PROFESSIONAL INDEMNITY POLICY – MEDICAL MALPRACTICE

(MunichRe Policy Wording - Promulgated with Decision No: 2010/QĐ-PHH dated 07 September, 2020 of BIDV Insurance Corporation)

I. Insuring Agreement

Subject to the terms, limits, exclusions and other conditions contained in this policy and schedule, and in consideration of the Insured having paid or agreed to pay the premium, BIC (hereafter called "the Insurer") agrees to indemnify the Insured, but not exceeding the aggregate limit stated in the schedule:

1. up to the limit of indemnity stated in the schedule for any sum which the Insured may become legally liable to pay arising from any claim being first made in writing against him during the policy period stated in the schedule arising out of bodily injury or death of any patient caused by or alleged to have been caused by error, omission or negligence in professional services rendered or which should have been rendered (hereinafter referred to as malpractice) by the Insured or his qualified employees during the policy period (and retroactive period, if any);

2. the costs and expenses incurred with the Insurer's written prior consent in the defence and/or settlement of any claim. However, if a payment in excess of the limit of indemnity available under this insurance has to be made to dispose of a claim, the Insurer's liability in respect of such costs and expenses incurred shall be in the same proportion as the limit of the indemnity available under this insurance to the total amount paid to dispose of the claim.

II. Limits of Indemnity

1. Any one Claim

The liability of the Insurer for all compensation costs and expenses payable to any claimant or number of claimants in respect of any one occurrence shall not exceed the sum stated in the schedule as the limit of indemnity for any one claim.

For purposes of determining the limit of the Insurer's liability all claims

- arising from one specific common cause but leading to bodily injury of more than one patient

- made against more than one insured person in connection with one and the same loss

shall be considered to be one claim. The respective date of loss shall be deemed to be the date when the first claim is made in writing against the Insured.

2. Aggregate Limit

The liability of the Insurer for all compensation costs and expenses payable in respect of all claims made during any one policy period shall not exceed the aggregate limit as stated in the schedule.

III. Insured's Deductible

Provided always that the Insurer is liable, in respect of each and every claim hereunder, only for that part of the claim (which for the purpose of this clause shall be deemed to include all costs and expenses incurred by the Insurer investigating and defending the claim) which exceeds the Insured's deductible stated in the schedule; it being understood and agreed that if any expenditure is incurred by the Insurer which, by virtue of this clause, is the responsibility of the Insured, then such amount shall be reimbursed forthwith to the Insurer by the Insured on demand.

IV. Exclusions

This policy shall not cover any claim or claims arising out of:

1. any services performed beyond the scope of professional services, treatments, advices typically rendered as a physician/doctor under domestic legislation, ethical codes and rules;

2. medical services rendered unless of diagnostic or therapeutic reasons; in case of plastic/esthetic surgery cover is only granted for reconstructive surgery as a necessary consequence of accident and/or congenital deformation;

3. treatments/services rendered to provoke/avoid gravidity/procreation, including operations to produce sterility, in-vitro-fertilization and/or abortions and (consequential) financial losses arising out of a.m. activities, i.e. but not limited to the obligation to pay maintenance;

4. bodily injury (including emotional distress or mental trauma or phobia), loss or damage which is actually or allegedly caused by, contributed to by or in any way related to Aquired Immune Deficieny Syndrome (AIDS) or its pathogenic agents or hepatitis;

5. the operation of blood banks except where these are purely providing blood or blood products for the herewith Insured operations;

6. genetic damages/manipulation;

7. the use of drugs for weight reduction;

8. the performance by dentists and dental surgeons of

   - general anaesthesia or

   - any procedure carried out under general anaesthesia

9. services rendered while under the influence of intoxicants or narcotics;

10. any intentional, dishonest, malicious, criminal or illegal act of the Insured or his employees;

11. damages of whatsoever nature directly or indirectly caused by or contributed to or arising from ionizing radiation or contamination by radioactivity;

12. any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, terrorism, rebellion, revolution, insurrection or military or usurped power;

13. claims by one Insured under this policy against another Insured under this policy;

14. liability assumed by the Insured by contract or any other agreement or any express warranty or guarantee given by the Insured which increases the Insured's legal liability. This exclusion shall not apply to liability which would have attached to the Insured in the absence of such contract, agreement, warranty or guarantee.

V. Conditions

This policy any endorsement hereon and the schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this policy or of the schedule shall bear such specific meaning wherever it may appear.

1. The Insured shall take all reasonable precautions to prevent or minimize injury, illness, loss or damage which may give rise to a claim under this policy.
2. In the event of any incident or circumstance which may give rise to a claim for indemnity under this policy, the Insured shall give immediate notice in writing to the Insurer. Such notice having been given not later than 30 days after expiry of the policy period, any claim to which that incident or circumstance has given rise, which may be made within 36 months after the expiry of the period specified in the schedule, shall be deemed for the purpose of this policy to have been made during the existence hereof.
3. The Insured shall not admit liability or settle or make or promise any payment in respect of any claim which may be the subject of indemnity hereunder, or incur any costs or expenses in connection therewith, without the written consent of the Insurer which shall be entitled to take over and conduct in the name of the Insured the defence and/or settlement of any such claim, for which purpose the Insured shall give all the information and assistance that the Insurer may reasonably require.

   The Insurer will not settle any claim without the consent of the Insured. If, however, the Insured refuses to consent to any settlement recommended by the Insurer and shall elect to contest or continue any legal proceedings, then the liability of the Insurer shall not exceed the amount for which the claim could have been so settled plus the costs and expenses incurred with its consent up to the date of such refusal.

4. The Insurer may pay to the Insured the maximum sum payable under this policy in respect of any occurrence or any lesser sum for which the claim or claims arising from such occurrence can be settled and the Insurer shall not be under any further liability in respect of that occurrence except for the payment of costs and expenses of litigation incurred prior to such payment.

5. If at the time of any occurrence or claim there is or but for the existence of this policy would be any other policy of indemnity or insurance in favour of or effected by or on behalf of the Insured applicable to such occurrence or claim the Insurer shall not be liable under this policy to indemnify the Insured in respect of such occurrence or claim except as far as concerns any excess beyond the amount which would be payable under such other indemnity or insurance had this policy not been effected.

6. Where a retroactive date is specified in the schedule, this insurance does not apply to claims made against the Insured by reason of any negligent act, error or omission committed, occurred or alleged to have been committed or occurence prior to the said retroactive date.

7. The Insured shall at all times

   a) maintain accurate descriptive records of all professional services which shall be available for inspection and use by the Insurer or its duly appointed representatives insofar as they pertain to any claim hereunder,

   b) give to the Insurer or its duly appointed representatives such information, assistance and signed statements as the Insurer may require, and

   c) assist in the defence of any claim at its own expense;

8. The due observance and fulfilment of the terms, provisions and conditions so far as they relate to anything to be done or complied with by the Insured and the truth of the statements in the proposal made by him (which shall be the basis of this contract and held to be incorporated herein) shall be conditions precedent to any liability of the Insurer.

9. In the event of any dispute arising between the Insured and the Insurer this insurance shall be governed by the law of the country specified in the schedule whose courts shall be the only ones having jurisdiction in any dispute arising hereunder.

10. It is hereby agreed that if any payment is made under this insurance in respect of a claim, the Insurer is thereupon subrogated to all the Insured's rights of recovery on relation thereto.

11. If the Insured makes any claim knowing the same to be fraudulent or false, as regards the amount or otherwise, this insurance shall become void and all claims thereunder shall be forfeited.

12. This insurance shall not apply in connection with any insurance and shall only pay losses if and so far as they are not recoverable under any other insurance.

13. The indemnity provided by this policy is restricted to apply in respect of

   a) compensation resulting from judgement rendered by or obtained from a court of competent jurisdiction in the territory stated in the schedule

b) charges, expenses and legal costs incurred and recoverable in the territory stated in the schedule.

14. In the absence of a local legal regulations regarding the cancellation this insurance may be cancelled by the Insured at any time by written notice to the Insurer. This insurance may also be cancelled by or on behalf of the Insurer by registered, certified or other first class mail to the Insured's address as shown in the schedule, containing written notice about when, not less than 30 days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this insurance shall terminate at the date and hour specified in such notice.

15. If this insurance is cancelled by the Insured, the Insurer shall refund the customary short rate proportion of the premium hereon.

    If this insurance is cancelled by, or on behalf of, the Insurer for any reason other than non-payment of the premium or any breach of contract by the Insured, the Insurer shall refund the pro rata proportion of the premium hereon.

16. Payment or tender of any unearned premium by the Insurer shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.

17. If the period of limitation relating to the giving of notice is prohibited or made void by any law or statutory provision, such period shall be deemed to be amended so as to be equal to the minimum period of notice permitted by such law or statutory provision.