



## **POLICY SCHEDULE**

Type of Insurance	:	Malpractice Liability Insurance (Secondary Cover)
Policy No.	:	1-P0003689-MED
Account No.	:	01-5100345
Insured	:	Members of The Association of Hong Kong Nursing Staff as approved and confirmed by QBE Hongkong & Shanghai Insurance Ltd.
Postal Address	:	4/F, Hing Wan Commercial Building, 25-27 Parkes Street, Jordan, Kowloon
Professional Business Practice	:	Registered Nurse, Enrolled Nurse and/or Nurse Members
Period of Cover	:	From 1/5/2015 to 30/4/2016 (both days inclusive)
Limit of Indemnity	:	HK\$10,000,000 any one Claim and in the aggregate inclusive of Costs and Expenses
Retroactive Date	:	As per the Certificate of Insurance for individual Insured Members as approved and confirmed by QBE Hongkong and Shanghai Insurance Ltd.  Insurance Inception Date excluding known Claims and/or circumstances for newly joined members as approved and confirmed by QBE Hongkong and Shanghai Insurance Ltd.
Deductible	:	HK\$10,000 each and every Claim inclusive of Costs and Expenses
Premium	:	HK\$240 for each Insured Member  HK\$120 for each new Insured Member who confirms to join on or after 1/11/2015

**QBE Hongkong & Shanghai Insurance Limited**  
17/F, Warwick House, West Wing, Talkoo Place, 979 King's Road, Quarry Bay, Hong Kong  
telephone +852 2877 8488 • facsimile +852 3607 0300

**昆士蘭聯保保險有限公司**  
香港鰂魚涌英皇道979號太古坊和域大廈西翼17樓  
電話 +852 2877 8488 • 傳真 +852 3607 0300  
[www.qbe.com.hk](http://www.qbe.com.hk)



This Policy Schedule should be read in conjunction with the policy terms, conditions, definitions and exclusions as detailed in the enclosed policy wording. (Ref. QBE Medical Malpractice 2-2004 v2)

Signed for and on behalf of  
QBE HONGKONG & SHANGHAI INSURANCE LTD.

A handwritten signature in black ink, appearing to read 'Victor Cheung', written over a horizontal dotted line.

Victor Cheung  
Head of Financial & Professional Risks

Date issued: 16/6/2015



## for Medical Malpractice

# SPECIALIST POLICY

### Contents

A.	THE COVER.....	1
	SECTION 1: INSURING CLAUSES .....	1
	SECTION 2: AUTOMATIC EXTENSIONS.....	1 - 3
B.	EXCLUSIONS.....	3 - 5
C.	CLAIMS CONDITIONS.....	6 - 7
D.	GENERAL CONDITIONS.....	7 - 9
E.	DEFINITIONS.....	9 - 10



## Contents

### A. THE COVER

#### SECTION 1 - INSURING CLAUSES

1.1 Insuring Clause A.....	1
1.2 Insuring Clause B.....	1
1.3 Retroactive Date.....	1

#### SECTION 2 - AUTOMATIC EXTENSIONS

2.0 Preamble.....	1
2.1 Libel and Slander.....	1
2.2 Loss of Documents.....	1
2.3 Coroner's Enquiries.....	2
2.4 Emergency First Aid.....	2
2.5 Students.....	2
2.6 Newly Created or Acquired Entity or Subsidiary.....	2
2.7 Run-Off Cover Insured Entity or Subsidiary.....	3
2.8 Estates and Legal Representative.....	3

### B. EXCLUSIONS

1. Prior or Pending.....	3
2. Fraud and Dishonesty.....	3
3. Assumed Duty or Obligation.....	3
4. Clinical Trials.....	4
5. Billings.....	4
6. Related or Associated Entities.....	4
7. Obligation to Employees.....	4
8. Occupier's Liability and Property Damage.....	4
9. Intoxicants and Drugs.....	4
10. Fines and Penalties.....	4
11. Nuclear.....	4
12. Supply of Goods.....	5
13. War.....	5
14. Terrorism.....	5
15. Asbestos.....	5
16. Elective Cosmetic Surgery.....	5

### C. CLAIMS CONDITIONS

1. Reporting and Notice.....	6
2. Notification of Circumstance.....	6
3. Defence and Settlement.....	6
4. Insured's right to Contest.....	6
5. Legal Counsel Clause.....	6
6. Claims Mitigation and Co-operation.....	7
7. Subrogation.....	7
8. Fraudulent Claims.....	7



D. GENERAL CONDITIONS

1. Limit of Indemnity .....	7
2. Deductible .....	7
3. Alteration to Risk .....	8
4. Territorial Cover .....	8
5. Jurisdictional Cover .....	8
6. Cancellation .....	8
7. Private Practitioners Insurance .....	8
8. Assignment of Interest .....	8
9. Other Insurance .....	8
10. Maintain Records .....	9
11. Policy Construction and Interpretation .....	9
12. Professional Instruments .....	9

E. DEFINITIONS

1. Claim .....	9
2. Clinical Trial .....	9
3. Committee .....	9
4. Costs and Expenses .....	9
5. Deductible .....	9
6. Documents .....	10
7. Employee .....	10
8. Family Member .....	10
9. Insured .....	10
10. Limit of Indemnity .....	10
11. Malpractice .....	10
12. Patient .....	10
13. Period of Cover .....	10
14. Professional Business Practice .....	10
15. Policy .....	10
16. Premium .....	10
17. Proposal .....	10
18. QBE .....	10
19. Schedule .....	10
20. Subsidiary .....	10



## A. THE COVER

### Preamble

In consideration of payment of the Premium, QBE will provide indemnity in accordance with, and subject to, the terms of this Policy.

### SECTION 1 - INSURING CLAUSES

#### 1.1 Insuring Clause A

QBE agrees to indemnify the Insured against legal liability for any Claim for compensation first made against the Insured during the Period of Cover and which is notified in writing to QBE during the Period of Cover arising from Malpractice by reason of any negligent act, error or omission committed or alleged to have been committed on the part of the Insured.

#### 1.2 Insuring Clause B

QBE agrees to pay, the Costs and Expenses incurred with the written consent of QBE in the defence or settlement of any Claim covered by this Policy. PROVIDED ALWAYS THAT such Costs and Expenses shall be part of, and not in addition to, the Limit of Indemnity.

#### 1.3 Retroactive Date

- (a) "Unlimited Retroactive Cover" – unless a Retroactive Date is specified in the Schedule, this Policy shall provide cover in respect of acts, errors or omissions committed (or alleged to have been committed) irrespective of when such acts, errors or omissions were committed (or were alleged to have been committed).
- (b) "Limited Retroactive Cover" – where a Retroactive Date is specified in the Schedule, then this Policy shall only provide cover in respect of acts, errors or omissions committed or alleged to have been committed on or after the Retroactive Date.

### SECTION 2 - AUTOMATIC EXTENSIONS

#### 2.0 PREAMBLE

QBE shall provide indemnity as is available under this section, for nil additional premium, PROVIDED ALWAYS THAT:

- (a) each Extension is subject to the Schedule, Insuring Clauses, Conditions, Definitions, Exclusions, Deductible and other terms of this Policy (unless otherwise stated herein);
- (b) the inclusion of any Extension shall not increase the Limit of Indemnity.

#### 2.1 Libel and Slander

QBE agrees to provide coverage in respect of any Claim made against the Insured, by any person, for libel or slander by reason of words written or spoken provided that such Claim arises out of the conduct of the Professional Business Practice.

#### 2.2 Loss of Documents

QBE agrees to provide coverage arising from the loss of any Documents (including but not limited to Documents which are the property of the Insured) which have been destroyed, damaged, lost or mislaid and, after diligent search, cannot be found. PROVIDED ALWAYS THAT:

- (a) the discovery of such loss of Documents occurred during the Period of Cover and was notified in writing to QBE within twenty-eight (28) days after the date of such discovery;
- (b) such coverage shall be limited to the costs, charges and expenses of whatsoever nature incurred by the Insured in replacing and/or restoring such Documents and any Claim for such



costs, charges, and expenses shall be supported by bills and/or accounts which shall be subject to approval by a competent person nominated by QBE with the approval of the Insured;

- (c) such coverage shall be limited to the loss of any Documents:
  - (i) which were in the physical custody or control of the Insured or any other person to whom the Insured entrusted, lodged or deposited such Documents in the ordinary course of business;
  - (ii) which occurred within the territorial limits of Asia, Commonwealth of Australia or the Dominion of New Zealand;
- (d) in respect of each Claim by the Insured the amount of the Deductible shall be borne by the Insured at their own risk and QBE shall only be liable to indemnify the Insured for that part of any Claim which is in excess of the Deductible.
- (e) this Extension shall not apply to the loss of any Documents brought about by or contributed to by fire, water, burglary or theft.

### **2.3 Coroner's Enquiries**

QBE agrees to pay Costs and Expenses incurred by the Insured with the written consent of QBE, arising out of the representation of the Insured at any coroner's enquiry at which the Insured is legally required to attend.

### **2.4 Emergency First Aid**

QBE agrees to provide coverage in respect of any Claim made against any medically qualified Employee of the Insured in respect of any legal liability arising from the rendering of emergency first aid assistance to any person.

### **2.5 Students**

QBE agrees to provide coverage in respect of any Claim made against any student/practitioner appointed to the Insured by a university or college of advanced education or a T.A.F.E. college or equivalent authorised medical institution, where such Claim arises from Malpractice by reason of any negligent act, error or omission incurred on the part of such person in the conduct of the Professional Business Practice.

### **2.6 Newly Created or Acquired Entity or Subsidiary**

- (a) QBE agrees to provide coverage to any entity or Subsidiary acquired or created by the Insured during the Period of Cover PROVIDED ALWAYS THAT such coverage shall automatically be revoked fourteen (14) days after the effective date of such acquisition or creation or upon the expiry date of the Period of Cover, whichever is the earlier date.
- (b) QBE may, at its discretion, agree to provide further coverage beyond the fourteen (14) days period referred to in clause (a) above (but never beyond the expiry date of the Period of Cover) where:
  - (i) the Insured has notified QBE of the acquisition or creation of the entity or Subsidiary and has provided all information requested by QBE; and
  - (ii) any terms imposed by QBE including the charging of any additional premium considered appropriate, have been agreed by the Insured.

PROVIDED ALWAYS THAT any coverage provided under this Extension will only apply in respect of legal liability arising from Malpractice by reason of any negligent act, error or omission occurring subsequent to the date of acquisition or creation, unless otherwise agreed in writing by QBE.



## **2.7 Run-Off Cover Insured Entity or Subsidiary**

QBE agrees that in the event that an Insured entity or Subsidiary ceases to exist or operate or is consolidated with, merged into or acquired by any other entity then the coverage provided under this Policy with respect to such Insured entity or Subsidiary shall continue until the expiry date of the Period of Cover.

PROVIDED ALWAYS THAT such coverage shall only apply in respect of legal liability arising from Malpractice by reason of any negligent act, error or omission occurring prior to the effective date that such Insured entity or Subsidiary ceased to exist or operate or was consolidated with, merged into or acquired by another entity, unless otherwise agreed in writing by QBE.

## **2.8 Estates and Legal Representatives**

QBE agrees to provide coverage to the estates, heirs, legal representatives or assigns of any Insured in the event of the death or incapacity of such Insured. PROVIDED ALWAYS THAT such persons shall observe and be subject to all the terms of this Policy insofar as they can apply.

# **B. EXCLUSIONS**

QBE shall not be liable under this Policy to provide indemnity in respect of any Claim against the Insured:

### **1. Prior or Pending**

- (a) made, threatened or intimated against the Insured Prior to the commencement of the Period of Cover;
- (b) directly or indirectly based upon, attributable to, or in consequence of any fact or circumstance:
  - (i) of which written notice has been given, or ought reasonably to have been given, under any previous policy; or
  - (ii) of which the Insured first became aware prior to the commencement of the Period of Cover, and which the Insured knew or ought reasonably to have known had the potential to give rise to a Claim under this Policy.

### **2. Fraud and Dishonesty**

directly or indirectly based upon, attributable to, or in consequence of:

- (a) any actual or alleged dishonest, fraudulent, criminal, or malicious act or omission of any Insured or their consultants, sub-contractors or agents; or
- (b) any act or omission of any Insured or their consultants, sub-contractors, or agents committed or alleged to have been committed with a reckless disregard for the consequences thereof; or
- (c) willful breach of any statute, contract or duty by the Insured or their consultants, sub-contractors, or agents.

### **3. Assumed Duty or Obligation**

directly or indirectly based upon, attributable to, or in consequence of

- (a) any duty or obligation assumed by the Insured which is not assumed in the normal conduct of the Insured's Professional Business Practice, or
- (b) any duty or obligation which the Insured assumes solely as a result of acting as a director of any company or trustee of any trust.
- (c) any liability imposed upon the Insured pursuant to any contract if such liability would not have been imposed upon the Insured in the absence of any such contract.





#### **4. Clinical Trials**

directly or indirectly based upon, attributable to or in consequence of:

- (a) any liability incurred or alleged to have been incurred arising out of any activity conducted by the Insured or by anyone for whose acts the Insured may be liable in connection with a Clinical Trial.
- (b) any services provided to a pharmaceutical company.

#### **5. Billings**

directly or indirectly based upon, attributable to, or in consequence of:

- (a) any trading debt incurred by the Insured or any guarantee given by the Insured for a debt.
- (b) any legal obligation to refund any fee charged to a Patient.

#### **6. Related or Associated Entities**

brought or maintained by or on behalf of:

- (a) any Insured or any Subsidiary of the Insured; or
- (b) any person who, at the time of the negligent act, error or omission giving rise to the Claim, is a "Family Member" unless such person is acting without any prior direct or indirect solicitation or co-operation of any Insured.

#### **7. Obligations to Employees**

directly or indirectly based upon, attributable to, or in consequence of bodily injury, mental injury, sickness, disease or death of any Employee of the Insured or damage to or destruction of any property of any Employee, including loss of use, arising out of, or in the course of, their employment.

#### **8. Occupiers Liability and Property Damage**

directly or indirectly based upon, attributable to, or in consequence of:

- (a) any liability incurred or alleged to have been incurred as a result of any occupation or ownership of any real property by the Insured;
- (b) physical loss of, damage to, or destruction of, any tangible property (other than any Documents), including loss of use thereof Loss of Profits or any consequential loss.

#### **9. Intoxicants and Drugs**

arising out of medical services rendered by any Insured while under the influence of intoxicants or drugs or any failure to render medical services competently or at all because of such influence.

#### **10. Fines and Penalties**

for punitive, aggravated, multiple or exemplary damages, or fines or penalties imposed by law, including but not limited to, civil penalties, awards of statutory compensation and/or damages under the Companies and/or Securities and Futures Ordinances and related legislation.

#### **11. Nuclear**

directly or indirectly based upon, attributable to, or in consequence of ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of any nuclear fuel. PROVIDED ALWAYS THAT this Exclusion shall not apply to legal liability arising from radioisotopes, radium or radium compounds when used away from the place where such are made or produced and when used exclusively or incidental to ordinary industrial, education, medical or research pursuits.

## **12. Supply of Goods**

arising from the sale, supply, installation, alteration, modification or manufacture of goods by or on behalf of the Insured.

## **13. War**

- (a) directly or indirectly based upon, attributable to, or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition of or damage to property by or under the order of any government or public local authority.
- (b) directly or indirectly based upon, attributable to, or in consequence of any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes and whether the Claim resulting therefrom is accidental or intentional.

## **14. Terrorism**

directly or indirectly based upon, attributable to, or in consequence of any Act of Terrorism.

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

For the avoidance of doubt, QBE shall not be liable under this Policy to indemnify in respect of any loss, damage, death, injury, illness, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with:

- (a) any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.
- (b) any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

However this exclusion shall not apply to any medical procedure or treatment performed in a hospital, clinic or similar establishment as a result of any injuries arising out of any Act of Terrorism.

## **15. Asbestos**

directly or indirectly arising out of, in consequence of, or contributed to by asbestos, asbestos fibres or derivatives of asbestos.

However this exclusion shall not apply to any Claim or part of a Claim for financial loss arising out of a breach of professional duty where the cause of the breach does not relate to any asbestos exposure.

## **16. Elective Cosmetic Surgery**

directly or indirectly based upon, attributable to or in consequence of the performance of cosmetic plastic surgery including hair transplants. HOWEVER, this exclusion shall not apply to reconstructive plastic surgery or medical or nursing services provided by the Insured in connection with plastic surgery.

## **C. CLAIMS CONDITIONS**

### **1. Reporting and Notice**

(a) It is a condition precedent to the right of the Insured to be Indemnified under this Policy that the Insured shall give to QBE written notice as soon as practicable of any Claim made against the Insured PROVIDED ALWAYS THAT such written notice is given to QBE during the Period of Cover.

(b) Notice of any Claim shall be given in writing to QBE, and delivered to:

**Claims Manager  
Specialist Risks Unit  
QBE Hongkong & Shanghai Insurance Ltd.  
17/F, Warwick House, West Wing  
Taikoo Place, 979 King's Road  
Quarry Bay,  
Hong Kong**

### **2. Notification of Circumstance**

If during the Period of Cover, the Insured becomes aware of any fact or circumstance that may give rise to a Claim under this Policy the Insured shall as a condition precedent to their right to be indemnified under this Policy give notice in writing to QBE of such fact or circumstance, then any Claim which may subsequently arise out of such fact or circumstance shall be deemed to be a Claim made during the Period of Cover. PROVIDED ALWAYS THAT such written notice is given to QBE during the Period of Cover.

### **3. Defence and Settlement**

(a) The Insured agrees not to settle any Claim, incur any Costs and Expenses, make any admission, offer or payment or otherwise assume any contractual obligation with respect to any Claim without QBE's written consent, such consent not to be unreasonably withheld. QBE shall not be liable for any settlement, Costs and Expenses, admission, offer or payment, or assumed obligation to which it has not consented.

(b) QBE shall be entitled at any time to conduct, in the name of the Insured, the defence or settlement of any Claim.

(c) QBE may, if it believes that any Claim will not exceed the Deductible, instruct the Insured to conduct the defence of the Claim. In such situation, QBE will reimburse the Insured for all reasonable Costs and Expenses in the defence of the Claim in the event that any payment made to dispose of the Claim exceeds the Deductible.

### **4. Insured's Right to Contest**

In the event that QBE recommends settlement in respect of any Claim and the Insured does not agree that such Claim should be settled, then the Insured may elect to contest such Claim. PROVIDED ALWAYS THAT QBE's liability in connection with such Claim shall not exceed the amount for which the Claim could have been so settled plus Costs and Expenses incurred with QBE's written consent up to the date of such election.

### **5. Legal Counsel Clause**

(a) QBE shall not require the Insured to contest any Claim unless a legal counsel (to be mutually agreed upon by the Insured and QBE) shall advise that such Claim should be contested.

(b) In formulating such advice, legal counsel shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the claimant, the likely Costs and Expenses and the prospects of the Insured successfully defending the Claim.

(c) The costs of such legal counsel's opinion shall be regarded as part of the Costs and Expenses.



## **6. Claims Mitigation and Co-operation**

- (a) The Insured shall, as a condition precedent to their right to be indemnified under this Policy, exercise reasonable care and skill and do and concur in doing all things reasonably practicable to avoid or diminish any liability hereunder.
- (b) The Insured shall, as a condition precedent to their right to be indemnified under this Policy, frankly and honestly disclose to QBE all relevant information and, in addition shall provide assistance to QBE, as it may require to enable it to effectively investigate and to defend or resolve any Claim under this Policy and/or to enable QBE to determine its liability under this Policy.
- (c) Other than Costs and Expenses incurred to enable QBE to determine its liability under this Policy, compliance with this Condition shall be at the Insured's own cost, unless otherwise agreed in writing by QBE.

## **7. Subrogation**

In the event of any payment under this Policy, QBE shall be subrogated to the extent of such payment to all the Insured's rights of recovery, and the Insured shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of documents necessary to enable QBE effectively to bring suit in the name of the Insured.

## **8. Fraudulent Claims**

If any Claim under this Policy shall be in any respect fraudulent or if any fraudulent means or devices are used by the Insured or anyone acting on the Insured's behalf to obtain benefit under this Policy all benefit hereunder shall be forfeited.

# **D. GENERAL CONDITIONS**

## **1. Limit of Indemnity**

QBE's total liability under this Policy for any one Claim and in the aggregate in respect of all Claims shall not exceed the Limit of Indemnity specified in the Schedule.

## **2. Deductible**

- (a) In respect of each Claim made against the Insured the amount of the Deductible shall be borne by the Insured at their own risk and QBE shall only be liable to indemnify the Insured for that part of any Claim which is in excess of the Deductible.
- (b) Where QBE has elected to pay all or part of the Deductible in respect of any Claim, the Insured shall, within seven (7) days from the date of such payment, reimburse QBE for such payment.
- (c) In respect of any Claim where the amount of the Claim is less than the amount of the Deductible, the Insured shall bear all Costs and Expenses associated therewith unless QBE shall have agreed to meet such Costs and Expenses pursuant to Insuring Clause B.
- (d) Where the Deductible is expressed in the Schedule to be inclusive of Costs and Expenses then the Insured will pay all Costs and Expenses, up to the amount of the Deductible, incurred by QBE to resolve the Claim.
- (e) Where QBE deems it necessary to appoint advisors to determine liability of the Insured or to resolve a Claim, such Costs and Expenses, up to the amount of the Deductible, shall be borne by the Insured.
- (f) Any Costs and Expenses incurred by QBE to determine whether QBE has a liability to indemnify the Insured under this Policy shall not be subject to the Deductible but shall be borne by QBE.
- (g) If any Claim against the Insured involves more than one negligent act, error or omission, the Deductible shall apply to each such negligent act, error or omission separately.



- (h) All causally connected or interrelated negligent acts, errors or omissions shall jointly constitute a single act, error or omission under this Policy.
- (i) All Claims which are attributable to or arise out of the same cause or event shall be deemed to constitute one Claim under this Policy.

### **3. Alteration to Risk**

The Insured shall give to QBE written notice as soon as practicable of any material alteration to the risk during the Period of Cover including:

- (a) the Insured going into voluntary bankruptcy, receivership, or liquidation or the Insured failing to pay debts or breaching any other obligation giving rise to the appointment of a receiver or bankruptcy or winding up proceedings;
- (b) any material change in the nature of the professional services offered by the Insured.

### **4. Territorial Cover**

The coverage provided under this Policy shall extend to legal liability arising out of acts, errors or omissions committed anywhere in the world except where such acts, errors or omissions occur within the territorial limits of the United States of America or the Dominion of Canada or their territories or protectorates.

### **5. Jurisdictional Cover**

The coverage provided under this Policy shall extend to any Claim brought in a court of law anywhere in the world except where:

- (a) such Claim is brought in a court of law within the territorial limits of the United States of America or the Dominion of Canada or their territories or protectorates; or
- (b) such Claim arises out of the enforcement of any judgment, order or award obtained within, or determined pursuant to the laws of the United States of America or the Dominion of Canada or their territories or protectorates.

### **6. Cancellation**

- (a) The Insured may cancel this Policy at any time by notifying QBE in writing and QBE will provide a refund of Premium for the unexpired Period of Cover in accordance with the QBE short-period rate.
- (b) QBE may cancel this Policy by giving thirty (30) days notice in writing to the Insured at the Insured's last known address and QBE will provide a pro-rata refund of Premium for the unexpired Period of Cover.

### **7. Private Practitioners Insurance**

The Insured shall as a condition precedent to the Insured's right to be indemnified under this Policy ensure that all doctors of medicine providing medical services for or using the facilities of the Insured are members of a recognized medical defence union/association or protection society or otherwise carry their own malpractice liability insurance covers.

### **8. Assignment of Interest**

No change in, or modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy and signed by an authorized employee of QBE.

### **9. Other Insurance**

If at the time a Claim arises under this Policy the Insured is or would but for the existence of this Policy be entitled to indemnity under any other policy, policies or medical defence organization, QBE



shall not be liable except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this Policy not been effected.

## 10. Maintain Records

The Insured shall at all times maintain accurate and descriptive records of all medical services rendered, and equipment used in procedures, for a period of ten (10) years from the date that the services are rendered or treatment provided. The Insured shall give QBE, or their duly authorised representative, access to these records insofar as they pertain to any Claim under the Policy.

## 11. Policy Construction and Interpretation

- (a) The construction, interpretation and meaning of the provisions of this Policy shall be determined in accordance with the law of the state, administrative region, territory or country in which this Policy is issued, and any dispute relating thereto shall be submitted to the exclusive jurisdiction of the courts of such state, administrative region, territory or country.
- (b) The marginal notes and titles of paragraphs in this Policy are included for descriptive purpose only and do not form part of this Policy for the purpose of its construction or interpretation.
- (c) Under this Policy, the masculine includes the feminine, and the singular includes the plural and vice versa.

## 12. Professional Instruments

It is a condition precedent to the right of the Insured to be indemnified under this Policy that any tool or implement used or intended for use in the conduct of the Professional Business Practice and which is intended to be in contact with bodily fluid (whether human or animal) or penetrate tissue (whether human or animal) shall be:

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

## E. DEFINITIONS

1. "Claim" shall mean:
  - (a) the receipt by the Insured of any written or verbal notice of demand for compensation made by a third party against the Insured; or
  - (b) any writ, statement of Claim, summons, application or other originating legal or arbitral process, cross-Claim, counter-Claim or third or similar party notice served upon the Insured.
2. "Clinical Trial" shall mean an organised study or test that uses human or animal subjects to develop effectiveness or safety data for a designated treatment, procedure, or products.
3. "Committee" shall mean:
  - (a) any auxiliary committee, association, foundation, trust (other than a superannuation trust), or fund raising committee;
  - (b) any disciplinary, examining or research body or committee;
  - (c) any sporting or social club committee.
4. "Costs and Expenses" shall mean the expenses incurred by or on behalf of the Insured or QBE in the investigation or defense of a Claim and shall include legal costs and disbursements.
5. "Deductible" shall mean the amount of the deductible as specified in the Schedule, and shall include Costs and Expenses



6. **"Documents"** shall mean deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed, or reproduced by any method including computer records and electronic data material but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instruments.
7. **"Employee"** shall mean any person employed under a contract of service or apprenticeship with the Insured or any entity or subsidiary in relation to whom coverage is provided pursuant to section 2 of the Policy during or prior to commencement of the Period of Cover.
8. **"Family Member"** means:
  - (a) any spouse, companion or domestic partner;
  - (b) any parent, or parent of the spouse or their partner or companion;
  - (c) any sibling or child;  
of the Insured.
9. **"Insured"** shall mean:
  - (a) any person, persons, partnership, company, corporation or any other entity specified as the Insured in the Schedule including their predecessors in business; and
  - (b) any person who is, during the Period of Cover, a principal, partner, director, Employee, voluntary worker, social worker, any member of a board of management or committee, or work experience student; and
  - (c) any former principal, partner, director or Employee of the Insured.
  - (d) any Subsidiaries declared and included in the Proposal.
10. **"Limit of Indemnity"** shall mean the limit of liability under this Policy as specified in the Schedule and shall include Costs and Expenses.
11. **"Malpractice"** shall mean the rendering of, or failure to render, medical services in the conduct of the Professional Business Practice carried on by or on behalf of the Insured which results in bodily injury, sickness, illness, mental injury or death of any Patient.
12. **"Patient"** shall mean any person admitted to the care of the Insured for the purposes of receiving medical services.
13. **"Period of Cover"** shall mean the period specified in the Schedule.
14. **"Professional Business Practice"** shall mean the business conducted by the Insured, as specified in the Schedule, whereby the Insured pursues his profession and which is conducted under the name specified as the Insured in the Schedule. If the practice should change its name and there is no other change which materially alters the risk, the business will continue to be deemed to be the "Professional Business Practice".
15. **"Policy"** shall mean:
  - (a) the Schedule, Insuring Clauses, Extensions, Conditions, Definitions, Exclusions and other terms contained herein; and
  - (b) any endorsement attaching to and forming part of this Policy either at inception or during the Period of Cover; and the Proposal.
16. **"Premium"** shall mean the premium specified in the Schedule or in any endorsement to the Schedule.
17. **"Proposal"** shall mean the written proposal made by the Insured to QBE containing particulars and statements which, together with other information provided by the Insured, are the basis of this Policy and are considered as incorporated herein.
18. **"QBE"** shall mean QBE Hongkong & Shanghai Insurance Ltd.
19. **"Schedule"** shall mean the schedule to this Policy.
20. **"Subsidiary"** shall mean:
  - (a) any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the Insured specified in the Schedule; or
  - (b) any entity over which the Insured specified in the Schedule is in a position to exercise effective direction or control through ownership or control of more than fifty percent (50%) of the issued voting shares of such entity.