

- L. **Data Breach** means the actual or alleged theft, loss or unauthorised disclosure of **Data** that is in the care, custody or control of the **Insured** or a third party for whose theft, loss or unauthorised disclosure of **Data** the **Insured** is liable.
- M. **Documents** means deeds, wills, maps, plans, non-medical records, books, letters, certificates, forms and documents of any nature whether written, printed or reproduced by any other method, and does not include bearer bonds, coupons, tickets, bank notes, currency notes, negotiable instruments, medical records or any digital or computer records.
- N. **Employee** means any person employed by the **Named Insured** to perform services under a contract of service with the **Named Insured**, whose status as such can be verified by documentation existing at the time of the relevant **Malpractice Incident**, negligent act, error or omission, **Accident**, libel, slander, loss of **Documents**, breach of confidentiality, other incident or event and includes:
1. any person hired by or seconded to the **Named Insured** including agency staff, staff locums, any person with a zero hour contract, and/or any **Volunteer** or intern or those obtaining work experience (or similar); and
 2. any person whilst on a course of study with the **Named Insured**;
- but only whilst such persons are acting within the scope of their duties for the **Insured**. **Employee** does not include any **Medical Practitioner**, whether or not employed by the **Named Insured**, unless specified in Item 12. of the Schedule or otherwise agreed and endorsed on this **Policy** and additional premium paid. **Employee** does not include any independent or self-employed contractor or individual;
- O. **Extended Reporting Period** means the period of time (specified in Item 7.b of the Schedule) after the end of the **Policy Period** for reporting **Claims** made against the **Insured** during the **Policy Period** or the **Extended Reporting Period**, arising out of **Malpractice Incidents**, negligent acts, errors or omissions, **Accidents**, libel, slander, breaches of confidentiality, incidents or events which take place on or after the **Retroactive Date** and prior to the end of the **Policy Period** or loss of **Documents** occurring during the **Policy Period**.
- P. **Good Samaritan Act** means those services performed in rendering, or failing to render, without remuneration, emergency medical treatment at the scene of a medical emergency, accident or disaster by any **Insured** who is present either by chance or in response to any general emergency call, but excluding such treatment performed on the **Named Insured's Facilities**.
- Q. **Inquest** means any coroner's inquest or inquiry commenced in the exercise of the coroner's powers over the **Insured** in relation to a **Malpractice Incident**.
- R. **Insured** means:
1. the **Named Insured**;
 2. any individual (including a principal, partner, director, a member of any Ethics Committee, Medical Director, **Employee** or **Volunteer**) but only whilst acting within the scope of and during the course of his duties for the **Insured**, other than a **Medical Practitioner**;
 3. any **Medical Practitioner** who is an **Employee**, but only whilst acting within the scope of and during the course of his duties for the **Named Insured** and only where specified in Item 12. of the Schedule; and

4. any **Subsidiary**, or joint venture (to the extent of the **Named Insured's** percentage participation), if specified in Item 13. of the Schedule.
- S. **Malpractice Incident** means any **Bodily Injury** or death of a **Patient** caused by any negligent act, error or omission committed by the **Insured** in breach of their professional duty in or about the conduct of the **Insured's Business** and which occurred on or after the **Retroactive Date** but prior to the end of the **Policy Period** at the **Named Insured's Facilities** or as part of any **Good Samaritan Act** which occurred on or after the **Retroactive Date** but prior to the end of the **Policy Period**.
- T. **Medical Practitioner** means a physician, doctor, surgeon or dentist currently qualified and registered with the General Medical Council and/or Irish Medical Council and stated in Item 12. of the Schedule.
- U. **Medical Research Services** means an organised study or test that uses human research subjects to establish the effectiveness, bioequivalence, or safety of a medical **Pharmaceutical Drug** or similar product, or to verify the safety and performance of a medical device, under proper conditions of use and including any pre-test assessment;
- V. **Named Insured** means the entity or person identified in Item 1. of the Schedule;
- W. **Named Insured's Facilities** means all locations at which the **Insured's Business** is rendered, or fail to be rendered, by an **Insured**, acting within the scope of that person's duties to the **Named Insured** but shall not include the premises of any hospital, clinic, physician office, residential nursing facility or health care provider which is not owned or leased by the **Named Insured**.
- X. **Patient** means any person or human body receiving services by the **Insured** in or about the conduct of the **Insured's Business**.
- Y. **Pharmaceutical Drug** means a synthetic or natural chemical recognised by any official regulatory body in the appropriate jurisdiction:
1. intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury, sickness or disease in humans and which affects the structure or functioning of the human body; or
 2. which is a component of any **Product**;
- Z. **Policy and Insurance** means this contract of insurance agreed by the **Named Insured** and the Underwriters on the terms contained in and evidenced by this policy of insurance and the Schedule, including any variations, endorsements, the **Proposal** and any other representation by the **Insured** or on behalf of the **Insured**.
- AA. **Policy Period** means the period of time between the Inception Date and the Expiry Date both specified in Item 2. of the Schedule unless terminated earlier, and specifically excludes any **Extended Reporting Period**.
- BB. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, other air emission, acids, toxic chemicals, alkalis, mould, spores, fungi, germs, odour, waste water, oil or oil product, infectious or medical waste, asbestos or asbestos product, lead or lead product, noise, and electric, magnetic or electromagnetic field chemicals or waste (which includes medical waste and material to be recycled, reconditioned or reclaimed).
- CC. **Privacy Law** means any law or regulation concerning the collection, use, safeguarding, handling, storage, retention or destruction of information.

DD. **Product** means any products or goods manufactured, sold, supplied, distributed, processed, installed, serviced, repaired, altered, treated or renovated by the **Insured** or anyone on behalf of the **Insured** in connection with the **Insured's Business** provided that such products are not owned by or in the possession or control of the **Insured** at the time of any actual or alleged **Malpractice Incident, Accident**, negligent act, error or omission, libel, slander, loss of **Documents**, breach of professional confidentiality, other incident or event and includes their packaging, containers (other than a vehicle), labelling and instructions.

EE. **Property Damage** means physical damage to or destruction of tangible property, including consequential loss of use thereof; or loss of use of tangible property which has not been physically damaged or destroyed.

FF. **Proposal** means:

1. all information provided by or on behalf of the **Insured** to the Underwriters as part of its request for this **Insurance** (or any renewal or variation), together with all particulars and details of the methodology on the basis of which any estimates within such information were calculated or derived; and
2. all material information regarding the **Insured** that is publicly available and is actually provided by the **Insured** to the Underwriters, including information and materials contained on any Internet websites maintained by or on behalf of any **Insured**, prior and in relation to formation or renewal or variation of this **Insurance**.

GG. **Retroactive Date** means the date specified in Item 8. of the Schedule.

HH. **Subsidiary** means:

1. any entity, while more than 50% of the outstanding voting securities representing the present right to vote for the election or appointment or designation of such entity's directors, managers or equivalent are owned or controlled by the **Named Insured** directly or indirectly; or
2. any joint venture while the **Named Insured** has managerial control, or while it has the right to elect or designate or otherwise appoint or directly or indirectly control the appointment of more than 50% of such entity's directors, trustees, managers or equivalent;

as designated in Item 13. of the Schedule.

II. **Volunteer** means a person who is not an **Employee**, and who donates his work and acts at the direction of and within the scope of duties determined by the **Named Insured**, and is not paid a fee, salary or other compensation by either the **Named Insured** or anyone else for their work performed by or on behalf of the **Named Insured**.

III. DEFENCE AND SETTLEMENT

- A. The Underwriters shall defend the **Insured** for any **Claim** made against the **Insured**, even if any of the allegations of the **Claim** are groundless, false or fraudulent.
- B. The Underwriters shall choose a solicitor and/or counsel to conduct the defence in conjunction with the **Insured**, but in the event of disagreement the decision of the Underwriters is final.
- C. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses. Damages** and **Claims Expenses** shall be applied against the Deductible specified in Item 5. of the Schedule.

- D. The Underwriters shall have the right to make any investigation they deem reasonably necessary in relation to this **Insurance**.
- E. If the **Insured** refuses to consent to any settlement or compromise recommended by the Underwriters and acceptable to the claimant or relevant party or body and elects to contest the **Claim**, the Underwriters' liability for any **Damages** and **Claims Expenses** shall not exceed the amount for which the **Claim** could have been settled, less the remaining Deductible, plus the **Claims Expenses** incurred up to the time of such refusal, or the applicable Limit of Liability, whichever is less, and the Underwriters shall have the right to withdraw from the defence of the **Claim** without further liability by tendering control of the defence to the **Insured**.
- F. The Underwriters shall not be obliged to pay any **Damages**, **Claims Expenses** or any other costs covered under this **Policy** or to undertake or continue the defence of any **Claim**, after the applicable Limit of Liability has been exhausted by payment of **Damages** or **Claims Expenses** or after deposit of the remaining applicable Limit of Liability in a court of competent jurisdiction, or by payment to the **Insured**, and that upon such payment the Underwriters shall have the right to withdraw from the further defence of the **Claim** without further liability to any **Insured** by tendering control of such defence to the **Insured**.

IV. TERRITORIAL AND JURISDICTIONAL LIMITS

This **Insurance** applies anywhere in the world (Territorial Limits) but only if the **Claim** is first made against the **Insured** in those countries stated in Item 16. of the Schedule (Jurisdictional Limits).

V. EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS

This **Insurance** does not apply to **Damages** or **Claims Expenses** incurred with respect to any **Claim** or any **Inquest** costs:

- A. arising out of or resulting from the operation by the **Insured** of blood banks or human tissue banks except where these are provided solely by the **Insured** as part of its usual **Business**;
- B. arising out of or resulting from **Medical Research Services** or in any connection with medical trials or drug testing;
- C. arising out of or resulting from any **Malpractice Incident**, act, error or omission, **Accident**, loss of **Documents**, libel, slander, breach of professional confidentiality, **Inquest**, other incident or event committed or occurring prior to the Inception Date:
 - 1. if any **Insured** on or before the Inception Date knew or could have reasonably foreseen that such **Malpractice Incident**, act, error or omission, **Accident**, libel, slander, loss of **Documents**, breach of professional confidentiality, **Inquest**, other incident or event might be expected to be the basis of a **Claim**; or
 - 2. in respect of which any **Insured** has given notice of a **Circumstance** which might lead to a **Claim** to the underwriter of any other policy in force, or to any medical defence organisation, prior to the Inception Date;
- D. made against any **Insured** by any other **Insured**; except that this exclusion shall not apply to **Bodily Injury** sustained by any **Insured** as a recipient of services in or about the conduct of the **Insured's Business** rendered, or which fail to be rendered, by any **Insured**;
- E. arising out of or relating to any liability under any contract or agreement, whether written or oral, unless such liability would have attached to the **Insured** in the absence of such contract or agreement;

- F. arising out of or resulting from any **Products**, the manufacture of any **Products** (unless covered under Insuring Agreement I.D., (Product Liability),
- G. arising out of the construction, alteration, repackaging, repair, recall, servicing, or treating of any **Products** sold, supplied or distributed by the **Insured** and any **Claim** arising out of the failure of any **Product** to fulfil the purpose for which it was designed, or to perform as specified, warranted or guaranteed; except that this exclusion shall not apply to any **Claim** in respect of the application or preparation of any medicinal or pharmacological **Products** (which have been approved by the relevant regulatory, licencing or registration authority) to a **Patient** in the provision of services in or about the conduct of the **Insured's Business**;
- H. made against any director or officer or **Employee** of the **Insured** (including shadow directors) arising from any act, error or omission, actual or alleged breach of trust, breach of warranty of authority, or breach of duty committed or attempted by such director or officer or **Employee**, where such **Claim** is made solely by reason of his holding the position of director or officer or **Employee** and having acted in that capacity;
- I. in relation to any obligation for which the **Insured** may be liable under any Employment Law, Workers' Compensation, Unemployment Compensation, Disability Benefits Law, employment protection legislation, employer's liability, or under any similar law, in respect of any **Employee**; except that this exclusion shall not apply to any **Claim** arising out of any **Bodily Injury** of an **Employee** which is caused by a **Malpractice Incident** by an **Insured** where the **Employee** is a **Patient** of the **Insured**;
- J. arising out of or resulting from discrimination including discriminatory employment practices, allegations of actual or alleged violations of civil rights or acts of discrimination based entirely or in part on the race, gender, pregnancy, national origin, religion, age or sexual orientation, except where the claimant against the **Insured** is a **Patient** of the **Insured**;
- K. directly caused by or materially contributed to by the influence of intoxicants, alcohol or narcotics. If the Underwriters allege that this exclusion precludes coverage of any **Damages Claim Expenses** or other costs covered under this **Policy**, the burden of proving the contrary shall be upon the **Insured**;
- L. arising out of or resulting from any criminal, dishonest, fraudulent or malicious act, error or omission of any **Insured**;
- M. arising out of or resulting from:
 - 1. any conduct, physical act, gesture, or spoken or written words of a sexual or physically violent nature by any **Insured**, including sexual intimacy (whether or not consensual), sexual molestation, sexual or physical assault or battery, sexual or physical abuse, sexual harassment or exploitation; or
 - 2. the **Insured's** actual or alleged negligent employment, investigation, supervision, hiring, training or retention of any **Employee, Insured** or person for whom the **Insured** is legally responsible and whose conduct falls within paragraph M.1. above.
- N. directly or indirectly caused by, or contributed to by, or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or from the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.;
- O. directly or indirectly arising out of or resulting from:

1. **Bodily injury** or loss of or damage to, or loss of the use of property directly or indirectly caused by seepage, subsidence, pollution or contamination;
2. the actual, alleged or threatened discharge, dispersal, release or escape or failure to detect the presence of **Pollutants**, or any governmental, judicial or regulatory directive or request that the **Insured** or anyone acting under the **Insured's** direction or control test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**. Or
3. the manufacture, distribution, sale, resale, rebranding, installation, repair, removal, encapsulation, abatement, replacement or handling of, exposure to or testing for **Pollutants** contained in a product, carried on clothing, inhaled, transmitted in any fashion or found in any form whatsoever.

However, this exclusion shall not apply to the extent that any **Patient** is being treated for exposure to any **Pollutant**.

- P. directly or indirectly arising out of, or resulting from or in consequence of, or in any way involving the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores, organic pathogens, micro-organisms or mycotoxins of any kind, except where forming part of the usual provision of the **Insured's Business**;
- Q. directly or indirectly caused by, resulting from, or arising out of a Cyber Act, Cyber Incident or Data Breach, including any action taken in controlling, preventing, suppressing or remediating any Cyber Act, Cyber Incident or Data Breach.
- R. against any **Subsidiary** designated in Item 13 of the Schedule or its past, present, or future employees, directors, officers, trustees, review board or committee members, or volunteers acting in their capacity as such, which are based upon, arise out of, directly or indirectly result from, are in consequence of, or in any way involve any fact, **Circumstance**, situation, transaction, event, **Accident, Malpractice Incident** or negligent acts, errors or omissions, libel, slander, breach of professional confidentiality, other incident or series of facts, **Circumstances**, situations, transactions, events, **Accidents, Malpractice Incidents** or negligent acts, errors or omissions, libel, slander, breach of professional confidentiality, other incident or event happening before the date such entity became a **Subsidiary** or after the date it ceased to be a **Subsidiary**;
- S. relating to or arising out of asbestos, silica or lead, unless occurring as part of and during the provision of the **Insured's Business**;
- T. arising out of or resulting from **Bodily Injury** and **Property Damage**. However, this exclusion does not apply to **Bodily Injury** arising out of a **Malpractice Incident** or **Bodily Injury** and **Property Damage** covered under Insuring Agreements I.C. and I.D;
- U. based on the wilful non-compliance of any **Insured** with any local or international rules, regulations and statutes in relation to food and drug health and safety or administration, or treating a **Patient** with any drugs, medical devices, biologics or radiation-emitting products that have been disapproved or not then approved by any appropriate regulatory organisation;
- V. arising out of or resulting from any wrongful or unlawful detention in breach of the Mental Health Act 1983 or the Human Rights Act 1998 or equivalent under the law of the jurisdiction governing the policy;
- W. arising out of or resulting from the **Insured's** actual or alleged ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment or condemnation of any automobiles, aircraft, watercraft and other kinds of conveyances including mechanically propelled vehicles, or any loading, or unloading of any

motor vehicle, trailer, watercraft, aircraft, or other such conveyance, or at or on or near a helipad;

- X. arising out of or resulting from any **Bodily Injury** to any **Employee** during the course of his employment with the **Insured**, or to his spouse, child, parent, or sibling arising out of such **Bodily Injury**. However, this exclusion shall not apply to any **Claim** arising out of any **Bodily Injury** of an **Employee** which is caused by a **Malpractice Incident** of an **Insured** where the **Employee** is a **Patient** of the **Insured** and suffers **Bodily Injury** as a **Patient**; or
- Y. directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:
 - 1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
 - 2. any **Act of Terrorism**.

An **Act of Terrorism** means an act, including the use of force or violence and/or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This **Policy** also excludes **Damages** or **Claim Expenses** directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (1) or (2) above.

If the Underwriters allege that by reason of this exclusion any **Damages** or **Claim Expenses** are not covered by this **Insurance**, the burden of proving the contrary shall be upon the **Insured**;

- Z. arising out of or in connection with any acts, errors or omissions of an **Insured**, if a **Medical Practitioner**, which are outside the scope of work of, or are not conducted for or on behalf of, the **Named Insured** including all work carried out privately by an **Insured**; or
- AA. arising out of the ownership, possession or use of any land or building;
- BB. arising out of the conduct of any partnership or joint venture of which the **Insured** is a partner or member and which is not designated in this **Policy** as an **Insured**.
- CC. arising out of any **Malpractice Incident**, **Accident**, act, error, omission, libel, slander, breach of professional confidentiality, other incident or event, illness, disease of the human body, **Business** or operations committed or occurring wholly or in part before the **Retroactive Date**.
- DD. any costs relating to the defence of any regulatory, disciplinary or professional misconduct proceedings or investigation brought against the **Insured**, whether in respect of an **Inquiry** or otherwise, unless expressly provided for in this **Policy**.
- EE. arising out of any Hepatitis Non A or any condition directly or indirectly caused, or associated with, the human immunodeficiency syndrome (HIV) or the mutants, derivatives thereof or in any way related to Acquired Immune Deficiency Syndrome (AIDS) or AIDS related complex (ARC) or syndrome or condition of a similar kind howsoever it may be named.
- FF. arising out of the bankruptcy or insolvency of any **Insured**.

GG. made within or any judgement, award or settlement made within countries which operate under the laws of the United States of America or Canada (or any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part), unless the **Insured** has requested that there shall no be limitation and has accepted the terms offered by Underwriters granting such cover which offer and acceptance must be signified by specific endorsement (including any reinstatement provision) to this policy.

HH. arising out of any actual or alleged infringement of any patent or patent rights or misuse or abuse of any patent;

II. arising out of any actual or alleged use or misappropriation of any ideas, plagiarism, misappropriation of likeness or misappropriation or infringement of any intellectual property right, including trademark, trade secret, trade dress and copyright or infringement of the Data Protection Act 1998 or equivalent under the law of the jurisdiction of the policy.

JJ. in relation to Insuring Agreement I.G., arising out of the contents of any journal or publication, or in any communication or contribution to the press or media.

VI. ADDITIONAL EXCLUSIONS APPLICABLE TO INSURING AGREEMENT I.B., (PROFESSIONAL INDEMNITY)

This **Insurance** does not apply to **Damages** or **Claims Expenses** incurred with respect to any **Claim** or any other costs:

A. arising from any **Malpractice Incident** covered under Insuring Agreement I.A. (Medical Malpractice) or professional services rendered which are not within the conduct of the **Insured's Business**;

B. made against any person who is during the **Policy Period** a principal, partner, director, a member of any ethics committee, employee or volunteer of the **Named Insured** in respect of **Claims** arising from work undertaken that is not on behalf of the **Insured**;

C. made by any parent, **Subsidiary** or associated company.

VII. ADDITIONAL EXCLUSIONS APPLICABLE TO INSURING AGREEMENT I.C., (PUBLIC/GENERAL LIABILITY) AND I.D., (PRODUCT LIABILITY)

This **Insurance** does not apply to **Damages** or **Claims Expenses** incurred with respect to any **Claim** or any other costs:

A. arising out of a **Malpractice Incident** or any actual or alleged breach of the **Insured's** professional duty;

B. arising out of **Bodily Injury** to an **Employee** of the **Insured**;

C. arising out of transmission of computer virus;

D. arising out of **Property Damage** belonging to the **Insured** or which at the time of the damage is in the **Insured's** care, custody or control. However, this exclusion does not apply to:

1. vehicles or personal belongings of **Employees** and visitors, while they are located in the **Named Insured's Facilities**;

2. premises rented to the **Insured**, for loss or damage not insurable under property insurance policies and for which the **Insured** would not be liable other than by the lease or agreement.

- E. arising out of **Property Damage** to work performed by or on behalf of the **Named Insured** arising out of work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith.

VIII. LIMIT OF LIABILITY

- A. The Limit of Liability stated in Item 4. (1), (2), (3), (4), (5), (6) and (7) of the Schedule as "Each **Claim**" is the Underwriters' Limit of Liability for all **Damages** and **Claims Expenses** arising out of each **Claim** under Insuring Agreements I.A., I.B., I.C., I.D., I.E., I.F. and I.G., respectively.
- B. The Limit of Liability stated in Item 4.(8) of the Schedule as "Each **Inquest**" is the Underwriters' Limit of Liability for all **Inquest's** costs under Insuring Agreement I.H.
- C. The Limit of Liability stated in Item 4.(9) of the Schedule as "Policy Aggregate" is the Underwriters' Limit of Liability for all **Damages** and **Claims Expenses** arising out of all **Claims** and other costs which are covered by this **Policy**.
- D. The Limit of Liability for any **Extended Reporting Period** shall be part of, and not in addition to, the Underwriters' Limit of Liability for the **Policy Period**.
- E. Any **Claims, Damages** or **Claims Expenses** arising from any negligent act, error or omission, **Accident, Malpractice Incident**, libel, slander, loss of **Documents** or breach of professional confidentiality notified to the Underwriters or other insurer prior to the Inception Date shall not be included as one **Claim** or payable under this **Policy** as **Damages** or **Claims Expenses** arising out of the same, continuing or related negligent act, error or omission, **Accident, Malpractice Incident**, libel, slander, loss of **Documents** or breach of professional confidentiality of which any **Claim** is made or notice is first given during this **Policy Period**.
- F. Notwithstanding anything to the contrary contained in this **Policy**, if a **Claim** purports to trigger coverage under more than one Insuring Agreement of this **Policy**, the Underwriters' Limit of Liability under each Insuring Agreement shall continue to apply to that part of the **Claim** that properly falls within that Insuring Agreement but the total liability of the Underwriters shall in no event exceed the greater of the Limit of Liability available under the higher of any one of the Insuring Agreements relevant to the **Claim**.
- G. In the event that a **Claim** purports to trigger coverage under more than one policy issued by the Underwriters to the **Named Insured** and its subsidiary companies, any **Claim** or suit will only be covered under the policy with the highest limit of insurance available or, if the limits are the same, under only one of the policies.

IX. DEDUCTIBLE

The Underwriters shall only be liable under this **Policy** if the Deductible amount stated in Item 5. of the Schedule is satisfied in full by payments by the **Insured Damages** and/or **Claims Expenses** resulting from each **Claim**. The Underwriters shall be liable only for the amounts in excess of such Deductible subject to the Underwriters' Limits of Liability in Item 4. of the Schedule. The **Insured** shall make direct payments within the Deductible to the appropriate parties designated by the Underwriters. The Deductible shall be and remain uninsured, unless otherwise agreed in writing by the Underwriters. Under no circumstances shall the Underwriters be required to pay the Deductible, but the Underwriters may do so at their sole discretion and may then collect the Deductible from the **Insured**. The existence of any other insurance shall not affect or abrogate the obligation of the **Insured** to pay the Deductible.

X. MEDICAL PRACTITIONERS

The **Named Insured** shall ensure and record that throughout the **Policy Period**:

- A. all **Medical Practitioners** during all their professional activities for the **Named Insured** maintain a relevant license approved by the appropriate regulatory, licensing or registration body or equivalent in respect of their area of practice;
- B. all **Medical Practitioners** maintain membership of their respective applicable professional association, if this membership is legally required; and
- C. all **Medical Practitioners** for whose acts, errors or omissions the **Insured** may be liable are otherwise fully insured (in accordance with the usual standards for **Medical Practitioners** and on no worse terms than required by their appropriate regulatory or professional association or body) for their own professional errors, omissions or negligence.
- D. all nurses engaged by the **Insured** or acting on the **Insured's** behalf maintain registration with the Nursing and Midwifery Council (NMC) and/or An Bord Altranais.

XI. **MEDICAL EQUIPMENT**

Any tool or implement used or intended for use in or about the conduct of the **Insured's Business** and which is intended to be in contact with bodily fluid (whether human or animal) or penetrate tissue (whether human or animal) shall be:

- 1. handled, used and stored in accordance with the manufacturers' instructions, and
- 2. where approved by the manufacturers and by the Department of Health or equivalent to be used more than once, sterilised prior to each such use:
 - (i) using only sterilised apparatus specifically approved by the manufacturer and in accordance with instructions, recommendations or guidelines of such manufacturer
 - (ii) in accordance with Department of Health guidelines or equivalent.

Any surface which such device is likely to come into contact with or which has been in contact with bodily fluid (whether human or animal) or tissue (whether human or animal) shall be disinfected in accordance with the manufacturers instructions and Department of Health guidance or equivalent.

XII. **NOTICE OF CLAIM, OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**

The following is an **IMPORTANT CONDITION** under this **Policy**. Coverage under this **Policy** will not be available unless the **Insured** complies with this important condition:

- A. The **Insured** shall notify the Underwriters in writing as soon as reasonably practicable through persons identified in Item 9. of the Schedule of any **Claim** made against the **Insured** during the **Policy Period** and promptly forward every demand, notice, summons, request to attend or other process received by the **Insured** or its representative.
- B. If during the **Policy Period** the **Insured** first becomes aware of a **Circumstance**, it must give written notice to the Underwriters as soon as reasonably practicable through persons identified in Item 9. of the Schedule and during the **Policy Period** of:
 - 1. the specific, negligent act, error, or omission, **Accident, Malpractice Incident**, libel, slander, loss of **Documents**, breach of professional confidentiality;

2. the injury or damage which may result or has resulted from the negligent act, error, or omission, **Accident, Malpractice Incident**, libel, slander, loss of **Documents**, breach of professional confidentiality;
 3. the circumstances by which the **Insured** first became aware of the negligent act, error or omission, **Accident** or **Malpractice Incident**, libel, slander, loss of **Documents**, breach of professional confidentiality; and
 4. the names and addresses of all potential claimants, witnesses and any parties potentially involved.
- C. Any subsequent **Claim** made against the **Insured** which is the subject of the written notice above shall be deemed to have been made at the time written notice was first given to the Underwriters.
- D. A **Claim** or **Circumstance** shall be considered:
1. known to the **Insured** when the **Named Insured's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, General Counsel, the Risk Management or Legal Department, or the relevant **Medical Practitioner** first becomes aware of it; and
 2. reported to the Underwriters when notice is received by the persons named in Item 9. of the Schedule.
- E. Breach of any period specified in a term or condition of this Policy for notification to the Underwriters of a **Claim** or **Circumstance** that may give rise to a **Claim** or any other matter will entitle the Underwriters to refuse payment of a **Claim** but only where the Underwriters have suffered prejudice by the breach of the notification term or condition in question.

XIII. FRAUDULENT ACTS

If a claim for coverage under this Policy contains information that is false or misleading in any material respect and the **Insured** either knows that it is false or misleading or consciously disregards whether it is false or misleading, or a claim is otherwise fraudulent in any respect ("**Fraudulent Claim**"), the Underwriters shall be entitled to:

- A. refuse to pay the claim; and
- B. terminate the Policy by written notice in which case cover under this Policy shall be treated as having terminated with effect from the date on which the **Fraudulent Claim** was submitted.

In such circumstances of such termination, the Underwriters shall refuse all liability to the **Insured** under the Policy in respect of any claim made after the date of submission of the **Fraudulent Claim** (but not in respect of any claim (s) made before submission of the **Fraudulent Claim** and the Underwriters will not need to return any of the premiums paid under the Policy.

XIV. RECORDS

The **Insured** shall at all times:

- A. maintain accurate descriptive records of all **Business** and equipment used in procedures which shall be available for inspection and use by the Underwriters or their duly appointed representatives insofar as they relate to any **Claim** hereunder; and

- B. retain the records referred to in A. above for a period of at least ten (10) years from the date of treatment and, in the case of a minor, for a period of at least ten (10) years after that minor attains majority.

XV. ASSISTANCE AND CO-OPERATION OF THE INSURED

The following is an **IMPORTANT CONDITION** under this **Policy**. Coverage under this **Policy** will not be available unless the **Insured** complies with this condition:

- A. The **Insured** shall cooperate with the Underwriters in all investigations, including investigations regarding the **Proposal** for and coverage under this **Policy**. The **Insured** shall execute or cause to be executed all papers and render all reasonable assistance as requested by the Underwriters.
- B. Upon the Underwriters' request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organisation who may be liable to the **Insured** because of negligent acts, errors or omissions, **Accidents, Malpractice Incidents**, libel, slander, loss of **Documents** or breaches of professional confidentiality which may be covered by this **Policy**; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the assistance and attendance of witnesses, the execution of all documentation, and to allow for compliance with any Practice Directions, Civil Procedure Rules, Pre-Action Protocols, or similar.
- C. The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, consent to any judgment or award or dispose of any **Claim** in excess of the Deductible, or agree to any finding, without the consent of the Underwriters; and
- D. No action shall be brought against the Underwriters until the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment or award against the **Insured** after actual trial or arbitration, or by written agreement of the **Insured**, the claimant and the Underwriters.
- E. The **Insured** shall not disclose to any person any of the terms of this **Policy** without written consent of the Underwriters.

Expenses incurred by the **Insured** in assisting and cooperating with the Underwriters in accordance with this clause do not constitute **Claims Expenses** under the **Policy**.

XVI. COOLING OFF PERIOD AND CANCELLATION

- A. The **Insured** is entitled to cancel this **Policy** by sending notice to the other party within 14 working days of the Inception Date without giving a reason. Providing the **Insured** has not made any claims, the Underwriters will allow a proportionate return of the premium for any unexpired **Policy Period** for which the **Insured** has paid.
- B. This **Policy** may be cancelled by the **Named Insured** or by the Underwriters by sending notice to the other party stating when, not less than thirty (30) days thereafter, cancellation shall be effective (except that (i) the **Named Insured** shall not be entitled to cancel this **Policy** if a **Claim** has been made at the date of giving such thirty days' notice, or **Circumstance** then notified to the Underwriters, and (ii) the Underwriters shall not be entitled to cancel any part of the **Extended Reporting Period** except for non-payment of premium).
- C. Any failure of the **Named Insured** to pay the Premium when due may allow the underwriters to cancel this **Policy**, giving seven (7) days' notice to the **Named Insured** stating the

effective date and hour of cancellation. In these circumstances, the Underwriters shall be entitled to set off any sum held by them in the discharge of any of the **Insured's** obligations to the Underwriters.

- D. If this **Policy** is cancelled the Expiry Date of this **Policy** shall be amended to be the effective date of such cancellation.
- E. If this **Policy** is cancelled:
 - 1. by the **Named Insured**, the Underwriters shall retain the short rate proportion of the Premium for the period this **Policy** has been in force, calculated in accordance with the Underwriters' Short Rate Cancellation Table then in force, and all of the Premium in respect of any **Extended Reporting Period** (if applicable); or
 - 2. by the Underwriters, they shall retain the pro rata proportion of the Premium for the period this **Policy** has been in force.
- F. Notice of cancellation by the Underwriters shall be effective even though the Underwriters make no payment or tender of return premium with such notice.

XVII. PREMIUM PAYMENT CONDITION

The following warranty is a term that defines the risk as a whole:

The **Named Insured** must pay all premiums under this policy on the date shown in Item 6. of the Schedule. If the Underwriters do not receive payment of such premium by midnight (local standard time) on the premium due date, this **Policy** will be suspended on 7 day's written notice from the Underwriters in compliance with this condition.

XVIII. ARBITRATION AND CHOICE OF LAW

This Policy, and any non-contractual disputes arising in connection with it, shall be governed by and construed according to the laws of Ireland. Any dispute concerning this **Insurance** shall be the subject of arbitration in accordance with the ARIAS Rules prior to recourse to any court of law. The seat of the arbitration shall be in London, and the arbitration tribunal shall apply the laws of Ireland as the proper law of this **Insurance** and the procedural and supervisory law of the arbitration.

XIX. MATERIAL ALTERATIONS

The **Insured** must tell the Underwriters as soon as reasonably possible of any changes to the following provided by the **Insured** prior to the commencement or renewal of this Policy:

- A. the information provided to us in any proposal form or equivalent in respect of specific questions asked by us;
- B. the information provided and recorded in any Statement of Fact issued to the **Insured**;
- C. any declarations made by the **Insured** or on its behalf; and/or
- D. any additional information voluntarily provided by the **Insured** or on its behalf.

When the **Insured** notifies the Underwriters about a change as above, or if the **Insured** otherwise becomes aware of such a change, as referenced above, the Underwriters may reassess the premium chargeable and Policy cover more generally.

The Underwriters may refused a claim made by the **Insured** where there has been a change in the subject matter of a Policy which results in a new risk which the Underwriters did not agree to cover and which was beyond the reasonable contemplation of the Underwriters and the **Insured** when the Policy was entered into. Failure to disclose any such change may result in difficulty in obtaining insurance in the future.

XX. INNOCENT INSURED

Whenever coverage under this **Insurance** would be excluded, suspended or lost owing to:

- A. the application of V., Exclusion L., relating to intentional, criminal, dishonest, fraudulent or malicious acts, errors or omissions by any **Insured**; or
- B. non-compliance with any condition relating to the giving of notice to the Underwriters where an **Insured** is in default solely as a result of the failure of another **Insured** so to comply;

such insurance coverage as would otherwise be afforded under this **Policy** shall remain in effect with respect to those **Insureds** who did not personally participate in, or acquiesce in or remain passive after having personal knowledge of, (a) one or more of the acts, errors or omissions described in any such exclusion, or (b) such failure to give notice;

provided that after becoming aware of such act, error or omission or any failure to give notice, any such **Insured** shall inform the Underwriters immediately in writing of such event, and shall not be entitled to the benefit of this clause if it fails to do so.

XXI. EXTENDED REPORTING PERIOD

- A. If either party cancels or this **Insurance** is not renewed:

- 1. notwithstanding the requirement in Clause XII. A to notify the Underwriters as soon as reasonably practicable, the **Insured** shall have fourteen (14) days from the Expiry Date of the **Policy Period** to notify the Underwriters of **Claims** made against the **Insured** during the **Policy Period**. Any such **Claim** not so notified will not be payable by the Underwriters under this **Policy**.
- 2. the **Named Insured** shall have the right, exercisable on written notice within 14 days of such cancellation or non-renewal of the Policy and upon payment of an additional Premium calculated at that percentage shown in Item 7(a) of the Schedule of the total Premium for this **Policy**, to a temporal extension of the coverage granted by this **Policy** for the period specified in Item 7(b) of the Schedule with respect to any **Claim** first made against any **Insured** during the **Policy Period** or **Extended Reporting Period**. Such additional Premium must be received by the Underwriters within thirty (30) days of such cancellation or expiry and if not so received the **Named Insured** shall not have any right to any **Extended Reporting Period**, and if exercised the **Extended Reporting Period** will replace the grace period provided above to the **Insured** to notify **Claims**.

- B. The Limit of Liability for the **Extended Reporting Period** shall be part of, and not in addition to, the Underwriters' Limit of Liability for the **Policy Period**.

- C. The quotation by the Underwriters of a different premium or Deductible or Limit of Liability or changes in the **Policy** language for the purpose of renewal shall not constitute a refusal to renew by the Underwriters.
- D. The right to the **Extended Reporting Period** shall not be available to the **Named Insured** where cancellation or non-renewal by the Underwriters is due to non-payment of Premium or failure of an **Insured** to pay such amounts in excess of the applicable Limit of Liability or within the applicable Deductible or other material breach of this **Policy**.
- E. All notices and Premium payments with respect to the **Extended Reporting Period** shall be directed to the Underwriters through the entity named in Item 9. of the Schedule.
- F. At the commencement of the **Extended Reporting Period**, the entire Premium shall be deemed earned, and in the event the **Named Insured** terminates the **Extended Reporting Period** prior to its natural expiry, the Underwriters will not be liable to return any Premium paid for the **Extended Reporting Period**.

XXII. OTHER INSURANCE

This **Insurance** shall apply in excess of any other valid and collectible insurance or self-insurance, or of any kind of indemnity including one provided by any medical defence organisation or any similar scheme and available to any **Insured**, unless such other insurance is written only and identified as specific excess insurance over the Limit of Liability of this **Policy**.

If there is any other such insurance at the time of any event giving rise to a **Claim** under this **Policy** the **Insured** shall promptly provide the Underwriters in writing with full details of such other insurance, including the identity of the insurer and the policy number, and such further information as the Underwriters may reasonably require.

XXIII. SUBROGATION

- A. The Underwriters shall be subrogated to the extent of their liability under this **Insurance** to all the **Insured's** rights of recovery against any person or organisation, and the **Insured** shall execute and deliver instruments and papers and do whatever is necessary to secure such rights. The **Insured** shall do nothing before or after the payment of **Damages** or **Claims Expenses** by the Underwriters to prejudice such rights and shall take all reasonable steps to maintain them including positive action where necessary. The obligations of the **Insured** under this Clause XXIII. shall survive this **Policy**.
- B. Where the Underwriters have the right to be subrogated to the **Insured's** recovery rights against some other person as above, but the **Insured** has not exercised those rights and might reasonably be expected not to exercise those rights because the **Insured** and the other person are members of the same family (to be construed in accordance with the Employment Equality Act 1998), or are cohabitants to be construed in accordance with the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010) then in such circumstances:
 - 1. Where the other person is not insured in respect of their liability to the **Insured**, the Underwriters do not have the right to be subrogated to the **Insured's** rights against that other person.

2. Where the other person is so insured, the Underwriters may not recover from the other person an amount greater than the amount that that person may recover under their insurance policy.
 3. This sub-paragraph B. does not apply where the conduct of the other person that gave rise to the loss involved serious or wilful misconduct.
 4. If the **Insured** is an employer, the Underwriters will not exercise its right of subrogation against an employee except where the loss was caused by an employee intentionally or recklessly and with knowledge that the loss would probably result.
- C. Any subrogated recovery exercised by the Underwriters in accordance with our rights under A. above, shall applied as follows:
1. first be paid to the Underwriters to the extent of any **Claims Expenses** paid by them,
 - 2.. If the recovery exceeds the amount to which the Underwriters are entitled under C.i, the **Insured** is entitled to so much of the surplus as does not exceed you're remaining uninsured loss (including any deductible payable by the **Insured** if any);
 3. If the amount recovered by the Underwriters exceeds the sum of:
 - (a) the amount to which we are entitled under C.i. above; and
 - (b) the amount (if any) to which the Insured is entitled under C.ii above;
- The Underwriters will be entitled to retain the surplus amount.

XXIV. MERGERS AND ACQUISITIONS

- A. If, during the **Policy Period**, the **Named Insured** acquires an entity (including its **Subsidiaries**) or employs or is joined as part of its operations by more than the number of **Medical Practitioners** or Other Staff or purchases assets or acquires liabilities specified in Item 14. and 15. of the Schedule, and
1. the revenues of the acquired entity or such assets or liabilities immediately prior to the date of completion of such acquisition do not exceed 10% of the **Named Insured's** annual revenues or assets respectively as specified in its most recent application for insurance to the Underwriters;
 2. the business operations of the acquired entity are of a similar nature to those of the **Named Insured** as specified in such recent application;
 3. the total number of **Medical Practitioners** employed by the **Named Insured** does not increase by more than 20% or 15 (whichever is less); and
 4. the operations of the acquiring or acquired entity are primarily located in the same country as the **Named Insured**;

then this **Policy** will automatically cover the acquired entity from the date of completion of such acquisition but only for **Malpractice Incidents, Accidents**, negligent acts, errors or omissions, libel, slander, loss of **Documents** or breach of professional confidentiality that take place subsequent to completion of such acquisition. In the event that immediately prior to the date of completion of any such acquisition the total amount of revenues or assets of all acquiring and acquired entities during the **Policy Period** would exceed 25%

of the **Named Insured's** annual revenues or assets respectively as specified in such application, Paragraph A above shall no longer apply and any further acquisitions will be subject to Paragraph B below.

- B. If during the **Policy Period** the **Named Insured** acquires an entity that does not fall within the criteria detailed in Paragraph A above, or where Paragraph A above no longer applies by virtue of the provision contained in its last sentence, this **Policy** shall not apply after the date of completion of such acquisition and the **Named Insured** shall be required to give written notice to the Underwriters prior to the completion of such acquisition by or of the **Named Insured**, and to negotiate with the Underwriters in respect of the additional premium payable and the imposition of any amended terms and conditions in respect of any insurance similar to that provided hereunder that it may require.

XXV. ASSIGNMENT

The interest hereunder of any **Insured** is not assignable except as requested by the Underwriters, who may at any time request an assignment from the **Insured** of any cause of action that the **Insured** may have against any third party in respect of which it has been or appears likely to be indemnified by the Underwriters.

XXVI. SEVERAL LIABILITY

The subscribing Underwriters' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of his or her individual subscriptions. The subscribing Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

XXVII. CURRENCY

All Premiums and **Claims** under this **Policy** are payable in the currency stated in Item 11. of the Schedule.

XXVIII. DUTY TO MITIGATE

In the event of any **Malpractice Incident**, negligent act, error or omission, breach of professional confidentiality, any libel or slander or **Inquest**, or any **Circumstance**, the **Insured** shall promptly, at their expense, take all reasonable steps to prevent any other or further **Bodily Injury** or arising out of the same or similar negligent act, error, omission or conditions giving rise to such **Malpractice Incident**, financial loss arising out of the same negligent act, error or omission, damages arising of the same breach of professional confidentiality, libel and slander or **Circumstance**.

XXIX. NAMED INSURED AS AGENT

The **Named Insured** shall be considered the agent of all **Insureds**, and shall act on behalf of all **Insureds** with respect to the giving of or receipt of all notices relating to this **Policy**, the acceptance of any endorsements to this **Policy**, and the **Named Insured** shall be responsible for the payment of all Premiums and Deductibles.

XXX. CONTRACTS RIGHTS OF THIRD PARTIES

The terms and conditions of this Policy will only be enforceable between the **Insured** and the Underwriters and no other party will have any rights to enforce any terms and conditions of this Policy. Nothing in this condition will, however, override any rights in respect of the Policy which

vest in third parties as set out in sections 21 and/or 22 of the Consumer Insurance Contracts Act 2019.

XXXI. GENERAL CONDITION

Throughout this **Policy**:

- A. The singular includes the plural, and the masculine includes the feminine, and vice versa;
- B. "Including" and "include(s)" mean without limitation;
- C. Any obligation or payment owed by the Underwriters shall in every case be subject to the Limits of Liability specified in Item 4. of the Schedule;
- D. Any reference to legislation shall include any similar or equivalent or related foreign, federal, state, provincial or local law, ordinance or regulation, any amendments, and any rules or regulations or executive orders promulgated thereunder, or by agencies or similar bodies thereof;
- E. Any reference to a regulatory or investigative or other state or local governmental body shall include any similar or related agency or body;
- F. Any requirement for notification to the Underwriters or the **Insured** shall be discharged if sent by email to the address specified in Item 9. of the Schedule (or other designated address), if received and there capable of being easily read;
- G. The descriptions in the headings and subheadings of this **Policy** are solely for convenience, and form no part of the terms and conditions of coverage;
- H. All or part of any provision of this **Policy** which is or becomes void or illegal, invalid or unenforceable by a court or other competent body under the law of any applicable jurisdiction shall be deleted. The parties shall use their best efforts to agree a replacement for the provision deleted which achieves as far as possible the same effect as would have been achieved by the deleted provision had it remained enforceable, and if unable to agree such replacement provision shall proceed to arbitration in accordance with Clause XVIII.

XXXII. PRE-CONTRACTUAL DUTIES

For the purposes of this Policy:

- A. The **Insured** has a legal duty prior to entering into the Policy and/or prior to the renewal of the Policy (as relevant) to provide responses to questions asked by the Underwriters in relation to the risk(s) to be insured.
- B. A matter about which the Underwriters ask a specific question is material to the risk undertaken by the Underwriters or the calculation of the premium by the Underwriters, or both.
- C. The Insured has a legal duty to answer all questions asked by the Underwriters honestly and with reasonable care.
- D. While the Underwriters acknowledge that the Insured has no legal duty of voluntary disclosure of information prior to the inception or renewal of this Policy, The Insured shall ensure that any information voluntarily provided by the Insured or on its behalf in this context is provided honestly and with reasonable care.

XXXIII. MATERIAL MISREPRESENTATION

The Underwriters will have the rights set out below prior to inception or renewal of this Policy. For these purposes:

- A. "negligent misrepresentation" is a representation made without the reasonable care to be expected in the circumstances of an average consumer (as defined in the Consumer Insurance Contracts Act 2019), but which was not fraudulent, and where the representation would influence the judgment of a prudent insurer in fixing the premium, or determining whether it will take the risk, and which was an effective cause of the Underwriters entering into the Policy on the terms on which the Underwriters did ("**Negligent Misrepresentation**").
- B. A "fraudulent misrepresentation" is a representation that is false or misleading and which the Insured either knows to be false or misleading or consciously disregard whether it is false or misleading and where the representation would influence the judgment of a prudent insurer in fixing the premium, or determining whether it will take the risk, and which was an effective cause of the Underwriters entering into the Policy on the terms on which the Underwriters did ("**Fraudulent Misrepresentation**").
- C. Where a claim is made under the Policy but an answer which was provided, or information which was volunteered, by the Insured or on its behalf prior to commencement or renewal of the Policy (as the case may be), involves a Negligent Misrepresentation, the remedy available to the Underwriters shall reflect what the Underwriters would have done had the Underwriters been aware of the full facts and shall be based on a compensatory and proportionate test, as follows:
 - 1. if the Underwriters would not have entered into the Policy on any terms, the Underwriters may avoid the Policy from inception or renewal (as the case may be) and refuse all claims, but shall return the premium paid;
 - 2. if the Underwriters would have entered into the Policy, but on different terms, the Policy is to be treated as if it had been entered into on those different terms if the Underwriters so require;

3. if the Underwriters would have entered into the Policy, but would have charged a higher premium, the Underwriters may reduce proportionately the amount to be paid on the relevant claim.
- D. Where an answer which was provided, or information which was volunteered, by the Insured or on its behalf prior to commencement or renewal of the Policy (as the case may be) involves a Negligent Misrepresentation which is identified at a time prior to there being any claim under the Policy, the Underwriters may either:
1. give notice to the Underwriters that in the event of a claim the Underwriters will exercise the remedies in paragraphs (c)(i)-(iii) above as appropriate; and/or
 2. terminate the Policy by giving reasonable notice.
- E. Where a claim is made under the Policy but an answer which was provided, or information which was volunteered, by the Insured or on its behalf prior to commencement or renewal of the Policy (as the case may be) involves a Fraudulent Misrepresentation, or where any conduct by the Insured (relative to the Policy or the steps leading to its formation) involves fraud of any other kind, the Underwriters shall be entitled to avoid the Policy from the date of commencement or renewal (as the case may be) without return of premium.

XXXIV. BREACH OF CONTINUING RESTRICTIVE CONDITION

Any condition in this Policy, however expressed, that purports to require the Insured to do, or not to do, a particular act or acts, or requires the Insured to act, or not to act, in a particular manner is termed a **Continuing Restrictive Condition**, and any condition the effect of which is that a given set of circumstances is required to exist or to be maintained or not to exist shall be taken as falling within this defined term.

In this Policy, any term that imposes a Continuing Restrictive Condition, including one that is intended to reduce the risk of a particular type of loss, or to reduce the risk of loss occurring at a particular time or in a particular location, shall be treated as a suspensive condition. This means that if:

1. the **Insured** breaches any such term; and
2. during the period of breach the **Insured** suffer a relevant loss; and
3. such breach increased, in the circumstances concerned, the risk of the loss suffered by the **Insured**.

The Underwriters will have no liability for the loss.

XXXV. CONSUMER INSURANCE CONTRACTS ACT 2019

Should any provision of this Policy be inconsistent with the terms of the Consumer Insurance Contracts Act 2019 in force as at the date of inception or renewal (as relevant) of this Policy, the terms of the Act will prevail and the relevant provision will be read in a manner consistent with the requirements of the Act.

XXXVI. COMPLAINTS

If the **Insured** has any questions or concerns about this Policy or the handling of a **Claim** the **Insured** should, in the first instance, contact

Service Manager
Operations Team
Lloyd's Insurance Company S.A

Bastion Tower
Marsveldplein 5
1050 Brussels
Belgium
EC2 4BQ

Tel: +32 (0)2 227 39 39

E-mail: enquiries.lloydsbrussels@lloyds.com

The **Insured's** complaint will be acknowledged, in writing, within 5 (five) business days of the complaint being made. The **Insured** will also be informed of the name of one or more individuals that will be the **Insured's** point of contact regarding the complaint until the complaint is resolved or cannot be progressed any further. The **Insured** will be provided with an update on the progress of the investigation of your complaint, in writing, within twenty business days of the complaint being made.

A decision on the complaint will be provided to the **Insured**, in writing, within 40 (forty) business days of the complaint being made.

Should the Insured remain dissatisfied with the final response or if the Insured has not received a final response within 40 (forty) business days of the complaint being made, the **Insured** may be eligible to refer the complaint to the Financial Services and Pensions Ombudsman (FSPO). The contact details are as follows:

Financial Services and Pensions Ombudsman
Lincoln House
Lincoln Place
Dublin 2
D02 VH29
Republic of Ireland

Tel: +353 1 567 7000

E-mail: info@fspoi.ie

Website: www.fspoi.ie

If the **Insured** has purchased the contract online you may also make a complaint via the EU's online dispute resolution (ODR) platform. The website for the ODR platform is www.ec.europa.eu/odr.

The complaints handling arrangements above are without prejudice to the **Insured's** right to commence a legal action or an alternative dispute resolution proceeding in accordance with your contractual rights.

XXXVII. COMPENSATION

The Underwriters are covered by the Insurance Compensation Fund.

The **Insured** may be entitled to compensation from the Scheme if the Underwriters are unable to meet its obligations to the **Insured** under this contract. If the **Insured** is entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this contract.

Further information about the Scheme is available from www.centralbank.ie.

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