



## Medical Professional Liability Policy for Medical Establishments (UK)

This is a "**Claims made**" **Policy** which only provides cover in respect of **Claims** made against the **Insured** and notified to Underwriters during the **Policy Period** and/or any reporting period.

Certain words and phrases have been specially defined for use in this **Policy**. These appear in bold type. Words importing the singular number shall include the plural and vice versa. The **Policy** and the **Proposal** shall be construed as one document. In the event of any conflict between this **Policy** and the **Proposal**, the **Policy** shall prevail.

In respect of British and Irish Orthoptic Society and Individual members domiciled in the United Kingdom and the Clinical and Non Clinical Advisory Groups (as detailed in Schedule 'A') (Non-EEA): This **Policy** has been underwritten by The Medical Professional Liability Company Limited ('The MPLC Ltd') for and on behalf of certain Syndicates at Lloyd's of London.

In respect of Individual members domiciled in The Republic of Ireland (EEA):

This **Policy** has been underwritten by Iber Portugal Corretora de Seguros, Unipessoal LDA ('MPLC Ibex Europe') for and on behalf of Lloyd's Insurance Company S.A. ('Lloyd's Brussels').

**PLEASE READ THIS POLICY CAREFULLY**

**LLOYD'S**

1 Lime Street, London, EC3M 7HA  
Telephone: +44 (0)20 7327 1000

## The Schedule

ITEM 1	<b>Policy Number:</b>	23/00005320/00 & 23/00005320/01	Brokers Reference:	23/00005320/00
ITEM 2	<b>Name of the Insured:</b>	<ul style="list-style-type: none"> <li>a) British and Irish Orthoptic Society</li> <li>b) Individual members domiciled in the United Kingdom and the Clinical and Non Clinical Advisory Groups (as detailed in Schedule 'A') (Non-EEA)</li> <li>c) Individual members domiciled in The Republic of Ireland (EEA)</li> </ul>		
ITEM 3	<b>Address of the Insured:</b>	3rd Floor, Interchange Place 151 - 165 Edmund St Birmingham B3 2TA United Kingdom	Telephone:	
			Fax:	
			Email:	
ITEM 4	<b>Policy Period:</b>	From: 1st July 2023 at 00:01	To:	1st July 2024 at 00:01
		(Both Days Inclusive at the Local Standard Time at the <b>Insured's</b> address stated in Item 3 above)		
ITEM 5	<b>Limit of Indemnity</b>	Any one <b>Claim:</b> GBP 2,500,000.00 Any One <b>Claim</b> (including costs and expenses)		
	<b>In the Aggregate:</b>	GBP 5,000,000.00 In the aggregate during the <b>Policy Period</b> (including costs and expenses)		
		but as listed on Schedule 'B' for those members purchasing increased limits.		
	<b>Excess:</b>	Nil		
ITEM 6	<b>Premium:</b>	Please see item 1 within the 'Additional Endorsements'		
	<b>Premium due date(s):</b>	As held on file with BIOS		
ITEM 7	<b>Territorial Limits:</b>	Please see item 2 within the 'Additional Endorsements'		
ITEM 8	<b>Retroactive Date(s):</b>	None in respect of the British and Irish Orthoptic Society and the Clinical and Non-Clinical Advisory Groups (as detailed more fully in Schedule A) But The date of joining the British and Irish Orthoptic Society for individual Members. But As detailed in Schedule 'B' for individual members purchasing increased limits But 3rd July 2022 in respect of Non Clinical Advisory Group Research		
ITEM 9	<b>Proposal Form Date:</b>	As held on file with BIOS	Declaration Date:	As held on file with BIOS

ITEM 10 In respect to British and Irish Orthoptic Society and Individual members domiciled in the United Kingdom and the Clinical and Non Clinical Advisory Groups (as detailed in Schedule 'A') (Non-EEA) notice to be given to:

The MPLC Ltd Regal House, Queensway, PO Box 1446, Gibraltar	Telephone:	+44 (0)20 3100 5151
	Fax:	+44 (0)845 127 5071
	Email:	claims@the-mplc.com

In respect to Individual members domiciled in The Republic of Ireland (EEA) notice to be given to:

MPLC Ibex Europe Avenida Duarte Pacheco No 32, Almancil Loule, Algarve, Portugal 8135-104	Telephone:	+44(0)20 3100 5151
	Fax:	+44 (0)845 127 5071
	Email:	claims@mplc-ibex.eu

ITEM 11 Covered Jurisdictions: Worldwide (excluding Canada, USA and Australia)

ITEM 12 **Policy** Jurisdictions and Applicable Law: England and Wales

Specimen -

For Reference Only

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## Medical Professional Liability Policy

### 1 INSURING CLAUSES

1.1 In consideration of the payment of the premium stated in the Schedule and in reliance upon the statements made by the **Insured** in the **Proposal**, **Insurers** agree, subject to the terms, conditions and exclusions contained herein to indemnify the **Insured** in excess of the sum specified in the Schedule as the **Excess** for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** in accordance with the laws of the country/ies specified in Item 11 of the Schedule resulting from any **Claims** made against the **Insured** and notified to **Insurers** during the **Policy Period** arising in respect of the **Insured's** liability for death, bodily injury, mental injury, illness or disease of or to any patient of the **Insured** caused by any actual or alleged negligent act, negligent error or negligent omission committed by the **Insured** which arises either from:

1. the provision of **Clinical Services**; or
2. the performance of **Good Samaritan Acts**; and

which falls within the terms of this **Policy** and arises out of the **Insured's** business specified in the **Proposal** and to indemnify the **Insured** for **Defence Costs** incurred in connection with any such **Claim**.

### 1.2 JOINT AND SEVERAL LIABILITY: LIMITATION OF LIABILITY CLAUSE

In the event that a **Claim** is made against the **Insured** and an alleged concurrent wrongdoer, or in the event of a finding by a court or tribunal of joint and several liability between the **Insured** and a concurrent wrongdoer, then **Insurers'** liability to the **Insured** is limited to an amount representing the proportionate liability of the **Insured** as between the **Insured** and the concurrent wrongdoer for any damage or loss. For the purposes of this clause a concurrent wrongdoer includes a joint tortfeasor and is a person who is one of two or more persons (including a **Medical or Dental Practitioner**) whose individual acts or omissions have caused or contributed to or been alleged to cause or contribute to the damage or loss and who is the subject of the **Claim** at least a part of which is made against the **Insured**.

### 2 LIMIT OF INDEMNITY

**Insurers'** total liability during the **Policy Period** in respect of all **Compensatory Damages** and **Defence Costs** shall not exceed the Limit of Indemnity specified in Item 5 of the Schedule and **Insurers** shall not be liable to pay any sums after the Limit of Indemnity has been exhausted by payment of or agreement to pay **Compensatory Damages** and/or **Defence Costs**.

### 3 DEFINITIONS

#### 3.1 **Claim**

shall mean any

3.1.1 suit or proceedings served upon or issued against the **Insured**;

3.1.2 oral or written allegation communicated to the **Insured**;

3.1.3 oral or written communication from or on behalf of a patient and/or a request to the **Insured** by or on behalf of a patient for medical records or copies of medical records to investigate or contemplate a potential **Claim** against the **Insured** arising out of **Clinical Services**;

provided always that a series of **Claims** arising out of or which are attributable to a single originating cause or source or which are otherwise causally connected shall constitute a single **Claim** for the purposes of this **Policy**.

#### 3.2 **Clinical Services**

shall mean the provision of those professional services within the scope of Orthoptic Practice as determined by the British & Irish Orthoptic Society (BIOS).

#### 3.3 **Compensatory Damages**

shall mean all sums payable in respect of any judgment, award or settlement and is deemed to include third party claimants' fees, costs and expenses for which the **Insured** is liable.

#### 3.4 **Defence Costs**

shall mean reasonable and necessary fees and expenses incurred by or on behalf of the **Insured** with the prior written consent of **Insurers** which result from:

3.4.1 the investigation, defence and/or settlement of a **Claim**; or

3.4.2 the attendance or representation at or in connection with any examination, inquest or enquiry or proceedings commissioned by any official, administrative or regulatory body in the exercise of its powers over any **Insured** in relation to any circumstance, actual or alleged which has a direct relevance to any **Claim**;

and any appeal from any of the proceedings mentioned in 3.4.1 and 3.4.2 above.

#### 3.5 **Excess**

shall mean the amount specified as such in Item 5 of the Schedule which the **Insured** must incur in respect of each and every **Claim** (including **Defence Costs**) for which the **Insurers** are not liable and in excess of which this **Policy** is to apply.

#### 3.6 **Good Samaritan Act**

shall mean treatment administered at the scene of a medical emergency, accident or disaster by the **Insured** who is present either by chance, or in response to an emergency call following a disaster.

### 3.7 **Health Care Professional and Allied Health Professional**

shall mean a person who has received special training or education in a health-related field, including administration, direct provision of patient care, or ancillary services and who holds, or is required by law to hold, a valid licence to practise in the relevant specialty, such licence having been issued by the relevant lawfully established and recognised licensing authority within the territories specified in Item 7 of the Schedule.

### 3.8 **Insured**

shall mean:

3.8.1 British & Irish Orthoptic Society (BIOS) and the Clinical and Non-Clinical Advisory Groups (as detailed more fully in Schedule 'A');

3.8.2 Any individual member of the British & Irish Orthoptic Society (BIOS) named in Item 2 of the schedule carrying out **Clinical Services** as defined in definition 3.2 in the territories specified in Item 7 of the schedule;

3.8.3 Any UK based and registered partnership (but not a limited liability partnership LLP) comprising solely of BIOS members carrying out **Clinical Services** as defined in definition 3.2 in the territories specified in Item 7 of the schedule;

3.8.4 the personal representatives of the estate of any person who would otherwise be indemnified under this policy;

3.8.5 Any UK based and registered Limit Liability Partnership with a turnover or revenue of no more than GBP 75,000.00, comprising solely of BIOS members carrying out **Clinical Services** as defined in definition 3.2 in the territories specified in Item 7 of the Schedule;

### 3.9 **Medical or Dental Practitioner**

shall mean a person who holds, or is required by law to hold, a valid licence to practise as a Doctor, Physician, Surgeon, Dental Surgeon or Dentist, such licence having been issued by the relevant lawfully established and recognised licensing authority within the territories specified in Item 7 of the Schedule.

### 3.10 **Policy**

shall mean:

3.10.1 the Schedule, Insuring Clauses, Extensions, Conditions, Definitions, Exclusions and

3.10.2 any endorsement attaching to and forming part of this **Policy** either at its inception or

3.10.3 the **Proposal**.

### 3.11 **Policy Period**

shall mean the period set out in Item 4 of the Schedule.

### 3.12 **Principal**

A **Principal** shall mean any person who directly or indirectly engages the **Insured** to provide **Clinical Services** as set out in the **Proposal**.

### 3.13 **Expert Witness**

shall mean any person who is a specialist in a subject presenting his or her expert opinion, without having been a witness to any occurrence relating to the law suit or criminal case. The experts work is qualified by evidence of his or her expertise, training and special knowledge of the relevant subject.

### 3.14 **Product**

shall mean any solid, liquid, or gaseous substance or device or component part thereof, manufactured, constructed, altered, repackaged, repaired, serviced, treated, administered, sold, supplied or distributed by or on behalf of the **Insured** or used by the **Insured** in the provision of **Clinical Services** but not any food and drink provided primarily for the benefit of staff, visitors or patients for consumption on the premises.

### 3.15 **Proposal**

shall mean the written **Proposal** or declaration bearing the date stated in Item 9 of the Schedule and/or any presentation, statements, declarations, warranties or information upon which the **Insurers** have relied made by or on behalf of the **Insured** to the **Insurers** for the insurance evidenced by this **Policy**.

### 3.16 **Terrorism**

shall mean any act or acts of force and/or violence

3.16.1 for political, religious or other ends and/or

3.16.2 directed towards the over-throwing or influencing of the Government de jure or de facto, and/or

3.16.3 for the purpose of putting the public or any part of the public in fear

by any person or persons acting alone or on behalf of or in connection with any organisation.



## 4 EXCLUSIONS

### 4.1 Retroactive Date

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any act, error, omission, circumstances or event occurring or committed or alleged to have been committed prior to the Retroactive Date specified in Item 8 of the Schedule;

### 4.2 Prior Circumstances

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any event or circumstance which might reasonably be expected to give rise to a **Claim** being made against the **Insured** and which the **Insured** knew about or reasonably could have foreseen or discovered prior to the **Policy Period**. Where the **Insured** has received either an oral or written communication from or on behalf of a patient and/or a request by or on behalf of a patient for copies of medical records, the **Insured** will be deemed to have been aware of a **Claim**;

Notwithstanding Exclusion 4.2 (Prior Circumstances), should a **Claim** which should have been notified, or a fact or circumstance which should have been notified, to **Insurers** under an earlier **Policy** placed through The MPLC, then **Insurers** may accept the notification of such **Claim**, fact or circumstance under this **Policy**. PROVIDED ALWAYS THAT:

4.2.1 The **Insured** has been covered continuously under a **Policy** placed through The MPLC between the date when such notification should have been given and the date when such notification was, in fact, given; and

4.2.2 The **Insurers** acting reasonably but otherwise at their discretion are satisfied that the failure by the **Insured** to notify the **Claim** fact or circumstance (as the case may be) was unintentional and attributable to good faith mistake or oversight on the part of the **Insured**; and

4.2.3 the terms and conditions applicable to this extension and to that notification shall not be those of this **Policy** but shall be the terms and conditions (including the unexhausted portion of the Limit of Indemnity and **Excess**) applicable to the **Insurers'** earlier **Policy** under which the notification should have been given.

### 4.3 Medical or Dental Practitioner

**Insurers** shall not be liable for any **Claim**, (or related **Defence Costs**) made against any **Medical or Dental Practitioner**, regardless of whether such individual is either employed by the **Insured** or acting as a self-employed contractor or sub-contractor.

### 4.4 Other Insurances

**Insurers** shall not be liable for any **Claim** or **Defence Costs** which is the subject of insurance or indemnity or other form of compensation or payment provided by any medical defence organisation or similar scheme, club, association or arrangement, nor in respect of any circumstance, occurrence, fact, matter or **Claim** notified under any other insurance, indemnity or other form of compensation or payment provided by any medical defence organisation or similar scheme, club, association or arrangement prior to the **Policy Period**, it

being understood and agreed that this **Policy** shall not be drawn into contribution with such other insurance, indemnity, compensation or payment; save to the extent that the **Claim** exceeds the limit of liability under such insurance or indemnity or compensation or payment or the **Insured** is not indemnified for its proportionate liability for the **Claim**.

#### 4.5 Waived Recourse Rights

**Insurers** shall not be liable for any **Claim** or **Defence Costs** where **Insurers** have or would have rights of recourse in respect of such **Claim** but the **Insured** has granted without **Insurers'** prior consent a waiver of such recourse rights to others whether by express term or by reason of an assumption of liability under contract;

#### 4.6 Wrongful Acts

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with

4.6.1 any deliberate or wilful misconduct including any deliberate or wilful breach of statute, ordinance or regulation

4.6.2 any dishonest, fraudulent or criminal act, except breaches of local statutory or regulatory obligations by either Members deployed for and on behalf of the UK's Ministry of Defence or Members travelling outside of Great Britain, Northern Ireland, Channel Islands, Isle of Man and the Republic of Ireland with individual British based clients, British based teams, British based athletes or British based entities which retain BIOS members for the provision of Clinical Services, for their own needs.

4.6.3 the performance of the activities of the **Insured** whilst under the influence of intoxicants or narcotics;

#### 4.7 Products Liability

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any **Product**;

#### 4.8 Employers' Liability

**Insurers** shall not be liable for any **Claim** (or related **Defence Costs**) caused by or on behalf of any person who is an **Insured** or by any other person under a contract of service or apprenticeship with the **Insured** or under **Insured** supervision and made by or on behalf of an employee (or his/her estate) for death, bodily injury, mental injury, illness or disease or for any breach of any obligation owed by the **Insured** as an employer to any such person, or for any **Claim** in respect of which compensation is available under any Workers' Compensation Scheme and/or similar legislation.

However, this exclusion shall not apply to any **Claim** arising out of any death, bodily injury, mental injury, illness or disease of any such person who is or becomes a patient of the **Insured** entirely independently of their employment;

#### 4.9 Directors and Officers Liability

**Insurers** shall not be liable for any **Claim** (or related **Defence Costs**) made against any director or officer of the **Insured**, directly or indirectly caused by or arising out of or in any

way connected with any unlawful, wrongful or negligent act, error or omission or breach of trust, breach of warranty of authority, or breach of duty, whether actual or alleged, committed, permitted or attempted by such director or officer where such **Claim** is made solely by reason of his holding the position of director or officer and having acted in that capacity;

#### 4.10 Internet Activities

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any clinical advice, diagnosis or treatment given by the **Insured** online or via the Internet;

#### 4.11 Sexual Conduct

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any actual or attempted or alleged sexual relations, sexual contact or intimacy, sexual harassment or sexual exploitation;

#### 4.12 Radioactive Contamination

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or from the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

However this Exclusion does not apply to liability arising out of the ordinary use of health department approved medical and/or diagnostic equipment incorporating radioactive isotopes and/or radium compounds and/or involving the emission of ionizing radiation.

#### 4.13 War

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) civil war, rebellion, revolution, insurrection, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power, martial law, riot or the act of any lawfully constituted Authority.

Provided always that this exclusion shall not apply to any **Claims** which may arise from the provision of any **Clinical Services** which are subsequently provided to any patients of the **Insured**.

It is understood and agreed that in any **Claim** and in any action, suit or other proceedings to enforce a **Claim** under this Insurance for loss or damage or legal liability, the BURDEN OF PROVING that such loss or damage or legal liability does not fall within this exclusion shall be upon the **Insured**.

#### 4.14 Terrorism

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with **Terrorism** (including, without limitation, contemporaneous or ensuing loss or damage or legal liability caused by fire and/or looting and/or theft).

Provided always that this exclusion shall not apply to any **Claims** which may arise from the provision of any **Clinical Services** which are subsequently provided to any patients of the **Insured**.

It is understood and agreed that in any **Claim** and in any action, suit or other proceedings to enforce a **Claim** under this Insurance for loss or damage or legal liability, the BURDEN OF PROVING that such loss or damage or legal liability does not fall within this exclusion shall be upon the **Insured**.

#### 4.15 Pollution

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with:

4.15.1 seepage, pollution or contamination

4.15.2 the cost of removing, nullifying or cleaning up seeping, polluting or contaminating substances;

Provided always that this exclusion shall not apply to any **Claims** which may arise from the provision of any **Clinical Services** which are subsequently provided to any patients of the **Insured**.

#### 4.16 Fines and Penalties

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with fines, penalties, punitive or exemplary damages, aggravated damages or multiplication of compensation awards;

#### 4.17 Insured versus Insured

**Insurers** shall not be liable for any **Claim** or **Defence Costs** made by one **Insured** against any other **Insured**. However, this exclusion shall not apply to any **Claim** arising out of any death, bodily injury, mental injury, illness or disease of any such person who is or becomes a patient of the **Insured**.

#### 4.18 Toxic Mould

**Insurers** shall not be liable for any **Claim** or **Defence Costs** arising from

4.18.1 liability caused by or arising from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of or presence of any Fungi or bacteria on or within a building or structure, including its contents;

4.18.2 any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralising, remediating or disposing of, or in any way responding to or assessing the effects of Fungi or bacteria by any **Insured** or by any other person or entity.

Fungi means any type or form of fungus, including mould or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

However this Exclusion does not apply to liability arising out of the diagnosis and/or treatment of patients of the **Insured** who are suffering from infection by such organisms.

#### 4.19 **Principal's liability**

**Insurers** shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any actual or alleged act, error or omission committed by the **Insured's Principal** or by any director, officer or employee of the **Principal** or of any person acting for and on behalf of the **Principal** except the **Insured**.

#### 4.20 Treatment of Animals

**Insurers** shall not be liable for any **Claim** or **Defence Costs** arising from any **Claims** directly or indirectly caused by or in any way connected with the treatment of animals.

#### 4.21 Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable 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 that (re)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.

## 5 CONDITIONS

### 5.1 Disclosure

5.1.1 Before this Policy is entered into, the **Insured** must make a fair presentation of the risk to the **Insurers**, in accordance with Section 3 of the Insurance Act 2015. In summary, the **Insured** must:

5.1.1.1 Disclose to the **Insurers** every material circumstance which the **Insured** knows or ought to know. Failing that, the **Insured** must give the **Insurers** sufficient information to put a prudent insurer on notice that it needs to make further enquiries in order to reveal material circumstances. A matter is material if it would influence the judgement of a prudent insurer as to whether to accept the risk, or the terms of the insurance (including premium);

5.1.1.2 Make the disclosure in clause 5.1.1.1 above in a reasonably clear and accessible way; and

5.1.1.3 Ensure that every material representation of fact is substantially correct, and that every material representation of expectation or belief is made in good faith.

- 5.1.2 For the purposes of clause 5.1.1 above, the **Insured** is expected to know the following:
- 5.1.2.1 If the **Insured** is an individual, what is known to the individual and anybody who is responsible for arranging his or her insurance.
- 5.1.2.2 If the **Insured** is not an individual, what is known to anybody who is part of the **Insured's** senior management; or anybody who is responsible for arranging the **Insured's** insurance.
- 5.1.2.3 Whether the **Insured** is an individual or not, what should reasonably have been revealed by a reasonable search of information available to the **Insured**. The information may be held within the **Insured's** organisation, or by any third party (including but not limited to subsidiaries, affiliates, the broker, or any other person who will be covered under the insurance). If the **Insured** is insuring subsidiaries, affiliates or other parties, the **Insurers** expect that the **Insured** will have included them in its enquiries, and that the **Insured** will inform the **Insurers** if it has not done so. The reasonable search may be conducted by making enquiries or by any other means.
- 5.1.3 If, prior to entering into this **Policy**, the **Insured** shall breach the duty of fair presentation, the remedies available to the **Insurers** are set out below.
- 5.1.3.1 If the **Insured's** breach of the duty of fair presentation is deliberate or reckless:
- i. The **Insurers** may avoid the **Policy**, and refuse to pay all **Claims**; and,
  - ii. The **Insurers** need not return any of the premiums paid.
- 5.1.3.2 If the **Insured's** breach of the duty of fair presentation is not deliberate or reckless, the **Insurers** remedy shall depend upon what the **Insurers** would have done if the **Insured** had complied with the duty of fair presentation:
- i. If the **Insurers** would not have entered into the **Policy** at all, the **Insurers** may avoid the contract and refuse all **Claims**, but must return the premiums paid.
  - ii. If the **Insurers** would have entered into the **Policy**, but on different terms (other than terms relating to the premium), the **Policy** is to be treated as if it had been entered into on those different terms from the outset, if the **Insurers** so require.
  - iii. In addition, if the **Insurers** would have entered into the **Policy**, but would have charged a higher premium, the **Insurers** may reduce proportionately the amount to be paid on a **Claim** (and, if applicable, the amount already paid on prior **Claims**). In those circumstances, the **Insurers** shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged} / \text{higher premium}) \times 100$ .



5.1.4 If, prior to entering into a variation to this insurance **Policy**, the **Insured** shall breach the duty of fair presentation, the remedies available to the **Insurers** are set out below.

5.1.4.1 If the **Insured's** breach of the duty of fair presentation is deliberate or reckless:

- i. The **Insurers** may by notice to the **Insured** treat the **Policy** as having been terminated from the time when the variation was concluded; and,
- ii. **Insurers** need not return any of the premiums paid.

5.1.4.2 If the **Insured's** breach of the duty of fair presentation is not deliberate or reckless, the **Insurers'** remedy shall depend upon what the **Insurers** would have done if the **Insured** had complied with the duty of fair presentation:

- i. If the **Insurers** would not have agreed to the variation at all, the **Insurers** may treat the **Policy** as if the variation was never made, but must in that event return any extra premium paid.
- ii. If the **Insurers** would have agreed to the variation to the **Policy**, but on different terms (other than terms relating to the premium), the variation is to be treated as if it had been entered into on those different terms, if the **Insurers** so require.
- iii. If the **Insurers** would have increased the premium by more than it did or at all, then the **Insurers** may reduce proportionately the amount to be paid on a **Claim** arising out of events after the variation. In those circumstances, the **Insurers** shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ .
- iv. If the **Insurers** would not have reduced the premium as much as it did or at all, then the **Insurers** may reduce proportionately the amount to be paid on a **Claim** arising out of events after the variation. In those circumstances, the **Insurers** shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/reduced total premium}) \times 100$ .

Nothing in these clauses is intended to vary the position under the Insurance Act 2015.

5.1.5 It is a condition precedent to the right of the **Insured** to be indemnified under this **Policy** that, during the **Policy Period**, the **Insured** shall give as soon as practicable notice in writing to the party named in Item 10 of the Schedule of any alteration which materially affects the risk. The **Insurers** are entitled to refuse to cover the additional exposure or cancel the contract in accordance with the cancellation provisions of this **Policy**.

5.1.6 It is a condition precedent to the **Insured's** right to be indemnified under this **Policy** that the **Insured** shall meet the payment of the **Excess**.

## 5.2 Claims

### 5.2.1 Notice

It is a condition precedent to the right of the **Insured** to be indemnified under this **Policy** that notice of any **Claim** as well as any circumstances or incidents which might reasonably be expected to give rise to a **Claim** shall be given to **Insurers** as soon as reasonably practical upon the **Insured** becoming aware thereof. Notice of such **Claim** or circumstances or incident shall be in writing (using the MPLC's First Notification Form) and shall be delivered by fax, email or by post to the address specified in Item 10 of the Schedule.

Notice of all **Claims** and circumstances must be made within the **Policy Period** provided that the **Insured** shall have an extra 180 calendar days to notify **Claims** of which they become aware on or as soon as reasonably practical prior to the expiry of the **Policy Period**.

If the **Insured** provides **Insurers** with notice of circumstances or incidents as mentioned above during the **Policy Period** which are accepted by the **Insurers**, any **Claim** subsequently made which arises from those circumstances shall be deemed, notwithstanding the **Claim** was made after expiry of the **Policy Period**, to be reported to **Insurers** on the date when the circumstances were notified to them.

The simple noting of an incident in an incident book without other grounds for believing a **Claim** may be made shall not constitute a notifiable circumstance or incident.

### 5.2.2 Control of Claims

**Insurers** shall be entitled but not obligated to take control of the defence of any **Claim** in the **Insured's** name and shall have full discretion in the conduct of any negotiations or proceedings in the settlement of any **Claim**. The **Insured** shall assist the **Insurers** and co-operate fully with them in the investigation and/or defence of any **Claim** and the prosecution of any subrogation or recovery action without charge to **Insurers**.

### 5.2.3 Consent of Insurers

The **Insured** shall not:

5.2.3.1 disclose to any person, other than an **Insured** the terms of this **Policy**

5.2.3.2 admit liability

5.2.3.3 enter any agreement or arrangement (in relation to investigation, defence or settlement of **Claim**)

5.2.3.4 make any offer, payment or promise in relation to any **Claim**

5.2.3.5 incur any cost or expense without the prior written consent of **Insurers**.



#### 5.2.4 Consent of the **Insured**

**Insurers** will not settle any **Claim** without the consent of the **Insured**.

If however the **Insured** refuses to consent to any settlement recommended by **Insurers** or their legal representatives then **Insurers'** liability will not exceed the total amount for which the **Claim** could have been settled plus the **Defence Costs** incurred with their consent up to the date of the refusal or the applicable Limit of Indemnity whichever is less.

#### 5.2.5 Relinquishment

**Insurers** may at any time pay to the **Insured** in connection with any **Claim** the amount of the Limit of Indemnity remaining under this **Policy** or any lesser amount for which such **Claim** can be settled less any sums already paid and less any associated **Defence Costs** already paid. Upon such payment being made, the **Insurers** shall relinquish the conduct and control of and be under no further liability in connection with such **Claim** or associated **Defence Costs** incurred after the date of such relinquishment.

#### 5.2.6 Subrogation

In relation to sums paid or payable by them, **Insurers** shall be entitled at any stage to bring an action for their own benefit seeking indemnity, damages or otherwise against any third party in the name of the **Insured** provided such subrogation will not be exercised against the **Insured's Principal** or entities which are 100% owned by an individual member of the BIOS and where they are the only practitioner and where the **Claim** relates to the Member's negligence.

**Insurers'** expenses in the recovery shall always be deducted prior to the application of the recovery to the **Claim**.

#### 5.2.7 Fraudulent **Claims**

5.2.7.1 If the **Insured** makes a fraudulent **Claim** under this **Policy**, the **Insurers**:

- i. Are not liable to pay the **Claim**; and
- ii. May recover from the **Insured** any sums paid by the **Insurers** to the **Insured** in respect of the **Claim**; and
- iii. May by notice to the **Insured** treat the **Policy** as having been terminated with effect from the time of the fraudulent act.

5.2.7.2 If the **Insurers** exercise their rights under clause (5.2.7.1) (iii) above

- i. The **Insurers** shall not be liable to the **Insured** in respect of a relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to the **Insurers'** liability under the **Policy** (such as the occurrence of a loss, the making of a **Claim**, or the notification of a potential **Claim**); and,
- ii. The **Insurers** need not return any of the premiums paid.

5.2.7.3 If this insurance **Policy** provides cover for any person who is not a party to the **Policy** (“a covered person”), and a fraudulent **Claim** is made under the **Policy** by or on behalf of a covered person, the **Insurers** may exercise the rights set out in clause (5.2.7.1) above as if there were an individual insurance **Policy** between the **Insurers** and the covered person. However, the exercise of any of those rights shall not affect the cover provided under the **Policy** for any other person.

Nothing in these clauses is intended to vary the position under the Insurance Act 2015.

### 5.3 Records

The **Insured** shall at all times:

- 5.3.1 maintain accurate descriptive records of all **Clinical Services** and equipment used in procedures. Such records shall be made available for inspection and use by **Insurers** or their appointed representatives in the investigation or defence of any **Claim** hereunder;
- 5.3.2 retain the records referred to in 5.3.1 above for a period of at least ten (10) years from the date of treatment and, in the case of a minor, for a period of at least ten (10) years after that minor attains majority. Obstetric records must be retained and preserved indefinitely;
- 5.3.3 provide **Insurers** or their appointed representatives with such oral or written information, assistance, signed statements, evidence or depositions as **Insurers** may require;

### 5.4 Licensing of all **Health Care Professionals and Allied Health Professionals**

It is a condition precedent to the **Insured's** right to be indemnified under this **Policy** that the **Insured** keep accurate records of and ensure that throughout the **Policy Period** all **Health Care Professionals and Allied Health Professionals** or any other persons supplying **Clinical Services** hold valid licences to practise in their respective specialisations issued by the relevant lawfully established and recognised licensing authority within the territories specified in Item 7 of the Schedule.

This Condition, shall also apply to any self employed individual acting as a self employed contractor or sub-contractor.

#### 5.5 Insurance or Indemnification of **Medical or Dental Practitioners**

It is a condition precedent to the **Insured's** right to be indemnified under this **Policy** that the **Insured** keep accurate records of and ensure that throughout the **Policy Period** all **Medical or Dental Practitioners** (whether an employee of the **Insured** or not) are fully paid up members of a defence organisation or similar scheme, club, association or arrangement from which such **Medical or Dental Practitioners** benefit from insurance, indemnity or other benefit or form of compensation or payment in respect of their activities as **Medical or Dental Practitioners**.

This condition shall apply in respect of all **Clinical Services** which are provided by **Medical or Dental Practitioners** during the **Policy Period**.

#### 5.6 Insurance or Indemnification of **Health Care Professionals and Allied Health Professionals**

It is a condition precedent to the **Insured's** right to be indemnified under this **Policy** that the **Insured** keep accurate records of and ensure that throughout the **Policy Period** all **Health Care Professionals and Allied Health Professionals** who are not employees of the **Insured** are fully paid up members of a defence organisation or similar scheme, club, association or arrangement from which such **Health Care Professionals and Allied Health Professionals** benefit from insurance, indemnity or other benefit or form of compensation or payment in respect of their activities as **Health Care Professionals and Allied Health Professionals**.

This condition shall apply in respect of all **Clinical Services** which are provided by **Health Care Professionals and Allied Health Professionals** during the **Policy Period**.

#### 5.7 Cancellation

**Insurers** may cancel this **Policy** by giving written notice to the **Insured** at the address stated in item 3 of the Schedule of thirty (30) calendar days before the effective date of cancellation. Premium will be refunded to the **Insured** on a pro rata basis.

If notice is mailed by registered post, proof of mailing will be sufficient evidence of notice being sent, and notice shall be deemed to have been served seven (7) calendar days after dispatch. Notice may also be validly served by email or fax to the **Insured** or the **Insured's** agent or broker. Notice by email will be deemed to have been duly received if within five (5) calendar days a reply, whether in the form of an acknowledgement or otherwise, has been sent to and received by the original sender or a telephone confirmation from a responsible person has been given. Notice by fax will be deemed to have been duly received if the sending machine has printed a valid confirmation of receipt. Notice by fax or email, duly received, will be deemed to have been served five (5) calendar days after the date of sending.

#### 5.8 Premium Payment Warranty

It is warranted that all premiums due to The MPLC Limited under this **Policy** are paid by the premium due dates stated in Item 6 of the Schedule. Non-receipt by The MPLC Limited of such premiums by midnight of the respective premium due date shall discharge **Insurers'** liability from the time of the breach of warranty, regardless of whether the breach is subsequently remedied. Section 10 of the Insurance Act 2015 shall not apply to this Premium Payment Warranty

#### 5.9 **Policy** Jurisdiction and Applicable Law

This **Policy** is governed by and should be construed in accordance with the law of the country specified in Item 12 of the Schedule.

Any dispute between the **Insurers** and the **Insured** concerning this **Policy**, its validity, existence or termination or relating to the interpretation of the terms, conditions, limitations and/or exclusions contained herein shall be determined in accordance with the law of the country specified at Item 12 of the Schedule. The parties agree to submit to the exclusive jurisdiction of any court of competent jurisdiction within that country and to comply with all requirements necessary to give such court jurisdiction.

621MILMPLC00218A (Amended for BIOS)

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## Extension - Internet

Notwithstanding the provisions of Exclusion 4.10 the **Policy** is amended to also indemnify the **Insured**, in the course of the provision of the **Insured's Clinical Services**, for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** and/or **Defence Costs** resulting from any **Claims** arising from any advice, diagnosis or treatment given or information of any type published or promoted by the **Insured** over the Internet or via any computer or any electronic system accessible outside the **Insured's** premises.

### SUB-LIMIT OF INDEMNITY

Underwriters' total liability during the **Policy Period** in respect of any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with the coverage provided by this extension shall not exceed GBP 2,500,000.00 and Underwriters shall not be liable to pay any sums after this Limit of Indemnity has been exhausted.

Unless otherwise specified in the **Policy**, the above limit shall be inclusive of all **Defence Costs**, provided always that this extension will not operate to increase any aggregate Limit of Indemnity stated in Item 5 of the Schedule.

The Limit of Indemnity of Underwriters shall be in excess of the amount stated in Item 5 of the Schedule as the **Excess** in respect of each and every **Claim**.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

621MILMPLC00017B - Extension - Internet

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## Extension - Loss of Documents

This **Policy** is amended to also indemnify the **Insured** for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** resulting from any **Claims** for loss of any of the following documents:

1. Patient medical records;
2. Documents (other than documents which have monetary value) entrusted to the **Insured** in the course of the provision of the **Insured's Clinical Services** by any patient, including deeds, wills, plans, letters and certificates.

The Underwriters will also indemnify the **Insured** for the costs incurred by the **Insured** with Underwriters' prior written approval in restoring or replacing any of the documents referred to in 1 and 2 above or;

3. The **Insured's** own administrative and accounting records (other than patient medical records) which have been lost.

In this Extension the terms 'loss' and 'lost' shall refer to the irrevocable loss, damage, theft or destruction of documents which after diligent search by the **Insured** cannot be found. Documents having monetary value shall be understood to mean tickets, bills, bank-notes, negotiable instruments, bearer bonds, travellers' cheques and the like.

The Underwriters shall not be liable for any **Claim** or **Defence Costs** arising from:

1. Libel or Slander;
2. Any infringement of the UK Data Protection Act 2018 and the General Data Protection Regulation 2016/679 ("Data Protection Law") and Data Protection Act 1998, other legislation derivative of EU Directive 95/46/EC of 24th October 1995 or similar legislation in any country;
3. Breach of Professional Confidentiality.

### Sub-Limit of Indemnity

The Underwriters shall not be liable under this **Policy** to pay more than GBP 250,000.00 in the aggregate in respect of all **Claims** arising or notified under this **Policy Period** in respect of any and all **Claims** or costs arising directly or indirectly from or in any way connected with loss of documents referred to in 1,2 or 3 above.

Unless otherwise specified in the **Policy**, the above limit shall be inclusive of all **Defence Costs**, provided always that this endorsement will not operate to increase any aggregate Limit of Indemnity already stated in the **Policy**.

The Limit of Indemnity of the Underwriters shall be in excess of the amount stated in Item 5 of the Schedule as the **Excess** in respect of each and every **Claim**.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

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## Extension - Breach of Professional Confidentiality

This **Policy** is amended to also indemnify the **Insured** for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** resulting from any **Claims** for **Breach of Professional Confidentiality**.

For the purposes of this extension **Breach of Professional Confidentiality** shall mean

“information known to the **Insured** by virtue of their relationship with a patient in accordance with the provision of **Insured’s Clinical Services** which should not be disclosed to third parties without the patients prior consent”

In the event of a **Claim**, the **Insured** shall, if requested to do so by Underwriters, issue an apology and expression of regret, the form and content of which are to be approved by Underwriters. Underwriters shall not be liable to further defend or indemnify the **Insured** if the **Insured** refuses to issue such an apology and expression of regret or fails to issue it within the time frame specified by the Underwriters.

The Underwriters shall not be liable for any **Claim** or **Defence Costs** arising from:

1. Libel or Slander;
2. Any infringement of the UK Data Protection Act 2018 and the General Data Protection Regulation 2016/679 (“Data Protection Law”) and Data Protection Act 1998, other legislation derivative of EU Directive 95/46/EC of 24th October 1995 or similar legislation in any country;
3. Loss of documents entrusted to the **Insured** in a professional capacity.

### Sub-Limit of Indemnity

The Underwriters shall not be liable under this **Policy** to pay more than GBP 250,000.00 in the aggregate in respect of all **Claims** arising or notified under this **Policy Period** in respect of any and all **Claims** or costs arising directly or indirectly from or in any way connected with loss of documents referred to in 1,2 or 3 above.

Unless otherwise specified in the **Policy**, the above limit shall be inclusive of all **Defence Costs**, provided always that this endorsement will not operate to increase any aggregate Limit of Indemnity already stated in the **Policy**.

The Limit of Indemnity of the Underwriters shall be in excess of the amount stated in Item 5 of the Schedule as the **Excess** in respect of each and every **Claim**.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

621MILMPLC00020A (AMENDED FOR BIOS) - Extension - Breach of Professional Confidentiality  
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## Extension - Libel and Slander

This **Policy** is amended to also indemnify the **Insured** for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** resulting from any **Claims** for **Libel or Slander**.

For the purposes of this extension **Libel or Slander** shall mean

“A false statement made by words, pictures, visual images, gestures or other methods of signifying meaning which lower a person in the estimation of right thinking members of society generally or cause him to be shunned or avoided or to expose him to hatred, contempt or ridicule, or to disparage him in his office, profession, calling, trade or business”

In the event of a **Claim**, the **Insured** shall, if requested to do so by Underwriters, issue an apology and expression of regret, the form and content of which are to be approved by Underwriters. Underwriters shall not be liable to further defend or indemnify the **Insured** if the **Insured** refuses to issue such an apology and expression of regret or fails to issue it within the time frame specified by the Underwriters.

The Underwriters shall not be liable for any **Claim** or **Defence Costs** arising from:

1. Any communication or contribution to the press or media, unless previously vetted and approved by a solicitor or lawyer;
2. **Libel or Slander** committed or alleged to have been committed against professional adversaries or business competitors. This exclusion shall not apply to those members acting as an **Expert Witness**;
3. Any infringement of the UK Data Protection Act 2018 and the General Data Protection Regulation 2016/679 (“Data Protection Law”) and Data Protection Act 1998, other legislation derivative of EU Directive 95/46/EC of 24th October 1995 or similar legislation in any country;

Sub-Limit of Indemnity

The Underwriters shall not be liable under this **Policy** to pay more than GBP 250,000.00 in the aggregate in respect of all **Claims** arising or notified under this **Policy Period** in respect of any and all **Claims** or costs arising directly or indirectly from or in any way connected with loss of documents referred to in 1,2 or 3 above.

Unless otherwise specified in the **Policy**, the above limit shall be inclusive of all **Defence Costs**, provided always that this endorsement will not operate to increase any aggregate Limit of Indemnity already stated in the **Policy**.

The Limit of Indemnity of the Underwriters shall be in excess of the amount stated in Item 5 of the Schedule as the **Excess** in respect of each and every **Claim**.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

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## Extension - Pure Economic Loss

This **Policy** is amended to also indemnify the **Insured** for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** resulting from any **Claims** for pure economic loss not associated with any death, bodily injury, mental injury, illness or disease of or to any person or loss of or damage to tangible property of any person caused by a negligent act, error or omission resulting from or associated with the provision of **Clinical Services** by the **Insured**.

This Extension is subject to all the terms, Conditions and Exclusions of the **Policy** insofar as they can apply, subject to any modification by any extension and Underwriters shall not be liable for any **Claim** or **Defence Costs**:

1. Directly or indirectly caused by or arising out of or in any way connected with loss of documents, defamation or breach of confidentiality.
2. Directly or indirectly caused by or arising out of or in any way connected with infringement of copyright, design or trademark or passing off.
3. Directly or indirectly caused by or arising out of or in any way connected with infringement of or any breach of the UK Data Protection Act 2018 and the General Data Protection Regulation 2016/679 (“Data Protection Law”) and Data Protection Act 1998, other legislation derivative of EU Directive 95/46/EC of 24th October 1995 or similar legislation in any country.
4. Directly or indirectly caused by or arising out of or in any way connected with financial default or insolvency, fraud or dishonesty or the misuse or misappropriation of funds of or by the **Insured**.
5. Directly or indirectly caused by or arising out of or in any way connected with breach of any anti-trust or monopoly legislation.
6. Directly or indirectly caused by or arising out of or in any way connected with liability assumed under any contract entered into by or on behalf of the **Insured** unless such liability would have attached in the absence of such contract.
7. Directly or indirectly caused by or arising out of or in any way connected with breach of contract by the **Insured** unless the **Insured** can prove that the breach was the direct result of circumstances outside **Insured’s** control.
8. Made by any parent, subsidiary or associated or affiliated company of the **Insured** unless the Claim emanates from an independent third party.
9. Made by any Insured or by Medical or Dental Practitioners.
10. Made by any person or entity who has a Claim against the **Insured** by virtue of any right or interest to or in the **Insured**.

### Sub-Limit of Indemnity

The Underwriters shall not be liable under this **Policy** to pay more than GBP 2,500,000.00 in the aggregate in respect of all **Claims** arising or notified under this **Policy Period** in respect of any and all **Claims** or costs arising directly or indirectly from or in any way connected with loss of documents referred to in 1,2 or 3 above.

Unless otherwise specified in the **Policy**, the above limit shall be inclusive of all **Defence Costs**, provided always that this endorsement will not operate to increase any aggregate Limit of Indemnity already stated in the **Policy**.

The Limit of Indemnity of the Underwriters shall be in excess of the amount stated in Item 5 of the Schedule as the

**Excess** in respect of each and every **Claim**.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

621MILMPLC00023A (AMENDED FOR BIOS) - Extension - Pure Economic Loss

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Specimen - For Reference Only



## Extension - Products Liability

### Insuring Clause

Notwithstanding the provisions of Exclusion 4.7, Underwriters agree, subject to the terms, conditions and exclusions contained herein to indemnify the **Insured** in excess of the sum specified in the Schedule as the **Excess** for sums which the **Insured** shall become legally liable to pay as **Compensatory Damages** in accordance with the laws of the country specified in Item 11 of the Schedule resulting from any **Claims** made against the **Insured** and notified to Underwriters during the **Policy Period** arising in respect of the **Insured's** liability for death, bodily injury, mental injury, illness or disease of or to any patient of the **Insured** caused by any actual or alleged negligent act, negligent error or negligent omission committed by the **Insured** which arises from the **Supply of Products** to such patient of the **Insured**.

### Definition

For the purposes of this extension, "**Products**" shall mean:

"any solid, liquid, or gaseous substance or device or component part thereof, manufactured, constructed, altered, repackaged, repaired, serviced, treated, administered, sold, supplied or distributed by or on behalf of the **Insured**, and no longer in the possession of or under the control of the **Insured**."

For the purposes of this extension, "**Supply**" shall mean:

"**Supply** in the provision of **Clinical Services** or the performance of **Good Samaritan Acts** and includes **Supply** (including re-supply) by way of sale, exchange, lease, hire, hire purchase or distribution but does not include the manufacture, construction, administration, alteration, repackaging, repair, servicing, or use, of any other **Products** associated with or in the course of the **Supply** of those **Products**, which are not also supplied."

For the purposes of this extension, "**Technical or Administration staff**" shall mean:

"any person included within the definition of the **Insured**, per clause 3.8, who does not have any direct patient contact or provide direct patient care."

The Underwriters shall not be liable for any **Claim** or **Defence Costs**

1. directly or indirectly caused by or arising out of or in any way connected with damage to any **Product** or part thereof; but this exclusion shall not apply to consequent injury or damage;
2. directly or indirectly caused by or arising out of or in any way connected with the costs incurred in the repair, reconditioning, modification or replacement of any **Product** or part thereof including any economic loss consequent upon the necessity for repairing, reconditioning, modifying or replacing such **Product**;
3. directly or indirectly caused by or arising out of or in any way connected with the recall of any **Product** or part thereof;
4. directly or indirectly caused by or arising out of or in any way connected with any **Product** or part thereof which the **Insured** knows or ought to know is intended to be incorporated into the structure, machinery or controls of any aircraft or spacecraft;
5. directly or indirectly caused by or arising out of or in any way connected with any **Product** which is sold, distributed or provided outside of the territory listed in Item 5 of the Schedule;

6. directly or indirectly caused by or arising out of or in any way connected with the failure of the **Insured's Technical or Administrative staff** to take all reasonable precautions to prevent injury and damage.

#### **Sub-Limit of Indemnity**

The Underwriters shall not be liable under this **Policy** to pay more than GBP 2,500,000.00 in the aggregate in respect of all **Claims** arising or notified under this **Policy Period** in respect of any and all **Claims** or costs arising and notified under this **Policy Period** in respect of any and all **Claims** arising directly or indirectly from or in any way connected with this Extension.

Unless otherwise specified in the **Policy**, the above limit shall be inclusive of all **Defence Costs**, provided always that this endorsement will not operate to increase any aggregate Limit of Indemnity already stated in the **Policy**.

The Limit of Indemnity of the Underwriters shall be in excess of the amount stated in Item 5 of the Schedule as the **Excess** in respect of each and every **Claim**.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

621MILMPLC00042A - Extension - Products Liability

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## Extension - Financial Loss Coverage

Underwriters agree to indemnify the **Insured** as a result of any **Claim** for accidental Financial Loss made against the **Insured** and notified to Underwriters during the **Policy Period** and arising out of the **Insured's** business specified in the **Proposal** provided that:

- a) Any **Claim** for accidental Financial Loss takes place on or after the Retroactive Date specified in Item 8 of the Schedule;
- b) The **Claim** is first made against the **Insured** and notified to Underwriters during the **Policy Period**.

Underwriters will not be liable in respect of:

1. Financial Loss arising from:
  - a) Delay, non-performance or non-completion by or on behalf of the **Insured** in carrying out a contract;
  - b) Strikes, labour disturbances, insolvency, financial default, any act of fraud or dishonesty, deceit, conspiracy, malicious falsehood or breach of contract or breach of anti-trust laws;
  - c) Libel, slander or the passing or infringement of patents, copyrights, trade-marks or trade names;
  - d) Breach of trust of warranty or authority, or breach of duty owed to shareholders, investors or partners by any director or officer of the **Insured**;
  - e) The sale or supply of any investment or financial **Product** or service or the provision of, or failure to provide any, instruction advice information or professional service, whether or not rendered for a fee;
  - f) Circumstances known to the **Insured** prior to the commencement date of this extension;
  - g) Any agreement to store, process or supply computer data (including the supply of information derived from such computer data) for a fee or by reciprocal arrangement.
2. Financial Loss:
  - a) Incurred by any Individual Member of the **Insured**;
  - b) In respect of property belonging to the **Insured**, or in the custody or control of the **Insured**, or any employee or agent of the **Insured**.
3. Liability for Financial Loss assumed under any contract or agreement, unless such liability would have attached in the absence of such contract or agreement.
4. Liability arising from any interaction between a computer or computer system:
  - a) Belonging to the **Insured**; or
  - b) For which the **Insured** is responsible; or
  - c) Which is being operated on behalf of the **Insured**.

And a computer or computer system of a third party.
5. Any costs or expenses claimed or incurred for the repair, removal, replacement, recall or disposal of any **Products** out of which the **Claim** arises
6. GBP 1,000,000.00 each and every **Claim** (including **Defence Costs**).

Underwriters' total liability during the **Policy Period** in respect of accidental Financial Loss shall not exceed GBP

1,000,000.00 and Underwriters shall not be liable to pay any sums after this Limit has been exhausted.

**ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.**

621MILMPLC00118 - Extension - Financial Loss Coverage

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Specimen - For Reference Only

## Extension - Healthcare Liability - Cyber and Data Endorsement 2a

1. Notwithstanding any provision to the contrary within this **Policy** or any endorsement thereto, and except as provided in paragraph 2 below, this **Policy** does not cover any actual or alleged loss, damage, liability, **Claim**, fine, penalty, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:
  - 1.1. **Cyber Act** or **Cyber Incident**, including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **Cyber Act** or **Cyber Incident**, or
  - 1.2. **Data Breach**, including notification costs, crisis consultancy costs, credit monitoring expenses, replacement of actual credit or payment cards, forensic expenses, public relations expenses or legal advice and services
2. However, any otherwise covered **Bodily Injury** caused by, contributed to by, resulting from, arising out of or in connection with any **Cyber Act**, **Cyber Incident** or **Data Breach** will be payable subject to the terms, conditions, limitations and exclusions of the **Policy**.

### Definitions

For the purposes of this Endorsement:

3. **Bodily Injury** means physical injury (including death at any time resulting therefrom), including any sickness, disease, or disability and any mental injury, shock, mental anguish, emotional distress or mental disease or illness resulting from physical injury.
4. **Computer System** means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the **Insured** or any other party.
5. **Cyber Act** means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **Computer System**.
6. **Cyber Incident** means:
  - i) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer System**; or
  - ii) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **Computer System**.

7. **Data Breach** means:

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

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

LMA5493

14th December 2020

Specimen - For Reference Only



## ADDITIONAL SCHEDULES AND INFORMATION LISTS

### Schedule A - The Clinical and Non-Clinical Advisory Groups of the British and Irish Orthoptic Society (BIOS)

#### **The Clinical and Non-Clinical Advisory Groups**

Falls

Glaucoma

Medical Retina

Neuro Orthoptics and Ophthalmology

Special Educational Needs

Stroke and Neuro Rehab

Vision Screening

Visual Processing Difficulties

Low Vision

Paediatric Ophthalmology

E-Health

Medicines

Global Involvement and Volunteering for Eyes (GIVE)

Private Practice

Leaders of Orthoptic Professionals (LOOP)

Public Health Group

Research

Specimen - For Reference Only

## ADDITIONAL ENDORSEMENTS

1. Item 6 of the Schedule is as follows

As held on file with BIOS

2. Item 7 of the Schedule is as follows:

Great Britain, Northern Ireland, Channel Islands, Isle of Man, the Republic of Ireland and elsewhere in the World for periods not exceeding 180 days in any 12 month period. Cover outside of Great Britain, Northern Ireland, Channel Islands, Isle of Man and Republic of Ireland shall only be provided hereunder if the Member:-

- a) Where required holds current registration with any Statutory Regulator for qualified members on the date of treatment
- b) Is ordinarily or temporarily resident in Great Britain, Northern Ireland, Channel Islands, Isle of Man and Republic of Ireland. For Members who are temporarily resident in Great Britain, Northern Ireland, Channel Islands, Isle of Man and Republic of Ireland, no cover shall be provided hereunder for any Medical Services which are provided within their own Country of domicile.
- c) Does not provide Medical Services in Australia, other than when visiting with individual British based clients, British based teams, British based athletes, or such British based entities which retain BIOS members for the provision of Medical Services, for their own needs. It is understood and agreed that for the avoidance of doubt such British based organisations may include other nationals.
- d) Does not provide any Medical Services to any USA or Canadian nationals in the USA or Canada.

It is understood and agreed that there is no cover for any **Claims** brought within the USA or Canada regardless of the nationality of the patient and regardless of where in the world they were treated.

It is further understood and agreed that the 180 day restriction shall not apply to any Members deployed overseas for and on behalf of the UK Ministry of Defence.

3. EEA / Non EEA Combined Limit of Liability Clause

This insurance is divided into:

- a) Insurers covering **Claims** arising from within the European Economic Area (EEA); and
- b) Insurers covering **Claims** arising outside the European Economic Area (EEA);

All limits of liability sub-limits of liability and **Excesses** stated in the Schedule and elsewhere within the **Policy** shall be the total amounts applicable to **Claims** arising from both within and from outside the EEA combined.

4. It is understood and agreed that in respect of member Mrs Michelle Brown the 180 day period limitation detailed in Territorial Limits will not apply solely in respect of **Clinical Services** provided in Gibraltar.
5. Students  
Cover shall only be provided hereunder for student Members whilst providing **Clinical Services** delegated by a registered Orthoptist or other healthcare professional.
6. Demonstration & Tuition  
The term 'patient' shall be deemed to include any person who is acting as a patient for demonstration and /or tuition purposes.

## 7. Employees & Vicarious Liability

Insurers shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with any Member who employs or engages an Orthoptist who is not a Member of the BIOS.

Cover shall be provided hereunder for the vicarious liability of a Member which arises from the negligent acts of an employee self-employed person sub-contractor student or associate employed engaged or for whom they are otherwise legally responsible. However cover under this extension shall be only provided if:

- a) any **Claim** falls within the scope of Orthoptic practice and
- b) all qualified Orthoptists retain full BIOS membership in their own name.

## 8. Medical Practitioners

Cover shall be provided hereunder to Members who are also a **Medical Practitioner** but solely in respect of a **Claim** which arises from their practice as an Orthoptist.

For the avoidance of doubt Insurers shall not be liable for any **Claim** or **Defence Costs** directly or indirectly caused by or arising out of or in any way connected with the provision of any **Clinical Services** which go beyond the scope of Orthoptic Practice as determined by the British and Irish Orthoptic Society.

## 9. Run Off Cover

During the **Policy Period** run-off is provided hereunder for:

- a) any former Members who have previously held full practising BIOS membership at the date of treatment or advice regardless of membership status at the date of **Claim**, including those listed on Schedule 'B' with Run Off/end dates.
- b) **Claims** which may arise from **Clinical Services** which have been provided by a Student Support Worker or a Clinical and non-Clinical Advisory Groups listed in Schedule 'A' and
- c) the heirs executors legal or personal representatives of any deceased Member.

## 10. Clinical Trials & Research Projects

Cover shall be provided hereunder in respect of any **Claim** arising from a clinical trial or research project which has been approved by or conducted in accordance with any conditions or approvals made by a properly constituted Ethics Committee

## 11. Data Protection Act 1998 - **Defence Costs** Extension

This **Policy** is amended to also indemnify the **Insured** for **Defence Costs** which are incurred with the Insurers prior consent and agreement which relate to any allegations of any infringements of the UK Data Protection Act 2018 and the General Data Protection Regulation 2016/679 ("Data Protection Law") and Data Protection Act 1998 other legislation derivative of EU Directive 95/46/EC of 24th October 1995 or similar legislation in any country.

The maximum amount of **Defence Costs** which are available under this **Policy** shall be limited to GBP100,000.00 Any One **Claim** and in the Annual Aggregate per member.

For the avoidance of doubt Insurers shall not be liable for any other amounts awards fines or damages which relate to the infringement of the UK Data Protection Act 2018 and the General Data Protection Regulation 2016/679 ("Data Protection Law") and Data Protection Act 1998 other legislation derivative of EU Directive 95/46/EC of 24th October 1995 or similar legislation in any country.

12. It is understood and agreed that the term 'patient' shall be extended to include any client but purely in respect of the provision of **Clinical Services**.

13. Medical and Professional Liability Cover - Extension to **Insured** Principals

Notwithstanding Exclusion 4.19 Principal's Liability this **Policy** is extended to provide cover to:

- a) Principals engaging the **Insured** for the provision of **Clinical Services** other than when engaged as an employee of the Principal.
- b) Principals engaging the **Insured** as an employee but only where the **Insured** is the only practitioner and sole owner of the Principal.

It is understood and agreed this extension does not provide cover for any **Claims** caused by the negligence of anyone other than the **Insured** or results from activities other than **Clinical Services** provided by the **Insured**.

For the avoidance of doubt the **Insured** for the purpose of this extension shall mean a member of the British & Irish Orthoptic Society (BIOS).

14. Orthoptic Assistants and Technicians

Cover shall only be provided hereunder for Orthoptic assistants and technicians whilst providing **Clinical Services** delegated by a registered Orthoptist.

15. It is hereby understood and agreed that the following definition 3. 8 **Insured** is amended to read as follows: 3.8 **Insured**

shall mean:

3.8.1 British & Irish Orthoptic Society and the Clinical and Non-Clinical Advisory Groups (as detailed more fully in Schedule 'A');

3.8.2 Any individual member of the British and Irish Orthoptic Society named in Item 2 of the schedule carrying out **Clinical Services** as defined in definition 3.2 in the territories specified in Item 7 of the schedule; including those members detailed in Schedule 'B' purchasing increased limits;

3.8.3 Any UK based and registered partnership (but not a limited liability partnership LLP) comprising solely of BIOS members carrying out **Clinical Services** as defined in definition 3.2 in the territories specified in Item 7 of the schedule;

3.8.4 Any UK based and registered Limit Liability Partnership with a turnover or revenue of no more than GBP 75,000.00, comprising solely of BIOS members carrying out **Clinical Services** as defined in definition 3.2 in the territories specified in Item 7 of the Schedule;

3.8.5 The personal representatives of the estate of any person who would otherwise be indemnified under this **Policy**;

16. Increased Limit of Liability - Individual Members of BIOS

Subject to the prior written approval of Insurers, an individual Member of the British and Irish Orthoptic Society may elect to pay an additional premium (which is specified in Schedule 'B'), to increase their Limit of Liability to either GBP 5,000,000 Any One Claim and GBP 5,000,000 in the Aggregate or GBP 10,000,000 Any One Claim and GBP 10,000,000 in the Aggregate. Retroactive cover for the increased 'Any One Claim' Limit of Liability shall be limited to the Retroactive date specified in Schedule 'B'. For the avoidance of doubt the individual member of the BIOS must be listed on Schedule 'B' on the date Clinical Services are provided. In the event that a claim is made after the individual member has ceased to purchase the increased Limit of Liability, cover hereunder shall be limited to GBP 2,500,000 Any One Claim and GBP 5,000,000 in the Aggregate, unless Run-off cover for the increased limit has been purchased and shown in Schedule 'B'