

**PROFESSIONAL INDEMNITY INSURANCE POLICY
for MEDICAL MALPRACTICE**

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Raheja QBE General Insurance Company Limited

Corporate Office: Fulcrum, 501 & 502, A wing, 5th Floor, International Airport Project Road,
Sahar, Andheri East, Mumbai - 400059

Toll Free No.: 1800-102-7723 (9 am to 8 pm, Monday to Saturday)

Website: www.rahejaqbe.com Email: customercare@rahejaqbe.com

Corporate Identity Number: U66030MH2007PLC173129 IRDA Reg. No. 141

UIN: IRDAN141RP0001V02201011

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A THE COVER

Preamble

In consideration of payment of the **Premium**, **Raheja QBE** will provide indemnity in accordance with, and subject to, the **Schedule**, Insuring Clauses, Conditions, Definitions, Exclusions, **Deductible** and other terms of this **Policy**.

SECTION 1 - INSURING CLAUSES

1.1 Insuring Clause A

Raheja QBE agrees to indemnify the **Insured** against its actual legal liability for **Damages** resulting from any third party **Claim** for compensation first made against the **Insured** during the **Period of Cover** and which is notified in writing to **Raheja 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

Raheja QBE agrees to pay, the **Costs and Expenses** incurred with the prior written consent of **Raheja QBE** in the investigation, 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 **Malpractice** by reason of any negligent 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 **Malpractice** by reason of any negligent acts, errors or omissions committed or alleged to have been committed wholly and in every respect on or after the Retroactive Date.

SECTION 2 - AUTOMATIC EXTENSIONS

Raheja 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 Coroner's Enquiries

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

2.2 Emergency First Aid

Raheja 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.

2.3 Estates and Legal Representatives

Raheja QBE agrees to provide coverage to the estates, heirs, legal representatives or assigns of any **Insured** in respect of whom a **Claim** under Insuring Clause 1.1 has been accepted in the event of the death or incapacity of such **Insured** and such **Claim** is advanced against the estates, heirs, legal representatives or assigns. PROVIDED ALWAYS THAT such estates and persons shall observe and be subject to all the terms of this **Policy** insofar as they can apply.

2.4 Libel and Slander

Raheja 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

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of the conduct of the **Professional Business Practice**

2.5 Loss of Documents

Raheja 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 **Raheja QBE** within twenty-eight (28) days after the date of such discovery, this being a condition precedent to **Raheja QBE**'s liability;
- b) such coverage shall be limited to the reasonable 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 **Raheja QBE**;
- 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 anywhere in the world except where such loss of **Documents** occur within the territorial limits of the United States of America or the Dominion of Canada or their territories or protectorates.
- 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 **Raheja 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.

2.6 Newly Created or Acquired Entity or Subsidiary

- a) **Raheja 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) **Raheja 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 **Raheja QBE** of the acquisition or creation of the entity or **Subsidiary** and has provided all information requested by **Raheja QBE**; and
 - (ii) any terms imposed by **Raheja 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 **Raheja QBE**.

2.7 Run-Off Cover Insured Entity or Subsidiary

Raheja 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 **Raheja QBE**.

2.8 Students

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Raheja 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 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**

B EXCLUSIONS

Raheja 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. Absolute 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.

Further 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 effect of asbestos as described in the above paragraph.

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 or partner of a partnership or as a sole trader.
- 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. 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**.

5. 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.

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6. 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.

7. Fines and Penalties

for punitive, aggravated, multiple or exemplary **Damages**, or fines or penalties imposed by law.

8. 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; however, the insurance afforded by this **Policy** shall apply to **Claims** made under Automatic Extension 2.4 Libel and Slander alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against the **Insured**, or any admission by the **Insured** by actions or in writing, establishing such conduct at which time the **Insured** shall reimburse **Raheja QBE** for all **Costs and Expenses** already incurred and **Raheja QBE** shall have no further liability for **Costs and Expenses**; 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, rule, regulation, contract or duty by the **Insured** or their consultants, sub-contractors, or agents.

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. 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.

11. 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.

12. 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.

13. Related or Associated Entities

brought or maintained by or on behalf of or with the participation 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**.

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14. Supply of Goods

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

15. Terrorism

directly or indirectly based upon, attributable to, or in consequence of act of **Terrorism**.

For the avoidance of doubt, **Raheja 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 any:

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

16. War

directly or indirectly caused by, resulting from or in consequence of:

- a) 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 requisitioning of or damage to property by or under the order of any government or public local authority;
- b) 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.

17. Sanction Limitation Clause

Raheja QBE shall not be deemed to provide cover and shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provisions of such cover, payment of such claim or provision of such benefit would expose **Raheja QBE** 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 or any other applicable national economic or trade sanction law or regulations.

C CLAIMS CONDITIONS AND NOTICE PROVISIONS

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 **Raheja QBE** written notice immediately and in any event within thirty (30)] days of any **Claim** made against the **Insured** PROVIDED ALWAYS THAT such written notice is given to **Raheja QBE** during the **Period of Cover**.
- b) Notice of any **Claim** shall be given in writing to **Raheja QBE**, and delivered to:

Claims Manager
Raheja QBE General Insurance Co. Ltd.
Windsor House, 5th Floor, CST Road, Kalina, Santacruz East - 400 098

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 **Raheja 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 **Raheja QBE** during the **Period of Cover**.

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3. Claims Mitigation and Co-operation

- a) It is a condition precedent to the right of the **Insured** to be indemnified under this **Policy** that the **Insured** shall exercise reasonable care and skill and do and concur in doing all things reasonably practicable to avoid or diminish any liability hereunder.
- b) It is a condition precedent to the **Insured's** right to be indemnified under this **Policy** that the **Insured** shall, at its own expense, frankly and honestly disclose to **Raheja QBE** all relevant information that may be requested by **Raheja QBE** or required to consider any **Claim** and, in addition shall provide assistance to **Raheja QBE** as it may seek or may be required to enable it to investigate and to defend or resolve any **Claim** under this **Policy** and/or to enable **Raheja QBE** to determine its liability under this **Policy**.
- c) Compliance with this Condition shall be at the **Insured's** own cost and expense.

4. Defence and Settlement

- a) It is a condition precedent to **Raheja QBE's** liability under this **Policy** that the **Insured** shall not 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 **Raheja QBE's** prior written consent. **Raheja QBE** shall not be liable for any **Damages**, settlement, **Costs and Expenses**, admission, offer or payment, or assumed obligation to which it did not consent in writing.
- b) It is a condition precedent to **Raheja QBE's** liability under this **Policy** that **Raheja QBE** shall be entitled at any time to conduct, in the name of the **Insured**, the defence or settlement of any **Claim**. **Raheja QBE** may at any time hand over the defence or settlement of any **Claim** to the **Insured** and cease to conduct the defence or settlement of any **Claim** in the name of the **Insured**, provided that **Raheja QBE** shall be entitled at any time to resume the conduct of the defence or settlement of any **Claim** in the name of the **Insured**.
- c) **Raheja 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, **Raheja 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**.

5. Fraudulent Claims

If any **Claim** is in any manner dishonest or fraudulent, or is supported by any dishonest or fraudulent means or devices, whether by any **Insured** or anyone acting on behalf of an **Insured** or with the **Insured's** knowledge, then this **Policy** shall be void and all benefits paid or potentially payable under it shall be forfeited.

6. Insured's Right to Contest

In the event that **Raheja 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 **Raheja 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 **Raheja QBE's** written consent up to the date of such election.

7. Legal Counsel Clause

- a) **Raheja QBE** shall not require the **Insured** to contest any **Claim** unless a legal counsel (to be nominated by **Raheja 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**.
- d) It is hereby agreed and understood that (i) this is not an arbitration clause; (ii) that legal counsel will act as an expert and not an arbitrator, and (iii) legal counsel's advice shall not be or be deemed to be an arbitration award.

8. Subrogation

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In the event of a payment under this **Policy** to or on behalf of the **Insured**, **Raheja QBE** will be subrogated to all the **Insured's** rights of recovery against all persons and organizations and the **Insured** will execute and deliver instruments and papers and do all that is necessary to assist the **Raheja QBE** in the exercise of such rights.

D GENERAL CONDITIONS

1. Alteration to Risk

The **Insured** shall give to **Raheja QBE** immediately and in any event within thirty (30) days 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**.

Cover under the **Policy** shall cease from the date of any material alteration to the risk during the **Period of Cover** until the **Insured** obtains the agreement of the **Raheja QBE** to the material alteration signified by endorsement upon the **Policy** by or on behalf of the **Raheja QBE** which agreement shall be subject to any amendment to the terms, conditions or exclusions of this **Policy** and any additional **Premium** that **Raheja QBE** may seek, including the exclusion of any **Claim** that may have been made or act, error or omission that may have occurred between the date of the material alteration to the risk and the agreement to resume cover.

2. Arbitration

If any dispute or difference shall arise as to the quantum to be paid under this **Policy** (liability being otherwise admitted) such difference shall independently of all other questions be referred to the decision of a sole arbitrator to be appointed in writing by the parties thereto or if they cannot agree upon a single arbitrator within thirty (30) days of any party invoking arbitration, the same shall be referred to a panel of three arbitrators, comprising of two arbitrators, one to be appointed by each of the parties to the dispute/difference and the third arbitrator to be appointed by such two arbitrators and arbitration shall be conducted under and in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996.

It is clearly agreed and understood that no dispute or difference shall be referable to arbitration as herein before provided, if **Raheja QBE** has disputed or not accepted liability under or in respect of this **Policy**.

It is hereby expressly stipulated and declared that it shall be a condition precedent to any right of action or suit upon this **Policy** that the award by such arbitrator/arbitrators of the amount of the loss or damage shall be first obtained.

3. 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 **Raheja QBE**.

4. Cancellation

- a) The **Insured** may cancel this **Policy** at any time by notifying **Raheja QBE** in writing and **Raheja QBE** will provide a refund of **Premium** for the unexpired **Period of Cover** in accordance with the **Raheja QBE** short-period rate, but if **Claims** have been notified or payments have been made under this **Policy** then the **Premium** shall be deemed to be fully earned and no refund of **Premium** will be due.
- b) **Raheja QBE** may cancel this **Policy** by giving thirty (30) days notice in writing to the **Insured** at the **Insured's** last known address and **Raheja QBE** will provide a pro-rata refund of **Premium** for the unexpired **Period of Cover**, but if **Claims** have been notified or payments have been made under this **Policy** then the **Premium** shall be deemed to be fully earned and no refund of

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Premium will be due.

- c) Notwithstanding any provisions to the contrary stated above, Raheja QBE may cancel this policy only on the grounds of established fraud in the case of an individual/retail policyholder. All other cancellation provisions outlined above shall continue to apply.

5. 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 **Raheja QBE** shall only be liable to indemnify the **Insured** for that part of any **Claim** which is in excess of the **Deductible**.
- b) Where **Raheja 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 **Raheja 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 **Raheja QBE** shall have agreed to meet such **Costs and Expenses** pursuant to Insuring Clause B.
- d) Where **Raheja QBE** deems it appropriate 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**.
- e) Any **Costs and Expenses** incurred by **Raheja QBE** to determine whether **Raheja QBE** has a liability to indemnify the **Insured** under this **Policy** shall not be subject to the **Deductible** but shall be borne by **Raheja QBE**.
- f) 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.
- g) All causally connected or interrelated negligent acts, errors or omissions shall jointly constitute a single act, error or omission under this **Policy**.
- h) 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**.

6. 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.

7. Limit of Indemnity

Raheja QBE's total liability under this **Policy** for any one **Claim** and **Costs and Expenses** (including under Automatic Extensions) and in the aggregate in respect of all of the foregoing shall not exceed the **Limit of Indemnity** specified in the **Schedule**.

8. 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 **Raheja QBE**, or their duly authorised representative, access to these records insofar as they pertain to any **Claim** under the **Policy**.

9. Observance of Conditions

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The due observance and fulfillment of the terms, conditions and endorsements of this **Policy** as they relate to anything to be done or complied with by the **Insured** and the truth of the statements and answers in the **Proposal** shall be conditions precedent to any liability of the **Raheja QBE** under this **Policy**.

10. 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, **Raheja 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.

11. 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

12. Policy Construction and Interpretation

- a) The construction, interpretation and meaning of the provisions of this **Policy** shall be determined in accordance with Indian law.
- 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.

13. 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 Ministry 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 Ministry of Health guidelines or equivalent.

14. 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.

E DEFINITIONS

The following words shall have the same meaning throughout this **Policy**, whether expressed in the singular or in the plural.

1. Claim

"**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;

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- 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

"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

"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

"Costs and Expenses" shall mean the reasonable expenses necessarily incurred by or on behalf of the **Insured** or **Raheja QBE** in the investigation, settlement or defense of a **Claim** and shall include legal costs and disbursements.

5. Damages

"Damages" means any amount that an **Insured** shall become legally liable to pay to a third party in respect of judgments or awards rendered against an **Insured** or settlements to which **Raheja QBE's** prior written consent was obtained.

"Damages" shall not mean or include the return or offset of, or **Damages** measured by, fees, charges, or commissions for goods or services already provided or contracted to be provided; any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**.

6. Deductible

"Deductible" shall mean the amount of the **Deductible** as specified in the **Schedule**, and shall include **Costs and Expenses**

7. Documents

"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.

8. Employee

"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**.

9. Family Member

"Family Member" shall mean:

- a) any spouse, companion (who permanently resides with the **Insured**), or domestic partner;
- b) any parent, or parent of the spouse or their partner or companion;
- c) any sibling or child

of the **Insured**.

10. Insured

- a) any person, persons, partnership, company, corporation or any other entity specified as the

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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 of the **Insured** defined in a); and
- c) any former principal, partner, director or **Employee** of the **Insured** defined in a).
- d) any Subsidiaries declared and included in the **Schedule**.

11. Limit of Indemnity

"**Limit of Indemnity**" shall mean the limit of liability under this **Policy** stated in the **Schedule** and includes **Costs and Expenses**.

12. Malpractice

"**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**.

13. Patient

"**Patient**" shall mean any person admitted to the care of the **Insured** for the purposes of receiving medical services.

14. Period of Cover

"**Period of Cover**" shall mean the period stated in the **Schedule**.

15. Policy

- a) the **Schedule**, Insuring Clauses, Extensions, Conditions, Definitions, Exclusions and other terms contained in this document;
- b) any Endorsement attaching to and forming part of this **Policy** either at inception or during the **Period of Cover**;
- c) the **Insured**'s **Proposal**.

16. Premium

"**Premium**" shall mean the **Premium** stated in the **Schedule** or stated in any Endorsement to this **Policy**.

17. Professional Business Practice

"**Professional Business Practice**" shall mean the business conducted by the **Insured**, as specified in the **Schedule**, whereby the **Insured** pursues it's or 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**".

18. Proposal

"**Proposal**" shall mean the written proposal made by the **Insured** to **Raheja 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.

19. Raheja QBE

"**Raheja QBE**" shall mean **Raheja QBE** General Insurance Company Limited.

20. Schedule

"**Schedule**" shall mean the schedule to this **Policy**.

21. Subsidiary

"**Subsidiary**" shall mean:

- a) any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the

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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.

22. Terrorism

"Terrorism" shall mean 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.

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