

CONTINGENT 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.

Separately, there is also a condition that the Policyholder must pay the premium when it is due, including when any instalment is due. If the Policyholder fails to do so, then the Policy may be cancelled.

NOTICE: The insurance provided in this **Policy** is contingent on the **Insured** not being entitled to an indemnity from the **Insured's** employer, the insurers of the **Insured's** employer or any other insurers. 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**. **Damages** and **Claims Expenses** shall be applied against the Deductible. **Claims Expenses** under this **Policy** shall reduce and may exhaust the Limits of Liability. 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 **Policyholder** 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. Contingent 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** arising out of a **Malpractice Incident** which occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

B. Contingent Public 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** 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** and before the end of the **Policy Period**.

C. Contingent 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** 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.

D. Contingent 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** 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**.

E. Contingent 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** 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.

F. Contingent 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., (Contingent 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. **Bodily Injury** means physical injury (including death at any time resulting therefrom), mental injury, mental illness, mental anguish, shock, sickness, disease or disability.
- B. **Business** means the ordinary course of practice of the professional or occupational activities of the business as stated in Item 10. of the Schedule.
- C. **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**.
- D. **Claim** means a written notice received by any **Insured** during the **Policy 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, libel, slander, loss of **Documents**, breaches of professional confidentiality, other incidents or events or from any continuing **Malpractice Incidents**, acts, errors, omissions, 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**.

- E. **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.
- F. **Computer System** means any computer, hardware, software, communications system, electronic device (including, but not limited to, 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.
- G. **Cyber Act** means 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**.
- H. **Cyber Incident** means any:
1. error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer System**; or
 2. 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**.
- I. **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.

J. **Data Breach** means:

1. the theft, loss, access to, acquisition of, or unauthorized or unlawful use or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit or payment card information, health information, biometric data or any other type of non-public information involving access to, processing of, use of or operation of any **Computer System**; or
2. the violation of any statute, regulation, common-law, or any other law regulating or protecting access to collection, use or disclosure of, or failure to protect any non-public confidential or personal information in the form of **Electronic Data**.

K. **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.

L. **Electronic Data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

M. **NOT USED.**

N. **NOT USED.**

O. **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.

P. **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**.

Q. **Insured** means a fully paid up healthcare member of the **Policyholder** who is in full-time or part-time employment (or undertaking voluntary work) on behalf of and under the direction of a charity or other organization in respect of the professions / occupations listed in Additional Clause 3. of the Schedule.

R. **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** professional obligations and which occurred on or after the **Retroactive Date** but prior to the end of the **Policy Period** 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**.

S. **NOT USED.**

T. **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.

U. **NOT USED.**

V. **NOT USED.**

W. **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**.

X. **Policy** and **Insurance** means this contract of insurance agreed by the **Policyholder** 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**.

Y. **Policyholder** means the entity or person identified in Item 1. of the Schedule.

Z. **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

- AA. **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).
- BB. **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, 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.
- CC. **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.
- DD. **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**.
- EE. **Retroactive Date** means the date specified in Item 8. of the Schedule.
- FF. **NOT USED.**
- GG. **NOT USED.**

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. TERRITORY

This **Insurance** applies anywhere in the world but only if the **Claim** is made against the **Insured** in those countries stated in Item 17. of the Schedule.

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, 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, 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**, or 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;
- G. made against any **Insured** 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 **Insured**, 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;

- H. 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;
- I. 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**;
- J. 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**;
- K. arising out of or resulting from any criminal, dishonest, fraudulent or malicious act, error or omission of any **Insured**;
- L. 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 L.1 above.
- M. 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;
- N. 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**.

- O. 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;
- P. directly or indirectly arising out of or resulting from:
 - A. any **Insured's** digital or electronic data processing services, including:
 - i) conversion of data from source material into media for processing on the **Insured's** electronic data processing system;
 - ii) processing of data by the **Insured** on the **Insured's** electronic data processing system;
 - iii) design or formulation of an electronic data processing program or system;
 - B. any:
 - i) failure of any program, instruction or data for use in any computer or other electronic processing device, equipment or system to function in the manner expected or intended;
 - ii) transmission or receipt of any virus, program or code that causes loss or damages to any computer system and /or prevents or impairs its proper function or performance; or
 - iii) unauthorised access to any computer system;
 - iv) functioning, non-functioning, improperly functioning, availability or unavailability of:
 - a) the internet or similar facility; or
 - b) any intranet or private network or similar facility; or
 - c) any website, bulletin board, chat room, search engine, portal or similar third party application service;
 - v) alteration, corruption, destruction, distortion, erasure, theft or other loss of or damage to data, software, information repository, microchip, integrated system or similar device, in any computer equipment or non- computer equipment or any kind of programming or instruction set;
 - vi) loss of use or functionality, whether partial or entire, of data, coding, program, software, any computer or computer system or other device dependent upon any microchip or embedded logic and any ensuing inability or failure of any **Insured** to conduct business;
 - vii) alteration, breach, corruption, destruction, or failure of any computer, network systems or firewalls;
 - viii) theft, loss, or unauthorised disclosure or access to personally identifiable information including non-public personal information, medical or healthcare information (including protected health information) in the care, custody or control of the **Insured** or a third party for whose such unauthorised disclosure or access the **Insured** is legally liable, or violation of a privacy law protecting such information, including any consequential liability (including any failure to comply

with any legislation requiring monitoring or notification to any person affected by any of the above, or in respect of any related regulatory proceeding or investigation);

- ix) theft, loss, or unauthorised disclosure or access to information emanating from a third party that the **Insured** is required by agreement to maintain confidential;
- x) actual or alleged breach of any data protection laws or regulations;
- xi) **Cyber Act** or **Cyber Incident** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **Cyber Act** or **Cyber Incident**;
- xii) **Data Breach**, including notification costs, crisis consultancy costs, credit monitoring expenses, replacement of actual credit or payment cards, forensic expenses, public relations expenses or legal advice and services; or
- xiii) digital currencies or cryptocurrencies (in whatsoever form).

- Q. NOT USED.
- R. relating to or arising out of asbestos, silica or lead, unless occurring as part of and during the provision of the **Insured's** business;
- S. 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**;
- T. 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;
- U. 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;
- V. 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;
- W. 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;
- X. 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**;

- Y. NOT USED;
- Z. arising out of the ownership, possession or use of any land or building;
- AA. 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**;
- BB. arising out of any **Malpractice Incident**, 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**;
- CC. 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**;
- DD. 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;
- EE. arising out of the bankruptcy or insolvency of any **Insured**;
- FF. 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;
- GG. arising out of any actual or alleged infringement of any patent or patent rights or misuse or abuse of any patent;
- HH. 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 any data protection laws or regulations;
- II. in relation to Insuring Agreement I.E., arising out of the contents of any journal or publication, or in any communication or contribution to the press or media;
- JJ. arising from and / or relating to pre-natal, postnatal / postpartum, maternity, obstetrics and / or midwifery activities including but not limited to antenatal health visits, new baby reviews, 6-8 week baby assessment/s and / or 1 year baby reviews;
- KK. arising out of or resulting from any:
1. perfluorinated compounds (PFCs) including, but not limited to, perfluoroalkyl and polyfluorinated alkyl substances (PFAS), perfluorooctane sulfonate (PFOS), perfluorooctanoic acid (PFOA), perfluoroether carboxylic and sulfonic acids (PFECAs and PFESAs, respectively), and any related products and chemicals, including any constituents of, additives to, derivative of or degradation by products thereof;
 2. hexafluoropropylene oxide dimer acid (HFPO-DA), GenX, and any other replacement PFOA or any chemical included on the U.S. Environmental Protection Agency's PFAS Research List, *Regulations Amending the Prohibition of Certain Toxic Substances Regulations, 2012* (Canada), European Chemical Agency (ECHA), or any similar federal, state, local or foreign act, statute, regulation, ordinance, requirement or law,

(including additions and amendments thereto);

LL. arising out of or resulting from any:

1. pandemic;
2. coronavirus disease (COVID-19);
3. severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
4. mutant, derivative or variation of COVID-19 or SARS-CoV-2;
5. fear or threat, whether actual or perceived, of LL. 1., 2., 3. or 4. above; or
6. action taken to control, prevent, suppress, mitigate or in any way relating to any of LL. 1., 2., 3. or 4. above.

Sanctions Exclusion

The Underwriters shall not be liable to indemnify any **Insured** against any claim or provide any cover or benefit under this **Policy** to the extent that the payment of such claim or provision of such cover or benefit would expose the Underwriters to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the United Kingdom, European Union or United States of America.

VI. NOT USED.

VII. LIMIT OF LIABILITY

- A. The Limit of Liability stated in Item 4. A, B, C, D and E of the Schedule as "Each **Claim** including **Claims Expenses**" 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. and I.E. respectively.
- B. The Limit of Liability stated in Item 4.F of the Schedule as "Each **Inquest**" is the Underwriters' Limit of Liability for all **Inquest's** costs under Insuring Agreement I.F.
- C. The Limit of Liability stated in Item 4. of the Schedule as "**Policy** aggregate Limit of Liability including **Claims Expenses**" is the Underwriters' Limit of Liability for all **Damages** and **Claims Expenses** arising out of all **Circumstance(s)**, **Claims** and other costs which are covered by this **Policy**.
- D. In the event of any **Circumstance(s)**, **Claims**, in respect of which the **Insured** is entitled to indemnity under more than one Insuring Agreement, extension or endorsement of this **Policy**, each Insuring Agreement, extension or endorsement shall be subject to its applicable Limit of Liability, provided that the total amount of the Underwriters' liability shall not exceed the lesser of: (a) the greatest Limit of Liability available under one of the Insuring Agreements, extensions or endorsements providing indemnity; and (b) the aggregate Limit of Liability as specified in the Schedule.
- E. Any **Claims**, **Damages** or **Claims Expenses** arising from any negligent act, error or omission, **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 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, 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.

VIII. 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 **Policyholder** of **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 **Policyholder** 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 **Policyholder**. The existence of any other insurance shall not affect or abrogate the obligation of the **Policyholder** to pay the Deductible.

IX. NOT USED.

X. 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 manufacturer's instructions and Department of Health guidance or equivalent.

XI. DUTY OF GOOD FAITH

Nothing in this **Policy** shall limit any express or implied or extra-contractual duty of good faith, or any remedy, imposed by legislation or at common law.

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. All **Claims** and **Circumstances** shall be notified to the Underwriters by the **Policyholder**. The **Policyholder** shall act as agent on behalf of all **Insureds** with respect to the notification of **Claims** and **Circumstances**.
- B. The **Policyholder** 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.
- C. If during the **Policy Period** any **Insured** first becomes aware of a **Circumstance**, the **Policyholder** 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, **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 or **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 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.
- D. 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.
- E. A **Claim** or **Circumstance** shall be considered reported to the Underwriters when notice is received by the persons named in Item 9. of the Schedule.

XIII. FRAUDULENT ACTS

If the **Insured** makes a fraudulent claim under this Policy, the Underwriters:

- A. are not liable for any payment for any **Claim, Damages, Claims Expenses** or costs; and
- B. may recover from the **Insured** any sums that the Underwriters have paid to the **Insured** in respect of the claim; and
- C. may by notice to the **Insured** treat the policy as having been terminated with the effect from the date of the fraudulent act.

If the Underwriters exercise their right under Clause XIII.C above:

- A. the Underwriters shall not be liable to the **Insured** in respect of a relevant event occurring after the date of the fraudulent act. A relevant event is anything that gives rise to the Underwriters' liability under this Policy (such as the occurrence of a loss, the making of a **Claim**, or the notification of a potential **Claim**); and
- B. The Underwriters need not return any of the premium paid.

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, **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.
- 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. CANCELLATION

- A. This **Policy** may be cancelled:
 - 1. at any time by the Underwriters giving thirty (30) days written notice to the **Policyholder**; and
 - 2. at any time by the **Policyholder** giving thirty (30) days written notice to the Underwriters.

- B. In the event of cancellation, premium is due to the Underwriters for the period that the Underwriters are on risk. If, prior to or at the same time as any such cancellation, the **Policyholder** shall have notified the Underwriters of a **Claim** or of any **Circumstance**, no premium refund shall be payable to the **Policyholder**. If no **Claim** or **Circumstance** have been notified, the premium shall be adjusted on the basis of the Underwriters retaining the short-rate premium for time on risk detailed below:

Policy Period Not Exceeding	Proportion of Annual Premium Payable
120 days	53%
150 days	59%
180 days	64%
210 days	70%
240 days	76%
Over 240 days	100%

XVII. PREMIUM PAYMENT

- A. The **Policyholder** undertakes that the premium due under this **Policy** shall be paid to the Underwriters in full within sixty (60) days of the commencement of the **Policy Period**.
- B. If the premium has not been paid to the Underwriters in full within sixty (60) days of the commencement of the **Policy Period**, the Underwriters shall have the right to cancel this **Policy** by giving fifteen (15) days written notice to the **Policyholder**.
- C. If the premium is paid to the Underwriters in full before the expiration of the notice period specified in B., the notice of cancellation shall be automatically withdrawn. If not, this **Policy** shall automatically terminate at the end of the notice period.
- D. In the event of cancellation, premium is due to the Underwriters for the period that the Underwriters are on risk. If, prior to or at the same time as any such cancellation, the **Policyholder** shall have notified the Underwriters of a **Claim** or of any circumstances which may give rise to a **Claim**, no premium refund shall be payable to the **Policyholder**. If no **Claim** or circumstances have been notified, the premium shall be adjusted on the basis of the Underwriters retaining the short-rate premium for time on risk.

XVIII. ARBITRATION, JURISDICTION AND CHOICE OF LAW

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 stated in Item 13. of the Schedule as the proper law of this **Insurance** and the procedural and supervisory law of the arbitration.

XIX. MATERIAL ALTERATIONS

The **Policyholder** must tell the Underwriters as soon as reasonably possible of any material change or changes in circumstances during the **Policy Period** that increases the risk covered and/or any material change in the matters declared to the Underwriters. The Underwriters will not provide any indemnity in respect of liability arising from such material change in the matters declared to the Underwriters unless the Underwriters have agreed in writing to accept the altered risk.

XX. INNOCENT INSURED

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

- A. the application of V., Exclusion K., 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. NOT USED.

XXII. OTHER INSURANCE

The insurance provided in this **Policy** is contingent on the **Insured** not being entitled to an indemnity from the **Insured's** employer, the insurers of the **Insured's** employer or any other insurers.

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

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**.

Any subrogated recovery shall first be paid to the Underwriters to the extent of any **Claims Expenses** paid by them, with the balance then being paid to the **Insured** for any uninsured loss in excess of the Limit of Liability, then to the Underwriters to the extent they have paid **Damages** in excess of the Deductible, and then to the **Insured** in respect of the Deductible.

Notwithstanding the above the Underwriters 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, which the **Insured** shall promptly effect.

XXIV. NOT USED.

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 10 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. POLICYHOLDER AS AGENT

The **Policyholder** 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 **Policyholder** shall be responsible for the payment of all premiums and Deductibles.

XXX. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this **Policy** and a person who is not a party to this **Policy** has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this **Policy**, unless an **Insured**.

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. COMPLAINTS

If you have any questions or concerns about this insurance or the handling of a claim you should, in the first instance, contact the Underwriters' Head of Compliance at the following address:

Newline Underwriting Management Limited
1 Fen Court
London
EC3M 5BN

Tel: + 44 (0)20 7090 1700 (request the Head of Compliance)

Fax: + 44 (0)20 7090 1701

E-mail: complaintsofficer@newlinegroup.com

If you are not satisfied with the **Underwriters'** response you are entitled to refer the matter to the Complaints team at Lloyd's, whose contact details are as follows:

Complaints
Lloyd's
Fidentia House
Walter Burke Way
Chatham Maritime
Chatham
Kent
ME4 4RN

Tel: +44 (0)20 7327 5693
Fax: +44 (0)20 7327 5225
Email: complaints@lloyds.com
Website: www.lloyds.com/complaints

Full details of Lloyd's complaints procedures are available at www.lloyds.com/complaints and are also available from the above address.

If the complaint is not resolved, you may be entitled to refer the matter to the Financial Ombudsman Service (the "FOS"). Their details are:

Financial Ombudsman Service
Exchange Tower
London
E14 9SR

Tel: +44 (0)800 0234 567 (landline)
+44 (0)300 123 9 123 (mobile)
Email: complaint.info@financial-ombudsman.org.uk
Website: www.financial-ombudsman.org.uk

Further details are available in the **Underwriters'** Complaints Policy, a copy of which is available upon request.

XXXIII. COMPENSATION

The Underwriters are covered by the Financial Services Compensation Scheme.

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 the Financial Ombudsman Service:

Financial Ombudsman Service
Exchange Tower
London
E14 9SR

Website: www.financial-ombudsman.org.uk