

Medical & Commercial International - International Medical Malpractice Liability Insurance



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The **Insurer** in consideration of the payment of premium by the **Insured** and subject to all terms, definitions, **Limits of Indemnity**, exclusions, conditions and any endorsements included hereon will indemnify the **Insured** as provided herein.

Except where otherwise stated the Insurer will pay **Legal Costs** which will form part of and not be in addition to the **Limits of Indemnity**

IMPORTANT:

This policy ("Medical Malpractice Liability") operates on a 'Claims made and notified' basis. This means that the policy covers **Claims** that are made against an **Insured** and notified to the **Insurer** within the **Period of Insurance**.

Date:

Signed

For and on behalf of Medical & Commercial International

SCHEDULE

Policy Number:

Insured: TBA and subsidiary companies and other interests as provided herein.

Address:

Business: All past, present and future activities of the Insured, as advised to the Insurer

Period of Insurance: From: 00:00 on To: 23:59 on

Local standard time at the **Insured's** address stated above and for such further period or periods as may be mutually agreed upon.

Limit of Indemnity: USD any one **Claim** and in the annual aggregate inclusive of **Legal Costs**

Sub-limits: To form part of and not in addition to the limit of indemnity

Loss of Documents USD any one Claim and in the annual aggregate inclusive of Legal Costs

Libel and Slander USD any one Claim and in the annual aggregate inclusive of Legal Costs

Breach of Confidentiality USD any one Claim and in the annual aggregate inclusive of Legal Costs

Deductible: USD any one **Claim** inclusive of **Legal Costs**

Territorial Limits:

Claim Jurisdiction:

North American Jurisdiction Extension: *Excluded / Included*

Policy Disputes Law and Jurisdiction:

Endorsements attaching to this policy: *001, 002, 003, 005*

Retroactive Date:

Annual Policy premium: Minimum and Deposit USD adjustable in accordance with General Condition 15 at TBA% on turnover/wage-roll/members

Taxes payable by Insured and administered by the Insurer: State tax with % or "none" if not applicable

Taxes payable by the Insurer: State tax with % or "none" if not applicable

Premium Payment Date: 60 days from inception

Broker:

Date of written proposal / application:

Claim Notification address: *Claims Manager, Medical & Commercial International, London: claims@castelmga.com*

Policy issued by: *Medical & Commercial International, London*

Security: Dated in London:

MEDICAL MALPRACTICE LIABILITY ("CLAIMS MADE AND NOTIFIED BASIS")

OPERATIVE CLAUSE

The **Insurer** agrees to indemnify the **Insured** by the terms of this Section against their legal liability to pay compensation (including claimants' costs and expenses) in respect of any **Claim** first made by a third party against the **Insured** and notified to the **Insurer** (in accordance with General Condition (1)) during the **Period of Insurance** arising solely by reason of:

- (1) **Injury**; and/or
- (2) **Breach of Confidentiality**; and/or
- (3) **Loss of Documents**; and/or
- (4) **Libel and Slander**

happening with the **Territorial Limits** and resulting from an **Occurrence** in connection with the **Business** and caused by actual or alleged **Malpractice**.

LIMIT OF INDEMNITY

The **Insurer's** total liability to pay compensation (including claimants' costs and expenses) arising from all **Claims** made against the **Insured** during the **Period of Insurance** shall not exceed the **Limit of Indemnity** stated in the **Schedule**.

A **Claim** or series of **Claims** consequent upon a single negligent act, negligent error or negligent omission shall be deemed to be one **Claim** regardless of the number of persons or organisations who sustain **Injury** or **Breach of Confidentiality** or **Loss of Documents** or **Libel and Slander**. All such **Claims** shall be deemed to have been made on the day of the first **Claim** (or on the day that the first **Circumstance** was notified by the **Insured** if this date precedes the day of the first **Claim**) of the claims series.

LEGAL COSTS

Following any **Claim** or **Circumstance** which is or may be the subject of indemnity under this Section the **Insurer** agrees to indemnify the **Insured** for **Legal Costs** which will form part of and not be in addition to the **Limit of Indemnity** stated in the **Schedule**.

GENERAL EXCLUSIONS

This **Policy** does not cover liability:

- (1) arising (whether forming part of a claims series or otherwise):
 - (a) from a **Claim** first made, threatened or intimated against the **Insured** prior to the **Period of Insurance**;
 - (b) directly or indirectly arising out of, or in any way involving any fact or **Circumstance**:
 - (i) of which written notice has been given under any previous policy (whether such policy was provided by the **Insurer** or not) including any notice given to a Medical Defence Organisation (or equivalent body) ; or
 - (ii) of which the **Insured** first became aware prior to the **Period of Insurance** or which the **Insured** knew or ought reasonably to have known may give rise to **Injury** or **Loss of Documents** or **Libel and Slander** or **Breach of Confidentiality**; or
 - (iii) disclosed on the latest **Proposal** made to the Insurer or any other previous proposal released to the **Insurer** or other insurers or Medical Defence Organisations.
- (2) arising from **Malpractice** committed or alleged to have been committed prior to the Retroactive Date in the **Schedule**.

It being further understood that where a) no retroactive date is specified in the **Schedule**; or b) "Unlimited" is specified in the **Schedule** coverage shall apply (subject to all other **Policy** terms, conditions and exclusions) irrespective of when the **Malpractice** was committed or alleged to have been committed.
- (3) arising directly or indirectly caused by or associated with
 - (a) Human Immunodeficiency Syndrome (HIV) initially named as either HTLV III or LAV or the mutants, derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome (AIDS) or AIDS related complex (ARC) or any syndrome or condition of a similar kind howsoever it may be named; or
 - (b) Bovine Spongiform Encephalopathy (BSE), Transmissible Spongiform Encephalopathy (TSE) Creutzfeldt-Jakob Disease (CJD) variant Creutzfeldt-Jakob Disease (vCJD) or new variant Creutzfeldt-Jakob Disease (nvCJD).

other than where **Malpractice** has been committed or alleged to have been committed in the course of treating patients with such conditions.
- (4) occurring in the course of the **Business** as stipulated in the **Schedule** except this exclusion shall not apply to **Malpractice** in the course of such **Business**.
- (5) directly or indirectly arising out of, or in any way involving goods or **Products** sold, supplied, recalled, repaired, altered, manufactured, installed or maintained by the **Insured** or by any consultant, sub-contractor or agent of the **Insured**
- (6) brought about by or contributed to by seepage, **Pollution**, or contamination.
- (7) the cost of removing, nullifying or cleaning-up **Pollutants**
- (8) arising out of or from or directly or indirectly caused by or contributed to by **War** or any act of **Terrorism**.
- (9) arising out of or from or caused by any work involving the manufacture, mining, processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection or testing of or exposure to asbestos, asbestos fibres, asbestos dust, or asbestos containing materials.
- (10) arising out of the deliberate, conscious or intentional disregard by the **Insured's** technical or administrative management of the need to take all reasonable steps to prevent **Occurrences** and **Claims**.

- (11) arising from **Injury** sustained by any **Employee** where such **Injury** arises out of the execution of such employment contract or contract of apprenticeship except this exclusion shall not apply to **Employees** where such **Employee** is a patient of the **Insured** and such **Employee** is subject to **Malpractice** during the course of treatment.
- (12) for which the **Insured** may be held liable under any workers compensation, unemployment compensation, disability benefits law or any similar law.
- (13) for fines, penalties, aggravated damages, liquidated damages, multiple damages, punitive damages, or any other increase in damages resulting from multiplication of compensatory damages.
- (14) arising out of or from any **Claim** brought in or under any jurisdiction outside of the **Claim Jurisdiction** (as stipulated in the **Schedule**) including any enforcement action or transfer proceedings.
- (15) arising from an **Occurrence** outside the **Territorial Limits** (as stipulated in the **Schedule**) including any contract, or arising from the **Business** carried out from the **Insured's** own offices situated outside the **Territorial Limits**.
- (16) arising directly or indirectly out of or alleged to have arisen from any wrongful act of directors or officers of the **Insured** in the discharge or performance of their duties as such other than **Claims** for compensation (including and claimants costs and expenses) consequent upon **Injury**.

For the purpose of this exclusion wrongful act shall mean any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty by the directors or officers in the discharge of their duties individually or collectively or any matter claimed against them solely by reason of their being directors or officers of the **Insured**.

- (17) arising out of:
 - (a) a dispute between an employer / prospective employer and **Employee** / prospective **Employee** referred or capable of being referred to any Employment Tribunal including such appeal courts or tribunals as are available from an Employment Tribunal; or
 - (b) a settlement or adjudication of or under the auspices of an Employment Tribunal; or
 - (c) or from any **Employee**, former **Employee** or prospective **Employee** in respect of employment-related libel, slander, humiliation or defamation, unfair or wrongful dismissal, repudiation or breach of any employment contract or arrangement, termination of a training contract or contract of apprenticeship, harassment, discrimination or like conduct; or
 - (d) anything which is capable of being insured under a generally available employment practices liability insurance policy.
- (18) arising out of passing off or infringement of patent, copyright, trade mark or trade name or other intellectual property rights.
- (19) for pure financial loss not consequent upon **Injury** or **Loss of Documents** or **Libel and Slander** or **Breach of Confidentiality**.
- (20) assumed by the **Insured** by contract or agreement (other than liability arising out of a condition or warranty of goods implied by law) and which would not have attached in the absence of such agreement.
- (21) either expected or intended by the **Insured** but this exclusion does not apply to **Injury** (save for mental injury or disease) which is not otherwise excluded.
- (22) arising out of or from
 - (a) any deliberate act in violation of any law or ordinance; or
 - (b) any deliberate or wilful misconduct of the **Insured**; or
 - (c) any dishonest, fraudulent, or criminal act of the **Insured**; or

(d) any conduct of the **Insured** or **Employee** while under the influence of intoxicants or narcotics.

(23) arising out of or from or in any way connected with actual or attempted sexual relations, sexual contact or intimacy, sexual harassment, or sexual exploitation.

(24) directly or indirectly caused by or contributed to by or arising from

(a) ionizing radiation's or contamination by radioactivity from any nuclear fuel or from any nuclear waste;

(b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

it being understood that **Malpractice** arising from the use of medical isotopes in the course of treatment or diagnosis of a patient is not excluded.

(25) for the amount of the **Deductible** as applicable and stated in the **Schedule**.

(26) which forms the subject of insurance by any other policy and this **Policy** shall not be drawn into contribution with such other insurance.

(27) to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

(28) the ownership, possession, maintenance or use by or on behalf of the **Insured** of any

(a) motor vehicle or trailer

(b) aircraft or other aerial device or satellite

(c) waterborne vessel or craft

(d) hovercraft

other than **Malpractice** committed in the course of treating patients while transporting to a hospital, clinic or medical establishment.

(29) liability for which compulsory insurance is required by legislation governing the use of any motor vehicle or trailer.

(30) damage to property owned, leased or hired or under hire purchase or on loan to the **Insured** or otherwise in the **Insured's** care, custody or control.

(31) arising from **Obstetric and Maternity Services** including prenatal and postnatal care of mother and child.

(32) caused by or attributable to the performance of any operation to terminate pregnancy unless clinically indicated.

(33) arising directly or indirectly caused by or associated with a **Clinical Trial**.

(34) arising from domiciled risks in the United States of America its territories or possessions (such exclusion shall apply to consequential losses arising therefrom)

(35) arising out of or relating directly or indirectly to liability assumed by the **Insured** under contract which goes beyond the duty to use such skill and care as is usual in the exercise of the **Insured's** activities stated in the **Proposal** or **Business** in the **Schedule**.

(36) arising from any **Claim** brought by or behalf of:

(a) the **Insured**;

- (b) any person directly appointed by and acting for or on behalf of the **Insured** unless such **Claim** emanates from a wholly independent third party claimant;
- (c) any parent or subsidiary company of the **Insured**;
- (d) any person or entity having an executive, financial or controlling interest and/or ownership (unless such financial ownership is less than 5%) in the **Insured**;
- (e) any entity where the **Insured** has accepted a financial interest, irrespective of the amount, in any entity in exchange for fees incurred.

(37) arising from:

- (a) the failure of any computer or other electronic processing device (except as provided under Operative Clause (3)) or of any program, instruction or data for use in any computer or other electronic processing device, equipment or system to function in the way expected or intended;
- (b) the transmission or receipt of any virus, program or code that causes loss or damage to any computer system and/or prevent or impairs its proper function or performance.

(38) arising from any trading losses or trading liabilities incurred by the **Insured** or any business managed by or carried on by or on behalf of the **Insured** or any liability relating directly or indirectly to the insolvency or bankruptcy of the **Insured**.

(39) directly or indirectly arising out of, caused by, contributed to or resulting from any cyber liability. For the avoidance of doubt this includes, but is not limited to, hacking, security breach, theft of electronic data.

GENERAL CONDITIONS

(Conditions 1, 2, 3, 4, 6, 12, and 18 are precedent to the **Insurer's** liability to provide indemnity under this **Policy**)

- (1) The **Insured** shall give immediate written notice (but in any event no later than 45 days after the **Insured** first became aware of such **Claim**, or **Circumstance**) to the **Insurer** of any **Claim** first made against the **Insured** (or any specific event or **Circumstance** that in the opinion of the **Insured** may give rise to a **Claim** made against the **Insured**) and which forms the subject of indemnity under this **Policy**. Every **Claim**, writ, summons or process and all documents relating to the **Claim**, event or **Circumstance** shall be forwarded to the **Insurer** immediately they are received by the **Insured**.

All matters should be notified prior to expiry of the **Period of Insurance** within the timeframe stated herein unless the **Insured** is prevented from doing so by virtue of such matter coming to their attention immediately prior to the expiry of the **Period of Insurance**. In such cases the **Insurer** will allow the timeframe stated above in (1) to extend beyond expiry of the **Period of Insurance**, but only in respect of **Claims** made or first awareness of **Circumstance** happening during the period immediately prior to the expiry of the **Period of Insurance** and provided that such period shall not exceed a maximum of 45 days from the end of the **Period of Insurance**. Such extension will not operate to increase the **Insurer's Limit of Indemnity**.

Should the **Insured** notify the **Insurer** during the **Period of Insurance** of any specific event or **Circumstance** which the **Insurer** accept may give rise to a **Claim** or **Claims** which form the subject of indemnity by this **Policy**, then acceptance of such notification means that the **Insurer** will deal with such **Claim** or **Claims** as if they had first been made against the **Insured** during the **Period of Insurance**.

- (2) The **Insured** must use it best endeavours to:
- (a) maintain accurate descriptive records of all business services and equipment used in procedures which shall be available for inspection and use by the **Insurer** or their duly appointed representatives in so far as they are relevant to any **Claim**; and
 - (b) retain the records referred to in (a) 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; and
 - (c) give to the **Insurer** or its duly appointed representatives such information including all medical records and nursing notes assistance, signed statements or depositions as the **Insurer** may require; and
 - (d) assist in the defence of any **Claim** without charge to the **Insurer**.
- (3) No admission, offer, promise, waiver of rights of recovery, payment or indemnity shall be made or given by or on behalf of the **Insured** without the written consent of the **Insurer** who shall be entitled to take over and conduct in the name of the **Insured** the defence or settlement of any **Claim** or to prosecute in the name of the **Insured** for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any **Claim** save as hereinafter provided in Conditions (2) and (6).
- (4) No expense shall be incurred by or on behalf of the **Insured** without the written consent of the **Insurer** except at the **Insured's** own cost.
- (5) Notice to the **Insurer** must be given to the claims notification addresses specified in the **Schedule**, but if this is not possible or practical to the **Insurer** at their registered address.
- (6) In connection with any **Claims** against the **Insured** the **Insurer** may at any time pay to the **Insured** the **Limit of Indemnity** (after deduction of any sums already paid) or any less amount for which such **Claims** can be settled and thereupon the **Insurer** shall relinquish the control of such **Claims** and be under no further liability in connection therewith except for **Legal Costs** which the **Insurer** have already agreed to bear in respect of matters prior to the date of such payment.

Except where the **Limit of Indemnity** is stated to be inclusive of all **Legal Costs**, if a payment exceeding the **Limit of Indemnity** has to be made to dispose of a **Claim** the liability of the **Insurer** to pay all **Legal Costs** in

connection therewith shall be limited to such proportion of the said **Legal Costs** as the **Limit of Indemnity** bears to the amount paid to dispose of a **Claim**.

- (7) The **Insured** will at the request and expense of the **Insurer** do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the **Insured** for the purpose of enforcing rights and remedies or of obtaining relief or indemnity from other parties to which the **Insurer** will be or would become entitled or subrogated upon its paying an indemnity under this **Policy**, whether such acts and things will be or become necessary or required before or after their indemnification by the **Insurer**.

In the event of any payment under this insurance, the **Insurer** will act in concert with all other interested persons (including the **Insured**) concerned in the exercise of any rights of recovery.

- (8) The insurance afforded by this **Policy** is excess over and reduced by any other valid and collectable insurance available to the **Insured**. Valid and collectable insurance includes any self insurance plan which would be applicable to the **Occurrence, Claim or Circumstance**.
- (9) If settlement of an insured event investigated or defended by the **Insurer** under does not exceed the amount of the applicable **Deductible** the **Insured** will pay, or reimburse the **Insurer** for, as applicable, any **Legal Costs** and paid damages including claimant costs recoverable from the **Insured** and incurred in connection with such insured event.
- (10) The **Policy** and the **Schedule** shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this **Policy** or the **Schedule** shall bear such specific meaning wherever it may appear. Furthermore, upon receipt of this **Policy** the **Insured** agrees that it has been issued upon the truth of its declarations and representation made to the **Insurer** or any of its agents relating to this **Policy**.

The interpretation of the terms and exclusions of this **Policy** (and any phrase or word contained therein) shall be interpreted in accordance with the Policy Disputes Law and Jurisdiction stated in the **Schedule**. The **Insured** and the **Insurer** agree to submit to the jurisdiction of any court or competent jurisdiction within the country, state or territory stated as being the Policy Disputes Law and Jurisdiction in the **Schedule** and to comply with all requirements necessary to give such court jurisdiction.

- (11) If any dispute arises between the **Insured** and the **Insurer** as to whether a prosecution should be defended or an appeal made, such dispute will be referred to a solicitor, attorney or similar legal professional (with no less than 10 years experience in the jurisdiction of the prosecution) to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society (or equivalent body within the jurisdiction of prosecution) whose decision will be final.
- (12) The **Insured** shall give immediate written notice to the **Insurer** (but in any event no later than 30 days) of any fact, event or **Circumstance** which materially changes the information supplied to the **Insurer** at the time when the **Policy** was effected, and the **Insurer** may amend the terms of this **Policy** according to the materiality of such change. Any material alteration or change shall not be binding on the **Insurer** or the terms of this **Policy** until accepted as such by written confirmation from the **Insurer**.
- (13) The **Insured** shall take reasonable precautions at its own expense to prevent any event which may give rise to liability under this **Policy**.

Upon the happening of an insured event and at all times thereafter, the **Insured** shall act as a prudent uninsured and take all reasonable measures as are appropriate to avoid or minimise any claims which may arise from that insured event. Any failure by the **Insured** to take such steps shall mean the **Insurer** may reject or reduce claims and continue the **Policy** on such terms as the **Insurer** may determine.

- (14) The terms of this **Policy** shall not be waived, altered or changed in any way except by written endorsement issued by the **Insurer**.

Furthermore and for the avoidance of doubt, assignment of interest under this **Policy** will not bind the **Insurer** unless and until the **Insurer's** prior written consent is endorsed hereon.

- (15) Where the premium is provisionally based on the **Insured's** estimates, the **Insured** shall keep accurate records and after expiry of the **Period of Insurance** declare as soon as possible (and in any event no later than 30 days from expiry) such details as the **Insurer** require. The premium shall then be adjusted and any difference paid by or allowed to the **Insured** as the case may be subject to any minimum premium that may apply.

It is a condition precedent that all adjustable premiums due to the **Insurer** are paid within ninety (90) days of expiry of each **Period of Insurance**.

- (16) The due observance and fulfilment of the provisions of this **Policy** insofar as they may relate to anything to be done or complied with by the **Insured**, and are not already conditions precedent, will be a condition of this **Policy**. Any waiver by the **Insurer** of any provision will not prevent the **Insurer** from relying on such condition or condition precedent in the future.

In the event of a breach by the **Insured**:

- (a) of any condition in the **Policy**, and without prejudice to any of the **Insurer's** other rights, the **Insurer** may reject or reduce claims connected with the breach providing the **Insurer** can demonstrate prejudice;
 - (b) of any condition precedent in the **Policy**, and without prejudice to any of the **Insurer's** other rights, the **Insurer** may reject or reduce claims connected with the breach, and continue the **Policy** on such terms as the **Insurer** may determine. If any payment on account of such claim has already been made the **Insured** will repay forthwith all payments on account to the **Insurer**.
- (17) The **Insurer** may cancel this **Policy** by giving thirty days' notice in writing of such cancellation to the **Insured's** last known address. Such cancellation shall not affect the coverage or premium attributable under this **Policy** to the period prior to cancellation.

Following such notice of cancellation and upon the **Insured's** request the **Insurer** will return to the **Insured** the pro rata premium for the pre-cancelled portion of the **Policy**. In the event of a claim in the pre-cancelled portion of the **Policy**, the return premium shall be calculated at the **Insurer** short period rates.

- (18) At all material times after the retroactive date stated in the **Schedule** and throughout the **Period of Insurance** the **Insured** shall ensure that:
- (a) all **Registered Medical Practitioners** shall maintain an up-to-date license approved by the appropriate body responsible for such licensing in the domicile of practice. Such license should be appropriate to the level of practice provided by such **Registered Medical Practitioner**;
 - (b) such **Registered Medical Practitioners** shall maintain membership of a Medical Defence Organisation and that category of membership is applicable to all services offered or provided on behalf of the **Insured** in the relevant domicile of practice to which this **Policy** applies; or
 - (c) are otherwise fully insured for their own **Malpractice**, professional errors, omissions, or negligence. This should be confirmed in the form of a valid certificate of insurance held on file by the **Insured**.

For the sole purposes of this condition "fully insured" is deemed to mean:

- (a) Indemnity is in place with a recognised Medical Defence Organisation; or
- (b) Indemnity is in place with an insurer with the following criteria fully met:
 - (i) Cover at least as broad as the minimum professional liability / medical malpractice insurance requirements of the relevant Regulatory Medical College, Institute or Association; and
 - (ii) A limit equal to or greater than USD 5,000,000 any one claim and in the aggregate with a reputable insurer (Standard & Poors credit rating no less than BBB) ; and
 - (iii) Such cover, as far as is reasonably practicable to ensure, includes the period after such **Registered Medical Practitioner** stops working for the **Insured** (the "run-off" exposure) for a period of at least 6 years.

- (19) The **Insurer's** obligations under this **Policy** are several and not joint and are limited solely to the extent of their individual subscriptions. The **Insurers** are not responsible for the subscription of any co-subscribing **Insurer** who for any reason does not satisfy all or part of its obligations.
- (20) Any tool or implement used or intended for use in the performance of the **Business** and which is intended to be in contact with bodily fluid or penetrate tissue shall be:
- (a) handled, used applied and stored in accordance with the manufacturers and suppliers instructions; and
 - (b) where approved by the manufacturers and suppliers and the Government Medical and Health Department or other applicable licensing and registration body for re-use, sterilised prior to re-use:
 - (i) using only sterilised apparatus specifically approved by the manufacturer and supplier and in accordance with instructions, recommendations, or rules of such manufacturer/supplier; and
 - (ii) in accordance with the Government Medical and Health Department guidelines or equivalent body.
- (21) If the **Insured** shall make any **Claim** knowing the same to be false or fraudulent, as regards amount or otherwise, such **Claim** shall be void and all cover hereunder shall be forfeited in respect of such **Claim**.

GENERAL EXTENSIONS

(1) NOTIFICATION EXTENSION CLAUSE

Should the **Insured** notify the **Insurer** during the **Period of Insurance** in accordance with General Condition (1) of any specific event or **Circumstance** which the **Insurer** accept may give rise to a **Claim** or **Claims** which form the subject of indemnity by this **Policy**, then acceptance of such notification means that the

Insurer will deal with such **Claim** or **Claims** as if they had first been made against the **Insured** during the **Period of Insurance**.

(2) CROSS LIABILITIES

Each person or party indemnified is separately indemnified in respect of **Claims** made or losses occurring against any of them by another, subject to the **Insurer's** total liability not exceeding the **Limit of Indemnity** stated in the **Schedule**.

(3) INDEMNITY TO PRINCIPAL

As far as is necessary to meet the requirements of any contract or agreement entered into by the **Insured** with any Principal the **Insurer** will at the request of the **Insured** treat the Principal as though he were also the **Insured** but only in respect of liability (as provided for herein) arising out of the performance of such contract by the **Insured** in connection with the **Business** provided that the Principal shall observe fulfil and be subject to the terms of this **Policy** insofar as they apply.

(4) NORTH AMERICAN JURISDICTION EXTENSION

In the event of the **Schedule** stating that North American Jurisdiction is "Excluded" this **Policy** shall not apply to any **Claim**, judgement, award or settlement made within any country or territory which operates under the laws of the United States of America or Canada or to any order made anywhere in the world to enforce such **Claim**, judgement award or settlement either in whole or in part.

In the event of the **Schedule** stating that North American Jurisdiction is "Included" this **Policy** shall provide Indemnity within any country or territory which operates under the laws of the United States of America or Canada or to any order made anywhere in the world to enforce such **Claim**, judgement award or settlement either in whole or in part subject to the following conditions, limitations and exclusions applying to such **Claim**:

- (a) This **Policy** does not include as an **Insured** or indemnify any **Insured** domiciled and/or registered in United States of America or Canada unless specifically agreed by the **Insurer** in writing and endorsed to this **Policy**;
- (b) The **Insurer** shall not be liable for fines, penalties, aggravated damages, liquidated damages, multiple damages, punitive damages, or any other increase in damages resulting from multiplication of compensatory damages;
- (c) The **Policy** does not cover any liability for **Injury** or **Property Damage** directly or indirectly caused by **Pollution** or the cost of removing, nullifying or cleaning up **Pollutants**;
- (d) The **Limit of Indemnity** stated in the **Schedule** shall apply including **Legal Costs**;
- (e) A **Deductible** of USD _____ each and every **Claim** including **Legal Costs** shall apply;
- (f) A retroactive date of _____ shall apply to all **Claims** falling under this extension.

(5) GOOD SAMARITAN ACTS

The **Insurer** will indemnify the **Insured** against **Claims** first made against the **Insured** and notified to the **Insurer** during the **Period of Insurance** arising from the rendering of or failure to render first aid and assistance in an emergency situation or accident, except when such **Insured** is engaged in a professional capacity by another person or entity. However no coverage shall apply in respect of liability arising from **Childbirth**.

GENERAL DEFINITIONS AND INTERPRETATION

The following words will have the same meaning attached each time they appear in this **Policy** in bold type face whether with a capital first letter or not.

Where the context so admits or requires, words importing the singular will include the plural and vice versa and words importing the masculine will include the feminine and the neuter and vice versa. References to 'a person' will be construed so as to include any individual, insurer, partnership, or any other legal entity. References to a statute will be construed to include all its amendments or replacements.

- (1) **"Breach of Confidentiality"** shall mean any
 - a. unintentional breach of patient confidentiality committed by the **Insured** or by any **Employee** of the **Insured**
 - b. intentional and/or unintentional breach of patient confidentiality committed by a third party
- (2) **"Business"** shall mean the healthcare activities of the **Insured** as stated in the **Schedule**.
- (3) **"Childbirth"** shall mean the act of birth involving all four stages from onset of labour up to and including 24 hours post delivery of baby.
- (4) **"Circumstance"** means any incident, occurrence, dispute, complaint, fact, matter, act or omission that it is likely to give rise to a **Claim**, including an intention or belief of a request for compensation.
- (5) **"Claim"** shall mean a written demand made against the **Insured** for money or services in respect of **Injury** or **Property Damage**.
- (6) **"Claim Jurisdiction"** shall mean the jurisdiction stipulated in the schedule under which a **Claim** by a third party must be brought for indemnity to be granted by the **Insurer**.
- (7) **"Clinical Trial"** means an investigation (including any healthy volunteer study) in human subjects intended to discover or verify the clinical, pharmacological and / or other pharmacodynamic effects of an Investigational Product and / or to identify any adverse reactions to an Investigational Product and / or to study absorption, distribution, metabolism and excretion of an Investigational Product.
- (8) **"Deductible"** shall mean the first amount payable by the **Insured** in respect of each and every **Claim** as ascertained after the application of all other terms and conditions of this **Policy**. The **Deductible** will be applied to **Legal Costs**.
- (9) **"Employee"** shall mean any:
 - (a) person under a contract of employment or service or apprenticeship with the **Insured**
 - (b) person acting in the capacity of non-executive director of the **Insured**
 - (c) officer, member or voluntary workers of the organisations or services stated in the **Business**
 - (d) prospective employees who are being assessed by the **Insured** as to their suitability for employment
 - (e) person undertaking study or work experience or supplied under any youth training or similar government scheme
 - (f) medical students but only when under the strict supervision of a **Registered Medical Practitioner** or adequately qualified professional (including but not limited to nursing students) for that specific care, diagnosis or treatment being provided by such medical student.

while working under the control of the **Insured** on behalf of the **Insured** and in connection with the **Business**.

- (10) **"Injury"** means death, disease, illness, physical or mental injury to any third party person or third party persons

- (11) **"Insured"** shall mean:
- (a) any person or insured named in the **Schedule** and at the request of the **Insured** shall include subsidiary companies of such insured that are in existence at the inception date of the **Policy** and have been declared to the **Insurer** until such time as they may be sold or otherwise disposed.
 - (b) subsidiary companies which may hereafter be constituted or acquired provided that any new acquisition:
 - (i) is declared to Underwriters within 30 days of such creation / acquisition
 - (ii) does not represent a material change to the existing Business
 - (iii) does not represent an increase in wages or turnover of more than 10% of the existing declared wages or turnover.
- (12) **"Insurer"** means the party specified as Security in the **Schedule** and any other subscribing insurers.
- (13) **"Legal Costs"** shall mean
- (a) costs and expenses (other than claimant costs recoverable from the **Insured**) incurred in the investigation, appraisal, adjustment, defence or settlement of an **Occurrence, Claim, or Circumstance** including expert, legal, appeal and defence costs
 - (b) costs of legal representation at any coroners inquest or inquiry in respect of any death
 - (c) costs of legal representation at proceedings in any court arising out of any alleged breach of statutory duty resulting in an **Occurrence, Claim, or Circumstance**
- incurred with the written consent of the **Insurer**.
- (14) **"Libel and Slander"** shall mean the action of the **Insured** of making a false written or verbal statement damaging to a person or organisation's reputation provided such written or verbal statement was made in good faith by the **Insured**.
- (15) **"Limit of Indemnity"** shall mean the amount stipulated in the **Schedule** which is the maximum amount of the **Insurer's** liability under this **Policy**. Any sub-limit of indemnity stated in the **Schedule** shall be deemed to be part of and not in addition to the **Limit of Indemnity**.
- (16) **"Loss of Documents"** shall mean
- a. the unintentional destruction, damage, or loss of any record arising from the **Insured's** business (whether kept in paper, magnetic or electronic form, but excluding any records which have been received by e-mail unless they have been downloaded to the **Insured's** own files) belonging to the **Insured** or for which the **Insured** is legally responsible (but always excluding stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, postal orders, money orders, securities and the like) whilst in the custody of the **Insured**, in the ordinary course of the **Insured's Business**. However, the **Insured** will not be indemnified in relation to any such record kept in magnetic or electronic form unless such record is duplicated and the duplicate is stored at a separate address as a back-up.
 - b. Notwithstanding 16. a. no liability is provided by this **Policy** for any cyber liability.
- (17) **"Malpractice"** means any negligent act, negligent error, or negligent omission committed by the **Insured** arising out of the rendering of, or failure to render medical services in the conduct of the **Insured's Business** or in the conduct of good Samaritan acts as provided under General Extension (5) (or in the case of a **Registered Medical Practitioner** any negligent act, negligent error, or negligent omission committed by the **Registered Medical Practitioner** arising out of the rendering of, or failure to render medical services undertaken for or on behalf of the **Insured** or in the conduct of good samaritan acts as provided under General Extension (5))

- (18) **"Obstetric and Maternity Services"** shall mean medical services involving the care of women, child or foetus during pregnancy (including but not limited to any prenatal scanning, diagnosis, mis-diagnosis, failure to diagnose, or treatment), **Childbirth**, and the postnatal period following delivery as well as services relating to miscarriage and therapeutic abortions.
- (19) **"Occurrence"** shall mean an accident or event including continuous or repeated injurious exposure to substantially the same general conditions which results in **Injury** neither expected nor intended from the standpoint of the **Insured**.
- (20) **"Period of Insurance"** means the period shown as such in the **Schedule**, where the time taken is as per the time zone at the **Insured's** first named address as detailed on the **Schedule** unless otherwise stated.
- (21) **"Policy"** means this document, the **Schedule** (including any **Schedules** issued in substitution, the **Proposal** and any endorsements attaching to this document or the **Schedule** that will be considered part of the legal contract and any word or expression in bold type face on any of these documents will bear the specific meaning stated in these definitions.
- (22) **"Pollutants"** mean any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed.
- (23) **"Pollution"** means the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **Pollutants** at any time.
- (24) **"Product"** any goods or products after it has left the custody or control of the **Insured** which have been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the **Insured**, including all containers, packaging, warnings, instructions and other literature furnished in connection with such goods or products, but shall not mean food and drink supplied by or on behalf of the **Insured** primarily to the **Insured's Employees** as a staff benefit ("Food and Drink")
- (25) **"Property Damage"** means loss of possession or control of or actual damage to tangible property.
- (26) **"Proposal"** means any information as identified on the **Schedule** supplied by or on behalf of the **Insured**, deemed to be a completed proposal form, application form, submission and medical questionnaire and other relevant or supplementary information that the **Insurer** may have received or require.
- (27) **"Registered Medical Practitioner"** means a doctor or dentist who is licensed and maintains registration with the relevant Medical Registration Board (s) or appropriate professional body(s) in the relevant domicile of practice to which this **Policy** applies.
- (28) **"Schedule"** shall means the document titled schedule that includes the name and address of the insured, the premium and other variables to this standard **Policy** (including endorsement clauses) and is incorporated in this **Policy** and accepted by the **Insured**. Schedules may be re-issued from time to time where each successor overrides the earlier document.
- (29) **"Territorial Limits"** means such countries as stated in the **Schedule** where the **Occurrence** must happen for indemnity to apply under this **Policy**.
- (30) **"Terrorism"** means an act, including the use of force or violence, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s), committed for political, religious or ideological purposes including the intention to influence any government (de jure or de facto) and/or to put the public in fear for such purposes.
- (31) **"War"** means a state of armed conflict between different countries or different groups within a country including but not limited to invasion, acts of foreign enemies, hostilities, or warlike operations (whether war be declared or not), civil war, mutiny, revolution, rebellion, insurrection, uprising, military or usurped power or confiscation by order of any public authority or government de jure or de facto or martial law but not including **Terrorism**.

COMPLAINTS

If you are dissatisfied with any aspect of the handling of your insurance contact and have a question or complaint about this insurance or the conduct of its intermediary you should contact that intermediary in the first instance.

If you are still not satisfied, your complaint will be sent to the **Insurer** by the intermediary.

If you remain dissatisfied you can contact the Financial Ombudsman Service at:

South Quay Plaza
183 Marsh Wall
London
E14 9SR

DETAILS OF OUR REGULATOR

All subscribing **Insurers** are authorised by the Prudential Regulation Authority (PRA) and regulated by the PRA and the Financial Conduct Authority (FCA).

Medical & Commercial International is a division of Castel Underwriting Agencies who are authorised and regulated by the FCA.

The FCA website, which includes a register of all regulated firms, can be visited at www.fca.org.uk.

FINANCIAL SERVICES COMPENSATION SCHEME

All subscribing **Insurers** are members of the Financial Services Compensation Scheme. You may be entitled to compensation from the scheme if they are unable to meet their obligation.

Entitlement to compensation under the scheme depends on the type of business and circumstances of the claim. Further information about compensation scheme arrangements is available from:

The Financial Services Compensation Scheme
Lloyds Chambers
Portsoken Street
London
E1 8BN

or from their website (www.fscs.org.uk).