

EXCESS HEALTH CARE PROVIDER'S LIABILITY POLICY

THIS IS A STAND ALONE EXCESS LIABILITY POLICY. UNLESS STATED OTHERWISE WITHIN THE COVERAGES IN THIS POLICY, COVER IS ON A CLAIMS MADE BASIS WITH COSTS AND EXPENSES INCLUSIVE WITHIN THE "LIMIT OF LIABILITY" AS SPECIFIED WITHIN THE DECLARATIONS AND IS EXCESS OF "UNDERLYING AMOUNTS" AS SET FORTH IN THE ATTACHED SCHEDULE OF UNDERLYING AMOUNTS. THE TREATMENT OF COSTS AND EXPENSES IN UNDERLYING AMOUNTS IS AS DESCRIBED IN THE SCHEDULE.

THE TERMS AND CONDITIONS OF THIS POLICY MAY NOT BE CONSISTENT WITH THE TERMS AND CONDITIONS OF ANY POLICY WHICH THE INSURED MAY OBTAIN AS PART OF THE UNDERLYING AMOUNTS. IN THE EVENT OF ANY INCONSISTENCIES BETWEEN ANY UNDERLYING POLICY AND THIS EXCESS LIABILITY POLICY, THIS POLICY SHALL PREVAIL.

THIS POLICY REQUIRES THE NAMED INSURED TO BEAR FINANCIAL RESPONSIBILITY.

N.B. PLEASE READ THIS POLICY CAREFULLY, PARTICULARLY THE REPORTING AND CLAIMS HANDLING CONDITION, AS NON-COMPLIANCE WITH THIS CONDITION MAY AFFECT THE COVERAGE AFFORDED BY THIS POLICY. UNLESS THE CONTEXT REQUIRES OTHERWISE, WORDS DENOTING THE SINGULAR SHALL INCLUDE THE PLURAL AND VICE VERSA.

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INSURING AGREEMENTS

(I) Medical Professional Liability

The Underwriters will indemnify the INSURED for the ULTIMATE NET SUM PAYABLE which the INSURED shall be legally obligated to pay as a result of a CLAIM first made against the INSURED during the POLICY PERIOD and notified in accordance with the Reporting and Claims Handling Condition, or during the applicable Extended Reporting Period, for:

- a) BODILY INJURY caused by a MEDICAL INCIDENT; or
- b) PERSONAL INJURIES to any PATIENT or PROPERTY DAMAGE to any PATIENT'S property resulting from a LOSS,

happening on or after the Retroactive Date as specified in the Declarations and prior to the end of the POLICY PERIOD, but in no event later than thirty (30) days after the expiration date of this Policy.

(II) General Liabilities

The Underwriters will indemnify the INSURED for the ULTIMATE NET SUM PAYABLE which the INSURED shall be legally obligated to pay, or assumed by the INSURED under contract or agreement as a result of a CLAIM first made against the INSURED during the POLICY PERIOD and notified in accordance with the Reporting and Claims Handling Condition, or during the applicable Extended Reporting Period, for:

- a) PERSONAL INJURIES;
- b) PROPERTY DAMAGE; or
- c) ADVERTISING INJURY;

resulting from a LOSS, other than in respect of such LOSS to any PATIENT, happening on or after the Retroactive Date as specified in the Declarations and prior to the end of the POLICY PERIOD, but in no event later than thirty (30) days after the expiration date of this Policy.

In the event that the INSURED gives notice of a:

- 1) CLAIM first made against the INSURED during the POLICY PERIOD or during the Extended Reporting Period, caused by a LOSS or MEDICAL INCIDENT, or
- 2) a CIRCUMSTANCE,

then the INSURED and Underwriters agree that any subsequent CLAIM which is made, in writing, against the INSURED, caused by the same LOSS or MEDICAL INCIDENT for which notice of such CLAIM or CIRCUMSTANCE has been given, shall be deemed to have been first made, in writing, against the INSURED during the POLICY PERIOD.

UNDERLYING AMOUNTS

Underwriters shall only be liable in excess of the amounts as stated in the attached Schedule of Underlying Amounts (hereinafter referred to as the "Underlying Amounts"). Underwriters shall have no obligation to indemnify the INSURED unless and until the amount set forth in the attached Schedule of Underlying Amounts, as applicable to any LOSS or MEDICAL INCIDENT, has been exhausted by the actual payment of damages in respect of such LOSS or MEDICAL INCIDENT.

The Underlying Amounts shall only be reduced or exhausted by the payment of actual damages which would, except for the amount thereof, be insured by this Policy and the INSURED shall, in addition thereto, bear all costs and expenses incurred up until such time as the Underlying Amounts are exhausted. Any forgiveness by the INSURED of outstanding charges for goods or services shall also be borne by the INSURED in addition to the Underlying Amounts.

Underwriters agree that the INSURED may obtain insurance in respect of all or any part of the Underlying Amounts and the costs and expenses in addition thereto, but this Policy shall not in any way be construed to be subject to the terms, definitions, conditions and limitations of such insurance nor shall Underwriters contribute with such insurance in the event that such insurance covers PERSONAL INJURIES, PROPERTY DAMAGE and ADVERTISING INJURY resulting from a LOSS, or BODILY INJURY caused by a MEDICAL INCIDENT, also covered by this Policy.

LIMIT OF LIABILITY OF THIS POLICY

Regardless of the number of persons and organisations who are insured under this Policy and regardless of the number of CLAIMS made and suits brought in connection therewith, the total limit of Underwriters' liability in respect of each LOSS or MEDICAL INCIDENT shall not exceed that amount of the ULTIMATE NET SUM PAYABLE as stated in Item 2 of the Declarations but subject always to the limit as stated in Item 3 of the Declarations in the aggregate for each ANNUAL PERIOD during the POLICY PERIOD.

In the event of any CLAIM first made, in writing, against the INSURED during the POLICY PERIOD where the INSURED is seeking indemnification for both a LOSS and a MEDICAL INCIDENT, under **Coverage (I) Medical Professional Liability** and **Coverage (II) General Liabilities** respectively, which are attributable to the same event or interrelated events, nothing contained in this Policy shall be construed to increase Underwriters' limit of liability beyond the amount set forth in Item 2 of the Declarations.

In the event of reduction or exhaustion of any Underlying Amount for which an aggregate is stated, this Policy, subject to its terms, Declarations, Insuring Agreements, Definitions, Exclusions, Reporting and Claims Handling Condition and Other Conditions, shall in the event of:-

- 1) Reduction, pay the excess of such reduced Underlying Amount,
- 2) Exhaustion, apply in place of the exhausted Underlying Amount subject always to the terms, Declarations, Insuring Agreements, Definitions, Exclusions, Reporting and Claims Handling Condition and Other Conditions of this Policy.

ANTI-STACKING

In the event of LOSS or MEDICAL INCIDENT under more than one Insuring Agreement of this Policy, resulting in a CLAIM, the Underwriters' maximum liability in respect of such CLAIM combined for both Insuring Agreements will be the Limit of Liability identified in Item 2 of the Declarations of this Policy. Under no circumstances will the Underwriters' liability for any one CLAIM exceed this amount.

If a CLAIM purports to trigger coverage under more than one Insuring Agreement of this Policy, Underwriters' liability under this Policy shall attach after application of the highest applicable Underlying Amount, with Underwriters' maximum liability under the Policy limited to a single Limit of Liability as identified in Item 2 of the Declarations. Under no circumstances will Underwriters' liability for any CLAIM exceed the single Limit of Liability available under any one of the Policy's Insuring Agreements.

The Underlying Amounts of insurance applicable to such a CLAIM will be as set forth in the applicable underlying coverage.

DEFINITIONS

This Policy is subject to the following definitions:-

1) ACT OF TERRORISM

The words "ACT OF TERRORISM", wherever used means an act, including but not limited to the use of force or violence and/or the 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), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

2) ADVERTISING INJURY

The words "ADVERTISING INJURY", wherever used in this Policy, mean injury arising out of an offense committed in the course of the INSURED's advertising activities, if such injury arises out of:

- a) libel, slander or defamation;
- b) infringement of copyright or of title or of slogan;
- c) piracy or unfair competition or idea misappropriation under an implied contract;
- d) invasion of right of privacy; or
- e) any of the foregoing alleged by any other name.

3) AIRCRAFT LIABILITY HAZARD

The words "AIRCRAFT LIABILITY HAZARD", wherever used in this Policy, mean liability arising out of the ownership, possession, maintenance, operation or use of any aircraft, other than the loading or unloading of any PATIENT into, onto or from, or PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, aboard, any aircraft.

4) ANNUAL PERIOD

The words "ANNUAL PERIOD" wherever used in this Policy, means the twelve (12) calendar month period with a start date at the beginning of the POLICY PERIOD or anniversary of the start date within the POLICY PERIOD.

5) AUTOMOBILE

The word "AUTOMOBILE", wherever used in this Policy, means any land motor vehicle, trailer or semi-trailer, designed for use on public roads.

6) AUTOMOBILE LIABILITY HAZARD

The words "AUTOMOBILE LIABILITY HAZARD", wherever used in this Policy, mean liability arising out of the ownership, possession, maintenance, operation or use of any AUTOMOBILE by the INSURED, other than the loading or unloading of any PATIENT into, onto or from, or PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, within, any AUTOMOBILE.

7) BODILY INJURY

The words "BODILY INJURY", wherever used in this Policy, means physical injury (including death at any time resulting therefrom), medically diagnosed mental injury, mental illness, mental anguish, emotional upset, shock, sickness, disease or disability.

8) CIRCUMSTANCE

The word "CIRCUMSTANCE", wherever used in this Policy, means a LOSS, or a MEDICAL INCIDENT which has not yet resulted in a CLAIM but could reasonably be the basis for a CLAIM being made against the INSURED at some future date.

9) CLAIM

The word "CLAIM", wherever used in this Policy, means any written demand for monetary damages.

10) COMPLETED OPERATIONS LIABILITY HAZARD

The words "COMPLETED OPERATIONS LIABILITY HAZARD", wherever used in this Policy, mean PERSONAL INJURIES or PROPERTY DAMAGE arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the PERSONAL INJURIES or PROPERTY DAMAGE occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the INSURED.

"Operations" include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- a) when all operations to be performed by or on behalf of the INSURED under the contract have been completed,
- b) when all operations to be performed by or on behalf of the INSURED at the site of the operations have been completed,
- c) when the portion of the work out of which the PERSONAL INJURIES or PROPERTY DAMAGE arises has been put to its intended use by any person or organisation other than another contractor or sub-contractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise completed, shall be deemed completed.

The COMPLETED OPERATIONS LIABILITY HAZARD shall not include PERSONAL INJURIES or PROPERTY DAMAGE arising out of:

- d) operations in connection with the transportation of property, unless the PERSONAL INJURIES or PROPERTY DAMAGE arises out of a condition in or on a vehicle created by the loading or unloading thereof,
- e) the existence of tools, uninstalled equipment or abandoned or unused materials, or
- f) any injury resulting from PROFESSIONAL HEALTH CARE SERVICES.

11) COMMUNICABLE DISEASE

the words, "COMMUNICABLE DISEASE", wherever used in this Policy, is defined as one which forms part of an outbreak that is:

- a. Declared or automatically classified as a Public Health Emergency of International Concern, or declared an epidemic or a pandemic by the World Health Organization or other governmental or quasi-governmental public health agency, entity or service that may provide such categorizations, and/or

- b. The subject of a Stafford Act declaration made by the President of the United States of America applicable to all fifty (50) states of the United States.

12) DIRECTORS AND OFFICERS

The words "DIRECTORS OR OFFICERS", wherever used in this Policy, means any partner, executive officer, hospital administrator, member of the NAMED INSURED which is a not for profit corporation, stockholder or member of the board of directors, trustees or governors of the NAMED INSURED.

13) EMPLOYEE

The word "EMPLOYEE", wherever used in this Policy, means:

- a) any individual, other than a licensed physician, who has been hired by the NAMED INSURED to perform services either on a full time or part time basis and to whom wages or salary are paid and on whose behalf federal, state or local taxes are withheld and for whom benefits are provided pursuant to the applicable workers' compensation law; or
- b) a licensed physician employed by the NAMED INSURED under a written contract of employment or whose status as an EMPLOYEE can be verified by other documents existing at the time PROFESSIONAL HEALTH CARE SERVICES are rendered, or fail to be rendered, by such licensed physician.

14) EMPLOYERS LIABILITY HAZARD

The words "EMPLOYERS LIABILITY HAZARD", wherever used in this Policy, mean those PERSONAL INJURIES, as defined in this Policy, sustained by any EMPLOYEE in the course of their employment by the INSURED, but shall not include any injury sustained by an EMPLOYEE as a recipient of PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, by any other INSURED.

15) GOOD SAMARITAN ACTS

The words "GOOD SAMARITAN ACTS", wherever used in this Policy, mean those services performed by the INSURED in rendering, or failing to render, without remuneration, emergency treatment at the scene of an accident, medical crisis or disaster.

16) HAZARDOUS PROPERTIES

The words "HAZARDOUS PROPERTIES", wherever used in this policy, include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material; "source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any NUCLEAR FACILITY included within the definition of NUCLEAR FACILITY under paragraph (a) or (b) thereof.

17) HELIPAD LIABILITY HAZARD

The words "HELIPAD LIABILITY HAZARD", wherever used in this Policy, mean liability arising out of the maintenance, operation or use of any helipad, other than the loading or unloading of any PATIENT, or PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, at such helipad.

18) INSURED

Only the following are included in the definition of "INSURED" under this Policy:-

the NAMED INSURED, being the licensed or accredited health care facility or provider designated in Item 1(a) of the Declarations, and the NAMED INSURED shall also include, until such time as they may be sold or otherwise disposed of in any manner by, or become unaffiliated with, the NAMED INSURED:-

- a) all related entities designated in Item 1(c) of the Declarations; provided that for the NAMED INSURED to include any partnership or joint venture, such partnership or joint venture is specifically designated as such in Item 1(c) of the Declarations;
- b) any new related entity which is created or acquired by or becomes affiliated with the NAMED INSURED subsequent to the inception date of this Policy, but coverage hereunder will not apply:-
 - i. to PERSONAL INJURIES, PROPERTY DAMAGE or ADVERTISING INJURY which is as a result of a LOSS, or injury caused by a MEDICAL INCIDENT, happening prior to the date of such creation, acquisition or affiliation,
 - ii. for a period greater than sixty (60) days from the date of such creation, acquisition or affiliation.

However, if the NAMED INSURED shall give Underwriters notice of any such created, acquired or affiliated entity within the aforesaid period of sixty (60) days and the NAMED INSURED shall:

- a. pay any additional premium, and
 - b. accept such terms as may be required by Underwriters, then this Policy shall continue to apply to such created, acquired or affiliated entity;
- c) any member or partner of a joint venture or partnership specifically designated as such in Item 1(a) or 1(c) of the Declarations, but only with respect to such member's or partner's liability arising out of such designated joint venture or partnership;
 - d) under Coverage II General Liabilities only, any person or entity to whom the NAMED INSURED is contractually obligated to provide such coverage as is afforded by this Policy but only to the extent required by such contract, and only for the amount of coverage required by such contract or for the limits of insurance provided by this Policy, whichever is less;
 - e) any organisation or proprietor with respect to real estate management for the NAMED INSURED;
 - f) any partner, executive officer, hospital administrator, member of the NAMED INSURED which is a not-for-profit corporation, stockholder or member of the board of directors, trustees or governors of the NAMED INSURED, whilst acting within the scope of their duties as such;
 - g) any student or volunteer of the NAMED INSURED, whilst acting within the scope of that person's duties as such;
 - h) any EMPLOYEE of the NAMED INSURED, except an intern, resident or a licensed physician acting as such, whilst acting within the scope of the EMPLOYEE's duties as such;
 - i) any intern, resident or licensed physician, who is an EMPLOYEE of the NAMED INSURED, under a written employment contract or whose status as an EMPLOYEE can be verified by other documents existing at the time of rendering, or failing to render, PROFESSIONAL HEALTH CARE SERVICES but only whilst acting within the scope of that person's duties as such;

- j) any member of a formal accreditation, standards review or similar professional board or committee of the NAMED INSURED, or any person charged with the duty of executing the directives of such professional board or committee, or any person communicating information to such professional board or committee; but only whilst acting within the scope of that member's or person's duties as such;
- k) any person referred to in c) through j) above, whilst performing GOOD SAMARITAN ACTS;
- l) any person who, at the time of a LOSS or a MEDICAL INCIDENT happening, would have qualified as an INSURED under sub-paragraphs c) through k) above had this Policy been in force at the time of such LOSS or MEDICAL INCIDENT; provided always that such LOSS or MEDICAL INCIDENT happened on or after the Retroactive Date, being the date set forth in Item 6 of the Declarations.

19) INSURED'S PRODUCTS

The words "INSURED'S PRODUCTS", wherever used in this Policy, mean goods or products manufactured, sold, handled or distributed by the INSURED or by others trading under their name, including any container thereof (other than a vehicle) but INSURED'S PRODUCTS shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold.

20) LOSS

The word "LOSS", wherever used in this Policy, means an accident, including continuous or repeated exposure to the same general harmful conditions, but LOSS shall not include a MEDICAL INCIDENT.

21) MANAGED FACILITIES

The words "MANAGED FACILITIES", wherever used in this Policy, mean any hospital or other facility, providing PROFESSIONAL HEALTH CARE SERVICES, which is not the NAMED INSURED, to which the INSURED provides any management, administrative or supervisory services whether pursuant to contract or otherwise.

22) MEDICAL INCIDENT

The words "MEDICAL INCIDENT", wherever used in this Policy, mean any act, error or omission in the rendering of, or failure to render, PROFESSIONAL HEALTH CARE SERVICES.

All related acts, errors or omissions in the rendering of, or failures to render, PROFESSIONAL HEALTH CARE SERVICES to any one person shall be considered one MEDICAL INCIDENT.

If a MEDICAL INCIDENT arises from a series of related PROFESSIONAL HEALTH CARE SERVICES, such MEDICAL INCIDENT will be deemed to have happened at the time of the first act, error or omission which causes injury in respect of which the INSURED may be legally obligated to pay damages.

23) NUCLEAR FACILITY

The words, "NUCLEAR FACILITY" wherever used in this policy, means:

- a) any nuclear reactor
- b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the INSURED at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,
- e) and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

24) PATIENT

Means any person or human body receiving PROFESSIONAL HEALTH CARE SERVICES.

25) PERSONAL INJURIES

The words "PERSONAL INJURIES", wherever used in this Policy, mean:-

- a) BODILY INJURY;
- b) false arrest, false imprisonment, wrongful eviction, detention or malicious prosecution;
- c) libel, slander, defamation of character or any invasion of right of privacy, unless arising out of any advertising activities.

26) POLICY PERIOD

The words "POLICY PERIOD", wherever used in this Policy, means the date and time period when the Insurance coverage under the Policy is due to commence and end, unless otherwise cancelled, as set out in Item 4 of the Declarations. The POLICY PERIOD does not incorporate any Extended Reporting Period.

27) POLLUTANTS

The word "POLLUTANTS", wherever used in this Policy, means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, dust, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

28) PRODUCTS LIABILITY HAZARD

The words "PRODUCTS LIABILITY HAZARD", wherever used in this Policy, mean PERSONAL INJURIES or PROPERTY DAMAGE arising out of the INSURED'S PRODUCTS or reliance upon a representation or warranty made at any time with respect thereto, but only if the PERSONAL INJURIES or PROPERTY DAMAGE occurs away from premises owned by or rented to the NAMED INSURED and after physical possession of such products has been relinquished to others.

However, the PRODUCTS LIABILITY HAZARD shall not include any injury resulting from PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, to any PATIENT.

29) PROFESSIONAL HEALTH CARE SERVICES

The words "PROFESSIONAL HEALTH CARE SERVICES", wherever used in this Policy, mean:

- a) services performed by an INSURED in the treatment and/or care of any PATIENT, and shall include:-
 - i. medical, surgical, dental, nursing, or other professional care or services to any person;
 - ii. the furnishing of food, beverages, medications or appliances in connection with such services;
 - iii. the furnishing or dispensing of drugs, blood, blood products and medical, surgical, or dental supplies and appliances;
 - iv. the handling of, or performing post mortem examinations on, human bodies;
 - v. education and training conducted by an INSURED which results in injury caused or alleged to have been caused by a deficiency or defect in the education or training of any person by the INSURED;
 - vi. research and development conducted by an INSURED which results in injury caused or alleged to have been caused by a deficiency or defect in the conduct or the reported results of such research or development; or
- b) service by an INSURED, as a member of a formal accreditation, standards review or similar professional board or committee of the NAMED INSURED, or whilst charged with the duty of executing the directives of such professional board or committee, or whilst communicating information to such professional board or committee.

30) PROPERTY DAMAGE

The words "PROPERTY DAMAGE", wherever used in this Policy, mean:-

- a) physical damage to or destruction of tangible property including the loss of use thereof resulting therefrom;
- b) loss of use of tangible property which has not been physically injured or destroyed.

31) SILICA

The word silica wherever used in this Policy, will mean silica in any form and any of its derivatives, including but not limited to silica dust, silicon dioxide (SiO₂), crystalline silica, quartz, or non-crystalline (amorphous) silica.

32) ULTIMATE NET SUM PAYABLE

The words "ULTIMATE NET SUM PAYABLE", wherever used in this Policy, mean the total sum the INSURED is obligated to pay, either through adjudication or compromise, as damages in respect of any LOSS or MEDICAL INCIDENT that would, in accordance with the terms, Declarations, Insuring Agreements, Definitions, Exclusions, Reporting and Claims Handling Condition and Other Conditions of this Policy, be covered by this Policy including investigation, adjustment, appraisal, legal, appeal and defense costs paid or incurred by the INSURED or paid or incurred by Underwriters on behalf of the INSURED.

The following shall not be included within the meaning of ULTIMATE NET SUM PAYABLE:

- a) such costs and any other expenses which the INSURED or any insurer has paid or incurred or is obligated to pay as respects the Underlying Amounts;
- b) salaries or other remuneration of the INSURED's or any insurers' EMPLOYEES.

33) WATERCRAFT LIABILITY HAZARD

The words "WATERCRAFT LIABILITY HAZARD", wherever used in this Policy, mean liability arising out of the maintenance, operation or use of any watercraft, other than the loading or unloading of any PATIENT into, onto or from, or PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, aboard, any watercraft.

EXCLUSIONS

(I) As respects **Coverage (I) Medical Professional Liability**, this Policy shall not apply to any CLAIM or CLAIMS:

1) Acting under the influence of Alcohol or Drugs

made against any INSURED arising out of any MEDICAL INCIDENT which results from the rendering of, or failing to render, PROFESSIONAL HEALTH CARE SERVICES by such INSURED whilst under the influence of alcohol or drugs;

2) Cross Liabilities

made against any INSURED by any other INSURED hereunder, but this Exclusion shall not apply to injury sustained by any INSURED as a recipient of PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, by any other INSURED;

3) Fines and Penalties

for fines, penalties, punitive damages or exemplary damages;

4) Liability of Others

arising out of any liability of others assumed by the INSURED under contract or agreement; but this Exclusion shall not apply to any liability which in the absence of such contract or agreement would otherwise have been insured by this Policy;

5) Non-Patient Bodily Injury

relating to any BODILY INJURY other than to a PATIENT;

6) Persons who are not Insureds

made against any INSURED, except the NAMED INSURED, arising out of the acts, errors or omissions of any person employed by such INSURED, unless such person is also an INSURED under this Policy;

7) Physicians acting outside the scope of their duties

made against any licensed physician unless such CLAIM or CLAIMS arise out of PROFESSIONAL HEALTH CARE SERVICES rendered, or failing to be rendered, by such physician acting within the scope of their duties as an INSURED under this Policy;

8) Workers' Compensation

arising out of any obligation for which the INSURED and any company as their insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law or any similar law;

9) Wrongful Acts by Directors or Officers

arising out of any actual or alleged negligent act, error, omission, misstatement, misleading statement, neglect or breach of duty by the "DIRECTORS OR OFFICERS", individually or collectively, in the discharge of their duties solely in their capacity as "DIRECTORS OR OFFICERS" of the NAMED INSURED.

(II) As respects **Coverage (II) General Liabilities**, this Policy shall not apply to any CLAIM or CLAIMS:

1) Advertising Injury

relating to ADVERTISING INJURY as a consequence of:

- a) failure of performance of contract, but this Exclusion does not apply to the unauthorised appropriation of ideas based upon alleged breach of an implied contract, or
- b) infringement of trademark, service mark or trade name, other than titles or slogans, by use thereof on or in connection with goods, products or services sold, offered for sale or advertised, or
- c) incorrect description or mistake in advertised price of goods, products or services sold, offered for sale or advertised;

2) Cross Liabilities

made against any INSURED by any other INSURED hereunder, but this Exclusion shall not apply:

- a) to PERSONAL INJURIES sustained by any EMPLOYEE in the course of their employment by the INSURED; or
- b) subject always to Exclusion (III) 16), to students or voluntary workers but only as respects CLAIMS made by said students or voluntary workers against the NAMED INSURED;

3) Inspection, repair, replacement

arising out of the withdrawal, inspection, repair, replacement, or loss of use of the INSURED'S PRODUCTS or work completed by or for the INSURED or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use;

4) Insured's Products

relating to PROPERTY DAMAGE to the INSURED'S PRODUCTS arising out of such products or any part of such products.

5) Loss of use of tangible property

relating to loss of use of tangible property which has not been physically injured or destroyed resulting from:

- a) a delay in or lack of performance by or on behalf of the INSURED of any contract or agreement, or
- b) the failure of the INSURED'S PRODUCTS or work performed by or on behalf of the INSURED to meet the level of performance, quality, fitness or durability warranted or represented by the INSURED, but this Exclusion shall not apply to loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of the INSURED'S PRODUCTS or work performed by or on behalf of the INSURED after such products or work have been put to use by any person or organisation other than the INSURED.

6) Professional Health Care Services

relating to any PERSONAL INJURIES, PROPERTY DAMAGE or ADVERTISING INJURY resulting from the rendering of, or failing to render, PROFESSIONAL HEALTH CARE SERVICES;

7) Property owned or leased

relating to PROPERTY DAMAGE to property owned by, or leased by others to, any INSURED.

8) Work carried out on behalf of the Insured

relating to PROPERTY DAMAGE to work performed by or on behalf of the INSURED arising out of such work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith.

9) Workers Compensation

arising out of any obligation for which the INSURED and any company as their insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law or any similar law, provided, however, that this Exclusion does not apply to liability of others assumed by the NAMED INSURED under contract or agreement.

(III) As respects both **Coverage (I) Medical Professional Liability** and **Coverage (II) General Liabilities**, this Policy shall not apply to any CLAIM or CLAIMS:

1) Asbestos

relating to asbestos;

2) Criminal Acts

made against any INSURED as a result of PERSONAL INJURIES, PROPERTY DAMAGE or ADVERTISING INJURY expected or intended by such INSURED or arising from any criminal act, but this Exclusion shall not apply in respect of those PERSONAL INJURIES resulting from the use of reasonable force to protect any person or property from injury or damage.

3) Crystalline Silica / Silicosis Exclusion

relating to PERSONAL INJURIES, PROPERTY DAMAGE, ADVERTISING INJURY or potential bodily injury arising in whole or in part, directly or indirectly, out of SILICA, including, but not limited to:

- a) Inhaling, ingesting or physical exposure to SILICA directly or through any goods, products, structures, real estate or land containing SILICA, or
- b) The use or presence of SILICA in any process or operation of any type, including but not limited to construction, manufacturing, sandblasting, cleaning, drilling, farming or mining; or
- c) The use or present of SILICA in any good, product, structure, real estate or land, or any component part of any good, product, structure, real estate or land; or
- d) The manufacture, sale, transportation, handling, storage or disposal of SILICA or any goods, products, structures, real estate or land containing SILICA; or

Any CLAIM or suit arising out of or related to any disease actually or allegedly caused by, contributed to or aggravated by SILICA, including but not limited to silicosis, chronic silicosis, accelerated silicosis, acute silicosis, conglomerate silicosis, any auto-immune disorder, tuberculosis, silicoproteinosis, cancer, scleroderma, emphysema, pneumoconiosis, pulmonary fibrosis, progressive massive fibrosis, any lung disease or any other ailment actually or allegedly caused by, contributed to or aggravated by SILICA; or

Any costs of medical or other testing, monitoring or diagnosis arising from or related to any actual, alleged, threatened or feared PERSONAL INJURIES, PROPERTY DAMAGE, ADVERTISING INJURY or potential bodily injury arising in whole or in part, directly or indirectly, out of SILICA; or

Any costs of investigations, feasibility studies, cleaning, removal or remediation of the actual or alleged presence of SILICA in or on any goods, products, structures, real estate or land.

For the purposes of this exclusion only, "potential bodily injury" includes but is not limited to any alleged emotional or mental distress, risk of future disease, fear of contracting any disease, and all costs of medical monitoring for any disease arising from or related to exposure to SILICA.

This exclusion applies regardless of whether any other cause or event contributed or is alleged to have contributed to any actual or alleged PERSONAL INJURIES, PROPERTY DAMAGE, ADVERTISING INJURY or potential bodily injury in any way or at any time. However, this exclusion shall not apply to any CLAIM or CLAIMS first made against the Original Insured and reported in accordance with the Reporting and Claims Handling Condition of the Original Policy arising out of injury to which this Policy applies, as a result of PROFESSIONAL HEALTH CARE SERVICES rendered or failing to be rendered.

4) Discrimination

arising out of the violation of any discrimination or humiliation because of race, creed, color, national origin, religion, age, sex, sexual orientation, disability or medical condition.

5) Events notified to Other Insurance

arising out of or relating to any LOSS, MEDICAL INCIDENT or CIRCUMSTANCE notified to any insurer or attached to any insurance policy effected prior to the inception date of this Policy.

6) Events Prior to the Retroactive Date

relating to PERSONAL INJURIES, PROPERTY DAMAGE or ADVERTISING INJURY which results from a LOSS, or injury caused by a MEDICAL INCIDENT, happening prior to the Retroactive Date, being the date set forth in Item 6 of the Declarations;

7) Joint Ventures

arising out of the conduct of any partnership or joint venture of which the INSURED is a partner or member and which is not specifically designated in this Policy as the NAMED INSURED;

8) Managed Facilities

made against any INSURED arising out of any MANAGED FACILITIES;

9) Mold, Mildew or other Fungi Exclusion

a) directly or indirectly arising out of, relating to, or in connection with exposure to or the manifestation, release, dispersal, seepage, migration, discharge, appearance, presence, reproduction or growth of mold, mildew, spores, mycotoxins, fungi, organic pathogens or other microorganisms of any type, nature or description. Such CLAIM or circumstance are excluded regardless of whether they arise in connection with:

- (1) PERSONAL INJURIES;
- (2) PROPERTY DAMAGE; or
- (3) ADVERTISING INJURY

b) There shall be no obligation to defend the INSURED against any CLAIM or circumstance excluded by this Endorsement regardless of whether the allegations forming the basis of the CLAIM or CIRCUMSTANCE are groundless, false or fraudulent.

c) This Agreement expressly excludes:

- i. Any cost, expense or charge to test, monitor, clean up, remediate, remove, contain, treat, detoxify, neutralize, rehabilitate, or in any way response to or assess the effects of mold, mildew spores, mycotoxins, fungi, organic pathogens or other microorganisms of any type, nature or description; and
- ii. Any cost, expense, charge, fine or penalty, incurred, sustained or imposed by order, direction, request or agreement of any court, governmental agency, or any civil, public or military authority.

d) This exclusion shall not apply to any CLAIM or CIRCUMSTANCE directly or indirectly arising out of, relating to, or in connection with the Original Insured's use of mold, mildew, spores, mycotoxins, fungi, organic pathogens or other microorganisms of any type, nature or description in connection with the rendering of PROFESSIONAL HEALTH CARE SERVICES.

e) The following definition is to be applied to this exclusion:

The term "organic pathogens" mean any organic irritant or contaminant, including but not limited to mold, fungus, bacteria, virus, or their byproducts such as mycotoxins, mildew or biogenic aerosol. "Organic pathogens" include but are not limited to Aspergillus, Penicillium, Stachybotrys Chartarum, Stachybotrys Atra, Trichodema, and Fusarium Memnoniella.

10) Nuclear Incident Exclusion Clause

a) under any Liability Coverage, to injury, sickness, disease, death or destruction:

- i. with respect to which an INSURED under this Policy is also an INSURED under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an INSURED under any such policy but for its termination upon exhaustion of its limit of liability; or

- ii. resulting from the HAZARDOUS PROPERTIES of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the INSURED is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b) Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to BODILY INJURY, sickness, disease or death resulting from the HAZARDOUS PROPERTIES of nuclear material and arising out of the operation of a NUCLEAR FACILITY by any person or organization.
- c) Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the HAZARDOUS PROPERTIES of nuclear material, if:
 - i. the nuclear material (1) is at any NUCLEAR FACILITY owned by, or operated by or on behalf of, an INSURED or (2) has been discharged or dispersed therefrom;
 - ii. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an INSURED; or
 - iii. the injury, sickness, disease, death or destruction arises out of the furnishing by an INSURED of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any NUCLEAR FACILITY, but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (c) applies only to injury to or destruction of property at such NUCLEAR FACILITY.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this Exclusion is subject to the terms, Exclusions, conditions and limitations of the Policy to which it is attached.

11) Other Businesses

made against any INSURED as owner, proprietor, superintendent or executive officer of any hospital, sanatorium, dispensary or clinic with bed and board facilities, laboratory or other business enterprise, which is not the NAMED INSURED;

12) Other Coverages

relating to the EMPLOYERS LIABILITY HAZARD, AUTOMOBILE LIABILITY HAZARD, AIRCRAFT LIABILITY HAZARD, HELIPAD LIABILITY HAZARD or WATERCRAFT LIABILITY HAZARD, except this Exclusion shall not apply to each such hazard for which a specific Underlying Amount is scheduled in the attached Schedule of Underlying Amounts;

13) Pollution

- a) relating to any liability arising out of the actual, alleged or threatened discharge, dispersal, release or escape of "POLLUTANTS"; but this Exclusion shall not apply to PERSONAL INJURIES sustained by any PATIENT; or
- b) relating to any liability to test for, monitor, clean up, remove, contain, treat, abate, remediate, detoxify or neutralize or in any way respond to, or assess the effects of "POLLUTANTS", whether or not any of the foregoing are or should be performed by the INSURED or by others.

14) Radioactive Contamination Exclusion Clause

caused by or contributed to by, or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

15) Retroactive Limitation Clause

- a) arising out of any CIRCUMSTANCE which has been notified to Underwriters on any other Policy of insurance effected prior to the inception of this Policy;
- b) arising out of any CIRCUMSTANCE known to the INSURED prior to the inception of this Policy and not disclosed to Underwriters at inception.

16) Teaching and Qualifications

made against any INSURED by any present or former student, trainee, intern or resident arising out of:

- a) the granting of or failure to grant any diploma, degree, certificate, award, qualification, reference or recommendation by an INSURED; or
- b) any wrongful or inadequate training or instruction provided by the INSURED;

17) Telephone Consumer Protection Act (TCPA)

arising out of or resulting from any action or omission that violates or is alleged to violate:

- a) the Telephone Consumer Protection Act (TCPA);
- b) the CAN-SPAM Act of 2003;
- c) the Fair Credit Reporting Act; or
- d) any statute, ordinance or regulation, other than TCPA, CAN-SPAM Act of 2003 or the Fair Credit Reporting Act, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

18) War and Terrorism Exclusion

arising out of any LOSS, damage, cost or expense of whatsoever nature caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the LOSS;

- a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b) ANY ACT OF TERRORISM.

This Exclusion also excludes LOSS, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing,

suppressing or in any way relating to 18) a) or b) above. But this Exclusion shall not apply to BODILY INJURY caused by a MEDICAL INCIDENT;

If Underwriters allege that by reason of this Exclusion, any LOSS, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the INSURED.

In the event any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

REPORTING AND CLAIMS HANDLING CONDITION

It is a condition of the INSURED's right to indemnity under this Policy that the INSURED comply with the claims reporting and handling requirements of this Policy.

The INSURED agrees that the availability of full information is material to the risk undertaken by Underwriters and is essential to the coverage afforded by this Policy.

Underwriters may waive any of the reporting requirements contained in this Policy which Underwriters determine to be unduly burdensome upon the INSURED. Underwriters may also request additional or alternative information, which shall be supplied by the INSURED.

1) Notice

a) Loss Summaries Bordereau

Subject always to the Declarations, Insuring Agreements, Definitions, Exclusions, this Reporting and Claims Handling Condition and Other Conditions of this Policy, to effect coverage under this Policy in respect of any CLAIM or CIRCUMSTANCE, and allow for the reduction or exhaustion of the applicable Underlying Amount for which an aggregate is stated, written notice of such CLAIM or CIRCUMSTANCE should be sent, by registered or certified mail or another means of delivery requiring written proof of receipt, during the POLICY PERIOD, but in no event later than thirty (30) days after the expiration date of this Policy.

Notice of such CLAIMS and CIRCUMSTANCES should be sent, using a Loss Summaries Bordereau or another format mutually acceptable to the NAMED INSURED and the entity designated in Item 10. of the Declarations (hereinafter referred to as Underwriters' Representative). The INSURED shall submit a supplemental Loss Summaries Bordereau to Underwriters' Representative quarterly thereafter, reflecting new information, or the lack thereof, until all liability under this Policy has been satisfied.

If the INSURED has exercised its right to the Extended Reporting Period, as provided for by Other Conditions 6 or 7 of this Policy, then such written notice must be sent prior to the expiration of such Extended Reporting Period.

In the event that written notice is sent within thirty (30) days after the expiration date of this Policy, or during the Extended Reporting Period, such notice shall be deemed to have been sent on the last day of the POLICY PERIOD.

It is noted that, unless a CIRCUMSTANCE meets the criteria set forth in sub-paragraphs b) a. to e. below, notice of a CIRCUMSTANCE under this Policy is an option for the INSURED and not an obligation.

b) Individual Loss Advice Forms

In addition to the written notice of any such CLAIM or CIRCUMSTANCE, as specified in the preceding paragraphs, the INSURED shall promptly submit to Underwriters' Representative detailed written information regarding each CLAIM or CIRCUMSTANCE that meets one or more of the following criteria during the POLICY PERIOD.

- a. those reserved by the INSURED, or any insurer, for an amount equal to or greater than fifty (50) percent of the Underlying Amount applicable to such CLAIM or CIRCUMSTANCE;

- b. those in which the amount of the payment or settlement demand exceeds fifty (50) percent of the Underlying Amount applicable to such CLAIM or CIRCUMSTANCE;
- c. those involving any of the following injuries or omissions of which the INSURED becomes aware:
 - i. unexpected death,
 - ii. brain damage or neurological deficit,
 - iii. paralysis or nerve injury,
 - iv. total or partial loss of limb(s), or loss of the use of limb(s),
 - v. impairment or loss of sight, hearing, taste, touch or smell,
 - vi. failure to diagnose resulting in radiation therapy, chemotherapy or other continuous treatment,
 - vii. sexual or physical abuse or molestation,
 - viii. any CLAIM involving sepsis,
 - ix. any COMMUNICABLE DISEASE,
 - x. loss of an organ
- d. those involving class action allegations or any other form of group or multi-plaintiff litigation.
- e. those which the INSURED has information that leads it to reasonably believe may, assuming liability, involve this Policy.

A supplemental Loss Advice Form must be submitted at least every six months for those CLAIMS and CIRCUMSTANCES on which notice has been given, highlighting new information, or the lack thereof.

In the event of any CLAIM or CIRCUMSTANCE for which notice has been given using a Loss Summaries Bordereau and which, at the time of such notice, did not meet the criteria set forth in sub-paragraphs b) a. to e. above, should such CLAIM or CIRCUMSTANCE subsequently meet such criteria, the INSURED shall promptly after learning thereof submit a Loss Advice Form for such CLAIM or CIRCUMSTANCE.

2) Defense and Claims Cooperation

a) Defense

Underwriters have no obligation, and shall not be called upon, to assume charge of the investigation, defense or settlement of any CLAIM or CIRCUMSTANCE, but Underwriters shall have the right and shall be afforded the opportunity to associate with the INSURED in the conduct and defense of any CLAIM or CIRCUMSTANCE involving this Policy or the Underlying Amounts.

The INSURED and the Underwriters' Representative shall consult and concur in the selection of counsel to defend any CLAIM which is first made, in writing, against the INSURED during the POLICY PERIOD, or during any Extended Reporting Period as provided for by Other Conditions 7 or 8 of this Policy, and which may involve this Policy or the Underlying Amounts.

b) Claims Cooperation

The INSURED and their defense counsel shall co-operate with the Underwriters' Representative and shall afford Underwriters' Representative access to defense counsel files and involve Underwriters' Representative in all discussions regarding case evaluation and strategy. This would include all discussions regarding formulating plans with respect to settlement discussions, mediations or trials.

The INSURED agrees to act in good faith and with reasonable care to avoid damages exceeding the Underlying Amounts. With respect to CLAIMS in which the amount of the payment or settlement demand exceeds fifty (50) percent of the Underlying Amounts, Underwriters Representative will be afforded the opportunity to participate directly in settlement negotiations. The INSURED further agrees that in the event of a LOSS or MEDICAL INCIDENT for which Underwriters may be liable, no costs or expenses shall be incurred on their behalf without their written consent being first obtained (such consent will not be unreasonably withheld). In addition, no settlement of a CLAIM shall be effected by the INSURED for such sums as will involve this Policy without the written consent of the Underwriters (such consent will not be unreasonably withheld).

3) Claims Review

The Underwriters' Representative shall conduct a review, on behalf of Underwriters, of the INSURED's Claims and claims handling procedures and adequacy of reserving.

This review shall be carried out at such times as specified by Underwriters, and will normally include a visit to the INSURED's claims operation. The INSURED shall afford the Underwriters' Representative full cooperation and make available all information required by the Underwriters' Representative. The INSURED shall also allow the Underwriters' Representative such access to the INSURED's records and personnel as may be necessary.

Loss Advice Forms and interim Loss Summaries Bordereaux should be submitted to the Underwriters' Representative by the INSURED prior to each such review by Underwriters' Representative.

The INSURED agrees that the availability of full information is material to the risk undertaken by Underwriters and is essential to the coverage afforded by this Policy.

Underwriters may waive any of the reporting requirements contained in this Policy which Underwriters determine to be unduly burdensome upon the INSURED. Underwriters may also request additional or alternative information, which shall be supplied by the INSURED.

OTHER CONDITIONS

This Policy is subject to the following additional conditions:

1) Appeals

In the event the INSURED elect not to appeal a judgment in excess of the Underlying Amounts, Underwriters may elect to make such appeal at Underwriters' own cost and expense and shall be liable for the taxable costs and disbursements and interest on judgments incidental thereto, as are incurred as a result of such election, but in no event shall the liability of Underwriters for the ULTIMATE NET SUM PAYABLE exceed the limits of liability as set forth in the Declarations.

2) Assignment

Assignment of interest under this Policy shall not bind Underwriters unless and until their consent is endorsed hereon.

3) Cancellation

This Policy may be cancelled by the NAMED INSURED or by Underwriters or by the entity designated in Item 5 of the Declarations on behalf of Underwriters, by sending registered or certified mail, or electronic mail notice to the other party stating when, not less than sixty (60) days thereafter, cancellation shall be effective. However in the event of non-payment of premium by the INSURED this Policy may be cancelled by Underwriters or by the entity designated in Item 5 of the Declarations on behalf of Underwriters by sending by registered or certified mail notice to the NAMED INSURED stating when, not less than fifteen (15) days thereafter, cancellation shall be effective.

In the event of a LOSS or MEDICAL INCIDENT the full Policy premium shall be payable to Underwriters prior to the date of termination which gives rise to a valid CLAIM under this Policy.

The mailing of notice as aforesaid by Underwriters or by the entity designated in Item 5 of the Declarations to the NAMED INSURED at the address shown in this Policy shall be sufficient proof of notice and the insurance under this Policy shall end on the effective date and hour of cancellation stated in the notice. Delivery of such written notice either by the NAMED INSURED or by Underwriters or by the entity designated in Item 5 of the Declarations shall be equivalent to mailing.

In the event that this Policy is cancelled, as aforesaid, the expiration date of this Policy shall be the effective date of such cancellation.

If this Policy shall be cancelled by the NAMED INSURED Underwriters shall retain the short rate proportion of the premium for the period this Policy has been in force, calculated in accordance with the Short Rate Cancellation Table. If this Policy shall be cancelled by Underwriters or by the entity designated in Item 5 of the Declarations, Underwriters shall retain the pro rata proportion of the premium for the period this Policy has been in force. Notice of cancellation by Underwriters or by the entity designated in Item 5 of the Declarations shall be effective even though Underwriters make no payment or tender of return premium with such notice.

4) Changes

Notice to or knowledge possessed by any person shall not effect a waiver or change in any part of this Policy or estop Underwriters from asserting any right under this Policy; nor shall this Policy be altered, waived or changed, except by endorsement issued to form a part hereof signed by Underwriters.

5) Currency And Payment Of Premium

The premiums and losses under this Policy are payable in the currency stated in Item 7 of the Declarations. Payment of premiums shall be made as stated in Item 8 of the Declarations.

6) Extended Reporting Period

Cancellation or non-renewal by the named Insured

In the event that the NAMED INSURED shall cancel or decline to renew this Policy the INSURED shall, in consideration of the payment of the additional premium specified in Item 12 of the Declarations, have the right to extend the coverage granted by this Policy for a further period as specified in Item 13 of the Declarations. However, this right to extend the coverage granted by this Policy shall only apply to CLAIMS first made, in writing, against the INSURED during the aforesaid specified period, and notified in accordance with the Reporting and Claims Handling Condition of this Policy, that result from a LOSS, or a MEDICAL INCIDENT, happening prior to the date on which said specified period commenced.

This right of extension must be exercised by the NAMED INSURED by giving notice, in writing, sent by registered or certified mail, to the entity designated in Item 5 of the Declarations, prior to the cancellation or expiration date of this Policy. The additional premium in respect of this extension is due and payable within thirty (30) days subsequent to the cancellation or expiration date of this Policy. If the NAMED INSURED fails to exercise this right prior to the cancellation or expiration date as aforesaid or fails to pay such additional premium when due, the INSURED's right to this extension shall be rendered null and void.

This extension shall not operate to extend the aggregate limit of Underwriters' liability, as set forth in Item 3 of the Declarations, for the last ANNUAL PERIOD prior to this extension being invoked; such aggregate limit as a consequence shall apply to the last ANNUAL PERIOD and the period of this extension combined. For the purposes of this extension the last ANNUAL PERIOD, if the NAMED INSURED cancels this Policy, shall be the ANNUAL PERIOD in which the NAMED INSURED cancels this Policy.

In the event that the INSURED elects to exercise this right of extension, and in the event that this Policy has an aggregate underlying amount, then such underlying aggregate amount will no longer apply at such point, irrespective of the amount by which such aggregate has been exhausted. The 'Each Claim' underlying amount will continue to apply.

This extension shall not operate to extend the period of this Policy.

If the INSURED extend the coverage granted by this Policy in accordance with this extension, Underwriters shall not be able to cancel this extension of coverage.

7) Extended Reporting Period

Cancellation or non-renewal by Underwriters

In the event that Underwriters cancel or refuse to renew this Policy for reasons other than the INSURED's non-payment of premium or non-compliance with the terms or conditions of this Policy, then the INSURED shall, in consideration of the payment of the additional premium specified in Item 12 of the Declarations, have the right to extend the coverage granted by this Policy for a further period as specified in Item 13 of the Declarations. However this condition shall only apply:

- a) to CLAIMS first made, in writing, against the INSURED during the aforesaid specified period, and notified in accordance with the Reporting and Claims Handling Condition of this Policy, that result from a LOSS, or a MEDICAL INCIDENT, happening prior to the date on which said specified month period commenced, and
- b) in the event the INSURED exercise their right of extension for a) above, to the coverage that has been excluded by virtue of such exclusion(s).

For the purposes of this extension a change in premium, terms, conditions or exclusions shall not constitute a refusal to renew.

The refusal to renew by any Co Insuring Underwriter shall not constitute a refusal to renew on the part of any Underwriter who has offered renewal of this Policy.

This right of extension must be exercised by the NAMED INSURED, by giving notice, in writing, sent by registered or certified mail or electronic mail, to the entity designated in Item 5 of the Declarations not later than sixty (60) days after the expiration date or the termination date, as provided for under this extension. If the NAMED INSURED fails to exercise this right within such sixty (60) days the INSURED shall not at a later date be able to exercise such right.

This extension shall not operate to extend the aggregate limit of Underwriters' liability, as set forth in Item 3 of the Declarations, for the last ANNUAL PERIOD prior to this extension being invoked; such aggregate limit as a consequence shall apply to the last ANNUAL PERIOD and the Extended Reporting Period of this Policy combined. For the purposes of this condition the last ANNUAL PERIOD, if Underwriters cancel this Policy, shall be the ANNUAL PERIOD in which Underwriters cancel this Policy.

In the event that the INSURED elects to exercise this right of extension, and in the event that this Policy has an aggregate underlying amount, then such underlying aggregate amount will no longer apply at such point, irrespective of the amount by which such aggregate has been exhausted. The 'Each Claim' underlying amount will continue to apply.

This extension shall not operate to extend the period of this Policy.

If the INSURED elects to extend the coverage granted by this Policy in accordance with this extension, Underwriters shall not be able to cancel this extension of coverage.

8) Fraudulent Conduct and Misrepresentation

This Policy, and any CLAIM will be void if, whether before or after a CLAIM or CIRCUMSTANCE, an INSURED has:

- a) intentionally concealed or intentionally misrepresented any material fact or CIRCUMSTANCE;
- b) engaged in fraudulent conduct; or

c) made false statements;

relating to the Policy or any CLAIM or CIRCUMSTANCE thereunder.

In the event that any provision of this clause is found by a court of competent jurisdiction to be invalid or unenforceable, the other provisions of this clause and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.

9) Incorporation Of Proposal and Supporting Documentation

The INSURED agree that the statements contained in the Proposal and/or any supporting documentation attached to this Policy, even if such Proposal and/or supporting documents for insurance are not physically attached to this Policy, the INSURED'S Proposal and/or supporting documentation for Insurance shall be deemed to form part of this Policy and underwriting information submitted therewith, are their representations, that such representations are material to the risk undertaken by Underwriters, and this Policy is issued and continued in force by Underwriters in reliance upon the accuracy of such representations. The Proposal and/or supporting documentation attached hereto are incorporated in and constitute a part of this Policy, which Policy, together with the underwriting information submitted with the Proposal and/or supporting documentation, contains the entire agreement between the INSURED and Underwriters, the terms of which shall not be modified or waived except on the express written authority of Underwriters.

10) Inspection And Audit

Underwriters shall be permitted, but not obligated, to inspect the INSURED's property and operations at any time. Neither Underwriters' right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the INSURED or others, to determine or warrant that such property or operations are safe.

Underwriters may examine and audit the INSURED's books and records at any time as far as they relate to the subject matter of this insurance or the Underlying Amounts.

11) Loss Or Medical Incident Payable

Liability under this Policy with respect to any LOSS or MEDICAL INCIDENT shall not attach unless and until the Underlying Amount applicable to such LOSS or MEDICAL INCIDENT has been satisfied by the actual payment of damages in respect of such LOSS or MEDICAL INCIDENT. The INSURED shall make a request to the entity designated in Item 5 of the Declarations for indemnification in respect of any LOSS or MEDICAL INCIDENT for which Underwriters may be liable under this Policy within the twelve(12) months after the INSURED shall have paid an amount of the ULTIMATE NET SUM PAYABLE in excess of the applicable Underlying Amount. Such amount shall be due and payable within ninety (90) days after it is respectively claimed and proven in conformity with this Policy.

If the ULTIMATE NET SUM PAYABLE includes amounts that are not covered by this Policy, either because a CLAIM against any INSURED includes both covered and uncovered CLAIMS or causes of action, or because the CLAIM is made against persons or entities that do not qualify as INSUREDS under this Policy, the INSURED and Underwriters shall use their best efforts to agree upon a fair and

proper allocation allocable to covered and uncovered portions of settlements or amounts paid on behalf of individuals or entities that do not qualify as INSUREDS.

12) Maintenance Of Trust Fund Or Other Security

The INSURED shall maintain any trust fund or other security as described in the INSURED's Proposal. Payment from such trust fund or other security shall be used solely for the payment of damages and expenses within the terms of any Self Insurance Program as described in the INSURED's Proposal. Such trust fund or other security shall not be liquidated, reduced or otherwise disbursed for any other purpose without the express written consent of Underwriters, such consent not to be unreasonably withheld.

Nothing contained herein shall be construed to amend the provisions of any Insuring Agreement or this condition.

13) Other Insurance

If other valid and collectible insurance is available to the INSURED covering a LOSS or MEDICAL INCIDENT also covered by this Policy, other than insurance that is specifically stated to be in excess of this Policy, the insurance afforded by this Policy shall be in excess of and shall not contribute with such other insurance. Nothing herein shall be construed to make this Policy subject to the terms, definitions, conditions and limitations of any other insurance.

14) Policy Disputes

a) Arbitration

If any dispute shall arise between the INSURED and the Underwriters with reference to the interpretation of this Policy or their rights with respect to any transaction involved, whether such dispute arises before or after termination of this Policy, such dispute, upon the written request of either party, shall be submitted to three arbitrators, one to be chosen by each party and the third by the two so chosen.

The claimant (the party requesting Arbitration) shall appoint their arbitrator and give written notice thereof to the respondent. Within thirty (30) days of receiving such notice the respondent shall appoint their arbitrator and give written notice thereof to the claimant, failing which the claimant may apply to the American Arbitration Association to nominate an arbitrator on behalf of the respondent.

Before entering upon a reference the two arbitrators shall appoint a third arbitrator. Should they fail to appoint such a third arbitrator within thirty (30) days of the appointment of the respondent's arbitrator then either of them or either of the parties may apply to the American Arbitration Association for the appointment of the third arbitrator. The three arbitrators shall decide by majority. If no majority can be reached the verdict of the third arbitrator shall prevail. They shall also act as Chair of the Tribunal.

Unless the parties otherwise agree, the arbitration tribunal shall consist of persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance as persons engaged in the industry itself or as lawyers or other professional advisors.

The arbitration tribunal shall, so far as is permissible under the law and practice of the place of arbitration, have power to fix all procedural rules for the holding of the arbitration including discretionary power to make orders as to any matters which it may consider proper in the circumstances of the case with regard to pleadings, discovery, inspection of the documents, examination of the witnesses and any other matter whatsoever relating to the conduct of the arbitration and may receive and act upon such evidence whether oral or written strictly admissible or not as it shall in its discretion think fit.

At the conclusion of the hearing, the arbitrators shall render a written statement detailing the award, setting out the reasons for their decisions and such award shall be binding upon both parties. All costs of the arbitration shall be determined by the arbitration tribunal who may, taking into account the law and practice of the place of arbitration, direct to and by whom and in what manner they shall be paid. The place of arbitration shall be New York, United States of America and the proper law of this Policy shall be the law of the State of New York.

b) Service Of Suit

This Service of Suit clause is not intended and shall not be deemed to conflict with or override the obligations of the parties to arbitrate their disputed as provided in this condition. This clause is solely intended as an aid to compelling or enforcing such arbitration, not as an alternative to the arbitration requirements for resolving disputes under this Policy as set forth in **a)** above.

In the event of the failure of Underwriters to pay any amount claimed to be due hereunder, Underwriters, at the request of the INSURED, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any state in the United States.

Service of process in such suit may be made upon the person(s) or firm named in Item 9 of the Declarations, and that in any suit instituted against any one of them upon this Policy, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal. The person(s) or firm named in Item 9 of the Declarations are authorised and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the INSURED to give a written undertaking to the INSURED that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the INSURED or any beneficiary hereunder arising out of this Policy, and hereby designate the person(s) or firm named in Item 9 of the Declarations as the person to whom the said officer is authorised to mail such process or a true copy thereof.

15) Premium

Unless otherwise provided for, the premium for this Policy, as set forth in Item 11 of the Declarations, is a flat premium and not subject to adjustment except as provided in Definition 18) b) and Other Condition 3 of this Policy.

16) Premium Payment

Notwithstanding any provision to the contrary within this Policy or any endorsement hereto, in respect of non-payment of premium only the following clause will apply.

The INSURED undertakes that premium will be paid in full to Underwriters within thirty (30) days of inception of this Policy (or, in respect of instalment premiums, when due).

If the premium due under this Policy has not been so paid to Insurers by the 30th day from the inception of this Policy (and, in respect of instalment premiums, by the date they are due) Underwriters shall have the right to cancel this Policy by notifying the INSURED via the entity designated in Item 5 of the Declaration in writing. In the event of cancellation, premium is due to Underwriters on a pro rata basis for the period that Underwriters are on risk but the full Policy premium shall be payable to Underwriters in the event of a LOSS or MEDICAL INCIDENT prior to the date of termination which gives rise to a valid CLAIM under this Policy.

It is agreed that Underwriters shall give not less than fifteen (15) days prior notice of cancellation to the INSURED via the entity designated in Item 5 of the Declaration. If premium due is paid in full to Underwriters before the notice period expires, notice of cancellation shall automatically be revoked. If not, the Policy shall automatically terminate at the end of the notice period.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

17) Sanction Limitation

Underwriters shall not be deemed to provide cover, nor shall Underwriters 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 Underwriters 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.

18) Subrogation

In the event of any payment hereunder, Underwriters will act in concert with all other interests (including the INSURED) concerned in the exercise of rights of recovery. The apportioning of any amounts which may be so recovered shall follow the principle that any interests (including the INSURED) that shall have paid an amount over and above any payment hereunder, shall first be reimbursed up to the amount paid by them; Underwriters are then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interests (including the INSURED) of whom this coverage is in excess are entitled to claim the residue, if any. Expenses necessary to the

recovery of any such amounts shall be apportioned between the interests (including the INSURED) concerned, in the ratio of their respective recoveries as finally settled.

19) TRIA Non-Purchased Agreement

This Clause is issued in accordance with the terms and conditions of the “U.S. Terrorism Risk Insurance Act of 2002” as amended as summarized in the disclosure notice.

It is hereby noted that the Underwriters have made available coverage for “insured losses” directly resulting from an “ACT OF TERRORISM” as defined in the “U.S. Terrorism Risk Insurance Act of 2002”, as amended (“TRIA”) and the INSURED has declined or not confirmed to purchase this coverage.

This Insurance therefore affords no coverage for losses directly resulting from any “ACT OF TERRORISM” as defined in TRIA except to the extent, if any, otherwise provided by this Policy.

All other terms, conditions, insured coverage and Exclusions of this Insurance including applicable limits and deductibles remain unchanged and apply in full force and effect to the coverage provided by this Insurance.

SHORT RATE CANCELLATION TABLE**1) For insurance written for one year:**

| Days Insurance in Force | Per Cent. of One Year Premium | Days Insurance in Force | Per Cent. of One Year Premium |
|----------------------------|----------------------------------|----------------------------|----------------------------------|
| 1 | 5 | 154-156 | 53 |
| 2 | 6 | 157-160 | 54 |
| 3 - 4 | 7 | 161-164 | 55 |
| 5 - 6 | 8 | 165-167 | 56 |
| 7 - 8 | 9 | 168-171 | 57 |
| 9- 10 | 10 | 172-175 | 58 |
| 11- 12 | 11 | 176-178 | 59 |
| 13- 14 | 12 | 179-182 | (6 months) 60 |
| 15- 16 | 13 | 183-187 | 61 |
| 17- 18 | 14 | 188-191 | 62 |
| 19- 20 | 15 | 192-196 | 63 |
| 21- 22 | 16 | 197-200 | 64 |
| 23- 25 | 17 | 201-205 | 65 |
| 26- 29 | 18 | 206-209 | 66 |
| 30- 32 (1 month). | 19 | 210-214 | (7 months) 67 |
| 33- 36 | 20 | 215-218 | 68 |
| 37- 40 | 21 | 219-223 | 69 |
| 41- 43 | 22 | 224-228 | 70 |
| 44- 47 | 23 | 229-232 | 71 |
| 48- 51 | 24 | 233-237 | 72 |
| 52- 54 | 25 | 238-241 | 73 |
| 55- 58 | 26 | 242-246 | (8 months) 74 |
| 59- 62 (2 months) | 27 | 247-250 | 75 |
| 63- 65 | 28 | 251-255 | 76 |
| 66- 69 | 29 | 256-260 | 77 |
| 70- 73 | 30 | 261-264 | 78 |
| 74- 76 | 31 | 265-269 | 79 |
| 77- 80 | 32 | 270-273 | (9 months) 80 |
| 81- 83 | 33 | 274-278 | 81 |
| 84- 87 | 34 | 279-282 | 82 |
| 88- 91 (3 months) | 35 | 283-287 | 83 |
| 92- 94 | 36 | 288-291 | 84 |
| 95- 98 | 37 | 292-296 | 85 |
| 99-102 | 38 | 297-301 | 86 |
| 103-105 | 39 | 302-305 | (10 months) 87 |
| 106-109 | 40 | 306-310 | 88 |
| 110-113 | 41 | 311-314 | 89 |
| 114-116 | 42 | 315-319 | 90 |
| 117-120 | 43 | 320-323 | 91 |
| 121-124 (4 months) | 44 | 324-328 | 92 |
| 125-127 | 45 | 329-332 | 93 |
| 128-131 | 46 | 333-337 | (11 months) 94 |
| 132-135 | 47 | 338-342 | 95 |
| 136-138 | 48 | 343-346 | 96 |
| 139-142 | 49 | 347-351 | 97 |
| 143-146 | 50 | 352-355 | 98 |
| 147-149 | 51 | 356-360 | 99 |
| 150-153 (5 months) | 52 | 361-365 | (12 months) 100 |

2) For Policies written for more or less than one year:

- a) If this Policy has been in force for 12 months or less, apply the short rate table to the full annual premium determined as for an insurance written for a term of one year.
- b) If this Policy has been in force for more than 12 months with premium pre-paid in full for the original period:
 - i. determine full annual premium as for an insurance written for a term of one year;
 - ii. deduct such premium from the full insurance premium and on the remainder calculate the pro rata earned on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the insurance was originally written;
 - iii. add premium produced in accordance with items b) i. and ii. to obtain earned premium during full period insurance has been in force.
- c) If this Policy is in force for more than 12 months and premium paid in instalments:-
 - i. determine full annual premium for the ANNUAL PERIOD in which cancellation is effective;
 - ii. calculate the earned portion of the premium determined under c) i. above based upon the short rate table and the difference between the earned premium thus calculated and the premium actually paid by the INSURED for the ANNUAL PERIOD during which cancellation was effected shall be returned to the NAMED INSURED it being understood and agreed that any premium for any ANNUAL PERIOD prior to the ANNUAL PERIOD in which cancellation is effective is fully earned and shall be retained by Underwriters.

LOSS ADVICE FORM**CLAIMANT NAME AND AGE:****INSURED NAME/FACILITY:****DATE(S) OF TREATMENT:****REPORT DATE:****VENUE:****POLICY NUMBER:****POLICY PERIOD:****RETENTION and LIMIT:****CLAIM NUMBER:****COVERAGE TYPE:****CLAIM TYPE (Circumstance,
Claim
or Suit):****CO-DEFENDANTS:****DESCRIPTION OF CLAIM:****LOSS RESERVE:****ALLOCATED LOSS ADJUSTMENT EXPENSES RESERVE
(Note whether inclusive or in addition to underlying):**

LOSS SUMMARIES BORDEREAU

Use Document Reference "XHCP22_Loss Summaries Borderau_V1"



XHCP22_Loss
Summaries Borderau_

DECLARATIONS**ITEM 1.**

- a) NAMED INSURED:
- b) Address of NAMED INSURED:
- c) Existing related entities:

ITEM 2.

Limit of Liability in respect of each LOSS or MEDICAL INCIDENT:

USD

ITEM 3.

Limit of Liability in the aggregate for each

ANNUAL PERIOD, separately for a) and b) below:

- a) **Coverage (I) Medical Professional Liability**, including PERSONAL INJURIES sustained by any PATIENT as a result of a MEDICAL INCIDENT

USD

- b) **Coverage (II) General Liabilities**, excluding those PERSONAL INJURIES sustained by any PATIENT

USD

ITEM 4.

Policy Period:

From: to:

both days at 12:01 a.m. Local Standard Time

ITEM 5.

Notice to:

ITEM 6.

Retroactive Date:

ITEM 7.

Currency (Other Condition 5):

ITEM 8.

Payment of Premium (Condition 5) to:

ITEM 9.

Service of Process (Other Condition 14 b)) upon:

ITEM 10.

Underwriters' Representative:

ITEM 11.

Premium for this Policy (Other Condition 15):

ITEM 12.

Additional premium in respect of Extended Reporting Period (Other Condition 6):

Additional premium in respect of Extended Reporting Period (Other Condition 7):

(% of the full annual premium for this Policy):

ITEM 13.

Period of Extended Reporting (Other Condition 6):

Period of Extended Reporting (Other Condition 7):

ATTACHING TO AND FORMING PART OF POLICY NUMBER:**SCHEDULE OF UNDERLYING AMOUNTS:**

As respects **Coverage (I) Medical Professional Liability**, and all PERSONAL INJURIES sustained by any PATIENT as a result of a LOSS:

USD each MEDICAL INCIDENT or LOSS

Where an underlying annual aggregate amount is applicable:

USD in the annual aggregate

USD each MEDICAL INCIDENT or LOSS Maintenance Retention

In the event of the exhaustion of the underlying aggregate amount stated above, a Maintenance Retention of USD_____ each MEDICAL INCIDENT or LOSS without aggregate shall apply to the ULTIMATE NET SUM PAYABLE.

Any amounts that have been paid by or on behalf of the INSURED in relation to the ULTIMATE NET SUM PAYABLE, prior to the exhaustion of the aggregate amount and which contributed to the exhaustion of such aggregate amount, shall be applied against the amount of the Maintenance Retention applicable to such ULTIMATE NET SUM PAYABLE.

Further, the Maintenance Retention shall not be applied to the actual ULTIMATE NET SUM PAYABLE which exhausts the aggregate amount on a paid basis.

As respects **Coverage (II) General Liabilities**, but excluding those PERSONAL INJURIES sustained by any PATIENT:

- a) all PERSONAL INJURIES, PROPERTY DAMAGE and ADVERTISING INJURY, except where separate amount specifically shown

USD each LOSS without aggregate

- b) PRODUCTS LIABILITY HAZARD and COMPLETED OPERATIONS LIABILITY HAZARD combined

USD each LOSS

USD in the annual aggregate

- c) EMPLOYERS LIABILITY HAZARD

USD each LOSS without aggregate

- d) AUTOMOBILE LIABILITY HAZARD

USD each LOSS without aggregate

- e) AIRCRAFT LIABILITY HAZARD

USD each LOSS without aggregate

- f) WATERCRAFT LIABILITY HAZARD

USD each LOSS without aggregate

g) HELIPAD LIABILITY HAZARD

USD each LOSS without aggregate

INFORMATION:

Note that unless a specific Underlying Amount is scheduled for the EMPLOYERS LIABILITY HAZARD, AUTOMOBILE LIABILITY HAZARD, AIRCRAFT LIABILITY HAZARD, WATERCRAFT LIABILITY HAZARD or HELIPAD LIABILITY HAZARD, coverage is automatically excluded for each such hazard by virtue of Exclusion (III) 12).