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## COMBINED GENERAL LIABILITY

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**QBE INSURANCE (MALAYSIA) BERHAD** welcomes you as a Policyholder and we take this opportunity to recommend that you thoroughly examine this Document which sets out the limitations and benefits of the insurance. Please store it in a safe place.

Should you have any query, please contact your Registered Agent/Broker or our QBE office, especially if the insurance is not completely in accordance with your intentions.

In consideration of the payment to QBE INSURANCE (MALAYSIA) BERHAD (hereafter called "the Company") of the amounts payable for this insurance the Company will indemnify the Insured in accordance with this Policy.

## 1. DEFINITIONS

1.1. "**ADVERTISING LIABILITY**" means liability for damages arising out of one or more of the following:

1.1.1. defamation except arising out of defamatory statements or disparaging material made or produced prior to the inception date of the **Policy** or made at the **Insured's** direction with the **Insured's** knowledge of the falsity of the statement or material;

1.1.2. infringement of copyright, title or slogan;

1.1.3. unfair competition, misappropriation of advertising ideas or style of doing business;

1.1.4. invasion of privacy committed or alleged to have been committed in any Advertisement and arising out of any advertising activities conducted by the **Insured** in the course of carrying out the **Insured's Business**.

For the purpose of this definition, Advertisement means any manner of communication given to the public including by way of any form of print media, publication, telecommunication, radio or television broadcast, electronic mail, internet, World Wide Web or exhibit.

However the **Company** will not indemnify the **Insured** in respect of claims made against the **Insured**:

1.1.5. arising out of advertising activities prior to commencement date of this **Policy**;

1.1.6. arising from the failure of performance of contract, other than misappropriation of advertising contrary to an implied contract;

1.1.7. for infringement or passing off a trade-mark, service mark or trade name on any products, goods or services sold, offered for sale or advertised. This does not apply to infringement of titles or slogans;

1.1.8. for incorrect description of any products and/or services;

1.1.9. for mistake in advertised price of products and/or services;

1.1.10. failure of the **Insured's Products** or services to conform with advertised performance, quality, fitness or durability;

1.1.11. for any **Insured** whose **Business** is advertising, broadcasting, publishing or telecasting.

1.2. "**AIRCRAFT**" means any vessel, craft or aerial device made or intended to fly or move in or through the atmosphere or space.

- 1.3. **"BUSINESS"** means the activities of the **Insured** as stated in the **Schedule** and including:
- 1.3.1. provision and management of canteens, sports, social and welfare and medical organisations for the benefit of **Employees** and/or the **Insured's** pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services.
  - 1.3.2. provision of security services for the benefit of the **Insured**;
  - 1.3.3. provision of nursery, crèche or child care facilities where incidental to the business;
  - 1.3.4. provision of educational facilities;
  - 1.3.5. property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
  - 1.3.6. organisation of and participation in exhibitions, trade fairs, conferences and the like,
  - 1.3.7. employment of subcontractors for performance of work on behalf of the **Insured**;
  - 1.3.8. the organisation of charitable events or similar fund raising activities;
  - 1.3.9. sponsorship of events, organisations, entities and individuals;
  - 1.3.10. repair, maintenance and servicing of own mechanically propelled vehicles sale or disposal of own property and goods, including owned mechanically propelled vehicles;
  - 1.3.11. provision of gifts and promotional material incidental to the **Business**.
- 1.4. **"CLAIM"** means:
- 1.4.1. the receipt by the **Insured** of any written or verbal notice of demand for compensation made by a third party against the **Insured**; or
  - 1.4.2. any writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counter-claim or third or similar party notice served upon the **Insured**.
- 1.5. **"COMPENSATION"** means monies paid or agreed to be paid by judgment, award or settlement for **Personal Injury, Property Damage** and/or **Advertising Liability**.
- Provided that **Compensation** is only payable in respect of an **Occurrence** to which this **Policy** applies.
- 1.6. **"DEDUCTIBLE"** is the amount the **Insured** first bears in relation to each **Occurrence** and as specified in the **Schedule**. The **Deductible** applies to all amounts payable under this **Policy** including the indemnity provided under clause 2.2 Defence Costs and Expenses.
- 1.7. **"ELECTRONIC DATA"** means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and

electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instruction for such equipment.

- 1.8. **“EMPLOYEE”** is any person engaged under a contract of service or apprenticeship with the **Insured**, but does not include any person employed under such contract who is excluded from the definition of ‘worker’ under any workers’ compensation legislation.
- 1.9. **“EMPLOYMENT PRACTICES”** means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to employment or prospective employment of any person or persons by the **Insured**.
- 1.10. **“HOVERCRAFT”** means any vessel, craft or thing made or intended to float on or in or travel on or through the atmosphere or water.
- 1.11. **“INCIDENTAL CONTRACTS”** means:
  - 1.11.1. any written rental agreement or lease of real or personal property not requiring an obligation to insure such property or be strictly liable regardless of fault;
  - 1.11.2. any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities;
  - 1.11.3. any written contract with any railway authority for the loading, unloading and/or transport of products, including contracts relating to the operation of railway sidings.
- 1.12. **“INSURED”** each of the following is deemed to be an **Insured** under this **Policy** to the extent set forth:
  - 1.12.1. the named **Insured** specified in the **Schedule**;
  - 1.12.2. all the **Subsidiary** companies (now or hereafter constituted) of the named **Insured** if their places of incorporation are within the country of **Policy** issue;
  - 1.12.3. every director, executive officer, **Employee**, volunteer, work experience student, partner or shareholder of the named **Insured** or of a company designated in clause 1.12.2 above but only whilst acting within the scope of their duties in such capacity;
  - 1.12.4. every principal, in respect of the liability of such principal arising out of the performance by the named **Insured** or by a company designated in clause 1.12.2 above, of any contract or agreement for the performance of work for such principal, to the extent required by such contract or agreement, but limited in all to the extent of coverage and **Limit of Liability** as provided for in this **Policy**;
  - 1.12.5. every office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with the consent of the **Insured** (other than an **Insured** designated in clause 1.12.4 or 1.12.6) in respect of

claims arising from their duties connected with the activities of any such club, organisation or service;

1.12.6. each partner, joint venturer, co-venturer or joint lessee of the named **Insured** but only:

1.12.6.1. with respect to liability incurred as the partnership, joint venture, co-venture, joint lessee; and

1.12.6.2. provided the partnership, joint venture, co-venture, joint lessee has been notified to the **Company** within 60 days of formation and has been endorsed on the **Schedule** hereto;

1.12.7. any director or senior executive of the named **Insured** or one of the parties shown in clause 1.12.2 in respect of private work undertaken by the **Insured's Employees** for such director or senior executive.

**Insured** does not include the interest of any other person other than as described in clauses 1.12.1 to 1.12.7 above.

1.13. "**INSURED'S PRODUCTS**" means any goods, products or property after they have ceased to be in the possession or under the control of the **Insured**, manufactured, constructed, erected, installed, repaired, serviced, treated, grown, extracted, produced, processed, assembled, sold, supplied, distributed by the **Insured** (including any container thereof other than a vehicle).

1.14. "**LIMIT OF LIABILITY**" means the applicable **Limit of Liability** specified in the **Schedule**.

1.15. "**MEDICAL PERSONS**" means any legally qualified medical practitioner, legally qualified registered nurse, dentists and first aid attendants.

1.16. "**NORTH AMERICA**" means the United States of America or its territories or possessions or Canada.

1.17. "**NORTH AMERICAN JURISDICTION**" means any judgment, award, payment, defence costs or settlement delivered, made or incurred within countries which form part of **North America** or which operate under the laws of such countries or any states, provinces or territories forming part of them (or to any order made anywhere in the world to enforce such judgment, award, payment, defence costs or settlement either in whole or in part) following any event which is or may be the subject of indemnity under the laws of **North America**.

1.18. "**OCCURRENCE**" means an event, including continuous or repeated exposure to substantially the same general conditions which results in **Personal Injury** or **Property Damage** or **Advertising Liability** neither expected nor intended from the standpoint of the **Insured**.

With regards to **Advertising Liability**, all liability arising out of the same injurious material or act regardless of the number or kind of media used, the frequency or repetition thereof and number of claimants shall be deemed to be one **Occurrence**.

1.19. "**PERIOD OF INSURANCE**" means the period shown in the **Schedule**.

- 1.20. **"PERSONAL INJURY"** means:
- 1.20.1. bodily injury (which expression includes death and illness), disability, shock, fright, mental anguish or mental injury;
  - 1.20.2. the effects of false arrest, wrongful detention, false imprisonment or malicious prosecution;
  - 1.20.3. the effects of wrongful entry or eviction;
  - 1.20.4. the effects of any publication or utterance of defamatory or disparaging material;
  - 1.20.5. the effects of assault and battery not committed by the **Insured** or at the **Insured's** direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.
- 1.21. **"POLICY"** means this document and each endorsement issued by the **Company** and attached or intended to be attached to it.
- 1.22. **"POLLUTANTS"** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
- 1.23. **"PROPERTY DAMAGE"** means:
- 1.23.1. physical damage, loss or destruction of tangible property including any resulting loss of use of that property;
  - 1.23.2. loss of use of tangible property which has not been physically damaged, lost or destroyed provided such loss of use is caused by an **Occurrence**.
- 1.24. **"SCHEDULE"** means the schedule of insurance including any endorsement schedule given to **Insured** by the **Company**.
- 1.25. **"SUBSIDIARY"** means:
- 1.25.1. any entity which by virtue of any applicable legislation or law is deemed to be the **Insured's** subsidiary (where the **Insured** is a company);
  - 1.25.2. any entity over which the **Insured** (where the **Insured** is a company) is in a position to exercise effective direction or control.
- 1.26. **"TERRITORIAL LIMITS"** means as specified in the **Schedule** subject to the provisions of clause 3.13 'North American Territory' and 3.12 'North American Jurisdiction'.
- 1.27. **"TOOL OF TRADE"** means a **Vehicle** which has a tool or plant forming part of, attached to, or used in connection with it while such tool or plant is engaged on a work site. **Tool of Trade** does not include any **Vehicle** whilst travelling to or from a work site, or **Vehicles** that are used to carry goods to or from any premises.

- 1.28. "**VEHICLE**" means any type of machine on wheels or on self laid tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine.
- 1.29. "**WATERCRAFT**" means any vessel, craft or thing made or intended to float on or in or travel on or through or under water.

## 2. COVERAGE

### 2.1. LIABILITY

The **Company** will pay to or on behalf of the **Insured** all sums which the **Insured** becomes legally liable to pay by way of **Compensation** and all costs awarded against the **Insured** in respect of:

- 2.1.1. **Personal Injury**; or
- 2.1.2. **Property Damage**; or
- 2.1.3. **Advertising Liability**;

first happening during the **Period of Insurance** caused by an **Occurrence** within the **Territorial Limits** in connection with the **Business** of the **Insured**.

### 2.2. DEFENCE COSTS AND EXPENSES

With respect to the indemnity afforded by this **Policy**, the **Company** will:

- 2.2.1. defend in the name of and on behalf of the **Insured** any suit against the **Insured** alleging such **Personal Injury**, **Property Damage** or **Advertising Liability** and seeking damages on account thereof even if such suit is groundless, false or fraudulent, and the **Company** may make such investigation, negotiation and settlement of any claim or suit as the **Company** may deem expedient;
- 2.2.2. pay all expenses incurred by the **Company**, all costs taxed or awarded against the **Insured** in any suit and all interest accruing after entry of judgment until the **Company** has paid, tendered or deposited in court such part of such judgment as does not exceed the **Limit of Liability**;
- 2.2.3. reimburse the **Insured** for all reasonable expenses, other than loss of earnings, incurred with the consent of the **Company**.

Provided that:

- 2.2.4. the **Company** shall not be obliged to pay any claim or judgment or to defend any suit after the **Limit of Liability** has been exhausted by payment of judgments or settlements;
- 2.2.5. if a payment exceeding the **Limit of Liability** has to be made to dispose of a claim, the **Company's** liability to pay any defence costs and expenses in connection

therewith shall be limited to such proportion of the defence costs and expenses as the **Limit of Liability** bears to the amount paid to dispose of the claim.

The amounts thus incurred, except payments in settlement of claims, suits and all costs awarded against the **Insured** are payable by the **Company** in addition to the **Limit of Liability** for all jurisdictions except **North America** where all defence costs and expenses are included within the **Limit of Liability**.

### 2.3. **LIMIT OF LIABILITY**

2.3.1. the maximum liability of the **Company** in respect of any claim or any series of claims for **Personal Injury** and/or **Property Damage** and/or **Advertising Liability** caused by or arising out of one **Occurrence** will not exceed the **Limit of Liability**.

2.3.2. the total aggregate liability of the **Company** during any one **Period of Insurance** for all claims arising out of the **Insured's Products** and/or **Advertising Liability** shall not exceed the **Limit of Liability**.

### 2.4. **DEDUCTIBLE**

When specified in the **Schedule**, each **Occurrence** arising under this **Policy** is subject to the **Deductible** shown and such **Deductible** is to apply to clause 2.2 Defence Costs and Expenses.

If more than one **Deductible** is payable under this **Policy** for any claim, or series of claims arising from the one event:

2.4.1. the **Insured** must pay the highest **Deductible**; but

2.4.2. only one **Deductible** applies.

## 3. **EXCLUSIONS**

This **Policy** does not cover liability in respect of:

### 3.1. **AIRCRAFT, AIRCRAFT PRODUCTS, WATERCRAFT AND HOVERCRAFT**

Claims arising out of

3.1.1. the ownership, maintenance, operation or use by the **Insured** or on the **Insured's** behalf of any aircraft; however this exclusion 3.1.1 will not apply to Unmanned Aerial Devices (Drones)

Provided that:



- 3.1.1.1 the **Insured** comply with all statutory obligations and regulations imposed by public authorities.
  - 3.1.1.2 the Unmanned Aerial Device is not used for military or defence purposes.
  - 3.1.1.3 operation of the Unmanned Aerial Device is in accordance with manufacturer's recommendations.
  - 3.1.1.4 the Unmanned Aerial Device is not used for the carriage or transport of chemicals or other dangerous goods.
- 3.1.2. the ownership, operation or use by the **Insured** or on the **Insured's** behalf of:
- 3.1.2.1. any watercraft exceeding 20 metres in length; or
  - 3.1.2.2. hovercraft;
- 3.1.3. the **Insured's Products** that are aircraft component parts used for maintaining any aircraft in flight or moving upon the ground or used in the construction of any aircraft hull or machinery which to the **Insured's** knowledge are incorporated in any aircraft.

### 3.2. ASBESTOS

Any actual or alleged liability whatsoever for any claim or claims in respect of losses directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

### 3.3. CONTRACTUAL LIABILITY

Any obligation assumed by the **Insured** under any agreement or contract except to the extent that:

- 3.3.1 the liability would have been implied by law in the absence of such contract or agreement;
- 3.3.2. the liability arises from a provision in a contract for lease of real or personal property other than a provision which obliges the Insured to effect insurance in respect of the subject matter of that contract;
- 3.3.3. the liability is assumed by the **Insured** under a warranty of fitness or quality as regards to the **Insured's Products**;
- 3.3.4. the liability is assumed under **Incidental Contracts**.

### 3.4. DEFAMATION

Defamation:

- 3.4.1 made prior to the commencement of this **Period of Insurance**; or

3.4.2. made by or at the direction of the **Insured** with the knowledge of the falsity thereof;  
or

3.4.3. if the **Insured's Business** is advertising, broadcasting, publishing or telecasting.

### 3.5. ELECTRONIC DATA

3.5.1 communication, display, distribution or publication of **Electronic Data**, provided that this clause 3.5.1 does not apply to **Personal Injury** or **Advertising Liability** resulting therefrom;

3.5.2. total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of **Electronic Data**;

3.5.3. error in creating, amending, entering, deleting or using **Electronic Data**;

3.5.4. total or partial inability or failure to receive, send, access or use **Electronic Data** for any time or at all;

from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

### 3.6. EMPLOYMENT LIABILITY

3.6.1 **Personal Injury** to any **Employees** arising directly or indirectly out of or in the course of their employment in the **Business** of the **Insured**;

3.6.2. any liability the **Insured** may have in respect of **Personal Injury** sustained to any person who is, pursuant to any legislation relating to Workers' Compensation, deemed or defined to be an employee of the **Insured**;

3.6.3. any liability in respect of which the **Insured** is entitled to seek indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to Workers' Compensation including any legislation of any State, Territory or Province and whether or not the **Insured** is party to such contract of insurance;

3.6.4. any liability imposed by the provisions of any Workers' Compensation legislation or any industrial award or agreement or determination;

3.6.5. **Employment Practices**.

### 3.7. EXPORTS TO NORTH AMERICA

**Personal Injury** or **Property Damage** or **Advertising Liability** caused by or arising out of the **Insured's Products** knowingly exported by the **Insured**, their agents or servants to **North America**.

### 3.8. FAULTY WORKMANSHIP

The cost of performing, completing, correcting, improving or replacing any work undertaken by the **Insured**.

### 3.9. FINES AND PENALTIES

Fines, penalties and/or liquidated damages.

### 3.10. LEAD

**Personal Injury** or **Property Damage** or **Advertising Liability** or any other loss, cost or expense arising directly or indirectly from or caused by, contributed to by or arising from the presence, ingestion, inhalation or absorption of or exposure to lead in any form or products containing lead.

### 3.11. LOSS OF USE

Loss of use of tangible property which has not been physically injured or lost or destroyed resulting from:

- 3.11.1 a delay in or lack of performance by or on behalf of the **Insured** of any contract or agreement;
- 3.11.2 the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the **Insured**, but this exclusion does not apply to the loss of use of other tangible property resulting from the sudden, unintended and unexpected physical damage to or loss or destruction of the **Insured's Products** after such products have been put to use by any person or organisation other than the **Insured**.

### 3.12. NORTH AMERICAN JURISDICTION

- 3.12.1 any judgment, award, payment, **defence costs** or settlement delivered, made or incurred within countries which operate under the laws of **North America** (or any order made anywhere in the world to enforce such judgment, award, payment, Defence Costs and Expenses or settlement either in whole or in part) unless otherwise stipulated in the **Schedule**;
- 3.12.2 but this exclusion shall not apply to visits to **North America** in the course of **Business** to undertake non-manual work including but not limited to clerical work, sales and promotional activities and conference attendance providing that, in such circumstances:
- 3.12.3 the **Company** will not be liable to indemnify any entity based in, operating in or domiciled in **North America**;
- 3.12.4 the **Company** will not be liable to indemnify for any liability that arises under any agreement or contract that would not arise in the absence of any agreement or contract;

3.12.5. the **Company** will not be liable to indemnify for liability arising directly or indirectly from the ownership, maintenance, operation or use of any mechanically propelled vehicle or watercraft;

3.12.6. Defence Costs and Expenses are inclusive and form part of the **Limit of Liability**

### 3.13. NORTH AMERICAN TERRITORY

Liability in respect of **Personal Injury** or **Property Damage** or **Advertising Liability** occurring within **North America** but this exclusion shall not apply to temporary non-manual visits to **North America** as specified in 'North American Jurisdiction' above.

### 3.14. OFFSHORE GAS AND OIL PLATFORMS

Work performed on offshore gas and oil platforms.

### 3.15. PHARMACEUTICAL MANUFACTURERS AND IMPORTERS

**Personal Injury** or **Property Damage** or **Advertising Liability** arising from the sale or distribution of pharmaceuticals imported or manufactured by the **Insured**. Provided this exclusion does not apply to those vitamins available without a prescription.

### 3.16. POLLUTION

3.16.1 **Personal Injury** or **Property Damage** directly or indirectly caused by or arising out of the discharge, dispersal, release, seepage, migration or escape of **Pollutants** into or upon land, the atmosphere, or any water course or body of water. Provided this clause 3.16.1 does not apply if such discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place.

3.16.2. any costs and expenses incurred in the prevention, removing, nullifying or clean-up of such contamination or pollution. Provided this clause 3.16.2 does not apply to clean-up, removal or nullifying expenses only, which are consequent upon a sudden, identifiable, unexpected and unintended happening taking place in its entirety at a specific time and place which results in **Personal Injury** or **Property Damage**.

3.16.3. the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of **Pollutants** caused by the **Insured's Product** that has been discarded, dumped, abandoned or thrown away by the **Insured** or on the **Insured's** behalf.

3.16.4. the actual alleged or threatened discharge, dispersal, release, seepage, migration or escape of **Pollutants** in **North America** or in any country to which the laws of **North America** apply.

The **Company's** liability under clauses 3.16.1 and 3.16.2 above in respect of any one discharge, dispersal, release, seepage, migration or escape and for all discharges, dispersals, releases, and escape of **Pollutants** during any one **Period of Insurance** will not exceed the **Limit of Liability**.

### 3.17. PRODUCT DEFECT

**Property Damage** to the **Insured's Products** if such damage is attributable to any defect therein or the harmful nature or unsuitability thereof.

### 3.18. PRODUCT RECALL

Claims arising out of or resulting from any loss, cost or expense incurred by the **Insured** for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of the **Insured's Products** or of any property of which they form a part, if such **Insured's Products** or property are withdrawn from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous condition in them.

### 3.19. PROFESSIONAL LIABILITY

The rendering of or failure to render professional advice or service by the **Insured** or any error or omission connected therewith but this exclusion does not apply to:

3.19.1 the rendering of or failure to render professional medical advice by **Medical Persons** employed by the **Insured** to provide first aid and other medical services on the **Insured's** premises; or

3.19.2. **Personal Injury** or **Property Damage** arising from such rendering of or failure to render professional advice or service provided such professional advice or service is not given for a fee.

### 3.20. PROPERTY IN CUSTODY OR CONTROL

**Property Damage** to:

3.20.1 property owned by or leased or rented to the **Insured**;

3.20.2. property in the physical or legal control of the **Insured**.

But this exclusion does not apply to liability for **Property Damage** to:

3.20.3. premises (including landlord's fixtures and fittings) which are leased or rented by the **Insured**;

3.20.4. premises (and the contents thereof) not owned, leased or rented by the **Insured** but temporarily occupied by the **Insured** for work therein but no indemnity is granted for damage to that part of the property on which the **Insured** is working and which arises out of such work;

3.20.5. vehicles (not belonging to or used by or on behalf of the **Insured**) in the physical or legal control of the **Insured** where such **Property Damage** occurs whilst any such vehicles are in a car park owned or operated by the **Insured** provided that such car park is incidental to the **Business** of the **Insured**;

3.20.6. the property of an **Employee** of the **Insured** as defined under clause 1.12.1 and 1.12.2;

3.20.7. any other property temporarily in the **Insured's** physical or legal control provided no indemnity is granted for liability in respect of physical damage to or destruction of that part of any property upon which the **Insured** is or has been working. The **Company's** limit under this clause 3.20.7 does not exceed RM 100,000 for any one **Occurrence** and in the aggregate for any one **Period of Insurance**.

### 3.21. PUNITIVE DAMAGES

Punitive damages and/or exemplary damages and/or aggravated damages and/or any additional damages resulting from the multiplication of compensatory damages.

### 3.22. RADIOACTIVITY

Claims directly or indirectly caused by, contributed to by or arising from:

3.22.1 ionising radiations or contamination by radioactivity from nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

For the purpose of this clause 3.22.1 combustion shall include any self-sustaining process of nuclear fission;

3.22.2. the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.

### 3.23. SILICA

**Personal Injury** or **Property Damage** or **Advertising Liability** arising directly or indirectly from or caused by, or alleged to be caused by or contributed to, in whole or in part, by or arising out of the presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form, or to any obligation of the insured to indemnify any party because of **Personal Injury** or **Property Damage** or **Advertising Liability** arising out of the presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form.

### 3.24. TERRORISM

Loss, damage, death, injury, illness, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

This exclusion also applies to loss, damage, death, injury, illness, 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 any act of terrorism.

### 3.25. VEHICLES

**Personal Injury** or **Property Damage** arising out of the ownership, possession, operation, or use by the **Insured** of any **Vehicle**:

3.25.1 which is registered or which is required under any legislation to be registered;

3.25.2. in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation (whether or not that insurance is effected).

Provided that clause 3.25.1 and 3.25.2 do not apply to:

3.25.3. **Personal Injury** where that compulsory liability insurance or statutory indemnity does not provide indemnity and the reason or reasons why that compulsory liability insurance or statutory indemnity does not provide indemnity does not involve a breach by the **Insured** of legislation relating to vehicles;

3.25.4. **Property Damage** arising out of and during the loading or unloading of goods to or from any **Vehicle**;

3.25.5. **Property Damage** caused by or arising from the operation or use of any **Vehicle** which is designed primarily for lifting, lowering, loading, unloading, while being operated or used by the **Insured** within the confines of the **Insured's** premises;

3.25.6. **Property Damage** caused by or arising out of the use of:

3.25.6.1. any **Vehicle** whilst being used as a **Tool of Trade**;

3.25.6.2. plant forming part of the **Insured's** vehicle being used as a tool operating at any worksite;

but excluding **Property Damage** caused by or arising whilst the **Vehicle** is transporting or carting goods.

### 3.26. WAR

Loss, damage, destruction, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any war, invasion, acts of foreign enemies, hostilities or war-like 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.

## 4. CONDITIONS

### 4.1. ACQUISITION OF PROPERTIES OR COMPANIES

The cover granted by this **Policy** extends to properties, assets, companies, firms, entities or other bodies:

- 4.1.1 formed or acquired by the **Insured** for which the **Insured** assumes management responsibility during the **Period of Insurance**
- 4.1.2. which undertake activities consistent with the description of the **Business** in the **Schedule** subject to a written disclosure to the **Company** prior to any new acquisition which represents more than 15% of the current group turnover, in which event the **Company** may seek revised terms including but not limited to payment of additional premium. The **Insured** is not obliged to accept such terms, but if the **Insured** does not, that new acquisition will not be covered by this **Policy**.

Provided that no indemnity shall be granted in respect of claims for **Personal Injury, Property Damage or Advertising Liability** which first happened prior to the date of such acquisition, formation or assumption of management responsibility.

#### 4.2. ADJUSTMENT OF PREMIUM

- 4.2.1 if the premium for this **Policy** or any part thereof shall have been calculated on estimates furnished by the **Insured**, the **Insured** shall within 30 days after the expiry of the **Period of Insurance** furnish the **Company** such matters, particulars and information relevant to the **Policy** as the **Company** may reasonably require. The premium for said period shall thereupon be adjusted and any difference paid by or allowed to the **Insured** as the case may be. Provided that the adjusted premium shall not be less than the minimum premium charged by the **Company**.
- 4.2.2. the **Insured** will keep a record of all matters, particulars and information requested by the **Company** and must on reasonable notice, allow the **Company** or its nominee to inspect and make copies of such records.

#### 4.3. CANCELLATION

- 4.3.1 this insurance may be cancelled at any time by the **Insured** giving written notice of cancellation to the **Company**, in which case the **Company** will retain the customary short period rate for the time the **Policy** has been in force. This insurance may also be terminated at the option of the **Company** on the notice to that effect being sent to the **Insured**, in which case the **Company** will be liable to repay on demand a rateable proportion of the premium for the unexpired term from the date of cancellation. Provided the **Company** will be entitled to retain the agreed minimum premium.
- 4.3.2. when the premium is subject to adjustment, cancellation will not affect the obligation of the **Insured** to supply to the **Company** such information as is necessary to permit the premium adjustment to be calculated and to pay the amount of the adjustment applicable up to the date of cancellation.
- 4.3.3. where “**Insured**” involves more than one person, the **Company** will only cancel the **Policy** when a written agreement to cancel the **Policy** is received from all persons named as the **Insured**.



#### 4.4. CLAIMS

4.4.1 the **Insured** must not:

4.4.1.1 admit liability, make an admission, offer, promise or payment if an incident occurs which is likely to result in someone claiming against the **Insured**;

4.4.1.2 make any admission of guilt or promise or offer of payment in connection with any such claim, unless the **Company** first agrees in writing. This applies to the **Insured** or any other person making a claim under this **Policy**;

4.4.1.3 negotiate, admit, repudiate or pay any claim by any person.

4.4.2 the **Insured** must:

4.4.2.1 take all reasonable precautions to prevent further loss or damage;

4.4.2.2 endeavour to preserve all property, products, appliances and plant and all other things which may assist in the investigation or defence of a claim or in the exercise of right of subrogation, and as may be reasonably practicable, the **Insured** must not without the consent of the **Company** carry out any alteration or repair until the **Company** has had an opportunity to inspect.

4.4.3 the **Company** shall be entitled to prosecute in the name of the **Insured** at its own expense and for its own benefit any claim for indemnity or damages or otherwise.

4.4.4 the **Company** shall have full discretion in the conduct of any legal proceedings and in the settlement in connection with any claim and the **Insured** shall give all information and assistance as the **Company** may require. This may include giving evidence in any legal proceedings.

#### 4.5 CROSS LIABILITY

Where more than one party comprises the **Insured**, each of the parties shall be considered as a separate and distinct unit and the word **Insured** will be considered as applying to each party in the same manner as if a separate **Policy** had been issued to each of the said parties provided that nothing in this clause will result in an increase of the **Company's Limit of Liability** in respect of any **Occurrence** or **Period of Insurance**.

#### 4.6 DISCHARGE OF LIABILITIES

The **Company** may at any time pay to the **Insured** in respect of all claims against the **Insured** arising directly or indirectly from one source or original cause the amount of the **Limit of Liability** or such other limit specified in respect thereof (after deduction of any sum or sums already paid as compensation in respect thereof), or any lesser sum for which the claim or claims can be settled and upon such payment the **Company** shall relinquish conduct or control of and be under no further liability under the **Policy** in connection with such claims except for costs, charges and expenses;

- 4.6.1 recoverable from the **Insured** for all or part of the period prior to the date of such payment;
- 4.6.2 incurred by the **Company**;
- 4.6.3 incurred by the **Insured** with the written consent of the **Company** prior to the date of such payment.

#### 4.7 **DISPUTES**

All disputes arising out of or under this **Policy** shall be subject to determination by any court of competent jurisdiction within the country in which this **Policy** was issued according to the law applicable to that jurisdiction.

#### 4.8 **DUE OBSERVANCE**

If the **Insured** fails to comply with any term, condition or provision of the **Policy**, the **Company** may refuse to pay a claim, but in any event both parties' rights will be subject to any applicable insurance law of the country in which this **Policy** was issued.

#### 4.9 **INSPECTION OF PROPERTY**

- 4.9.1 the **Company** will be permitted but not obligated to inspect the **Insured's** property and operations at any time.
- 4.9.2 neither the **Company's** right to inspect nor its failure to inspect, nor the making of any inspection nor any report of an inspection may be used by the **Insured** or others in any action or proceeding involving the **Company**.
- 4.9.3 the **Company** may examine and audit the **Insured's** books and records at any time during the **Period of Insurance** and within three years thereafter but that examination and audit will be restricted to matters which in the opinion of the **Company** are relevant to the **Policy**.

#### 4.10 **NOTICES**

Notice in writing shall be given as soon as possible to the **Company** of:

- 4.10.1 every **Occurrence**, claim, writ, summons, proceedings, impending prosecution, inquest and all information in relation thereto which may result in a claim under this **Policy**, whether or not the **Insured** believes any claim amount might fall below any **Deductible**.
- 4.10.2 every change materially varying any of the facts or circumstances existing at the commencement of this **Policy** that shall come to the knowledge of the **Insured**. The **Company** may at its discretion, for what it considers to be an increase of risk:

- 4.10.2.1 charge additional premium;
- 4.10.2.2 amend or impose additional terms or conditions
- 4.10.2.3 cancel the **Policy**.

Any notice given in writing by the **Company**:

- 4.10.3 to the first named **Insured** in the **Schedule** shall be deemed to be notice given to all of the parties comprising the **Insured**;
- 4.10.4 shall be effective immediately on receipt by the first named **Insured** of a personal delivery or electronic communication sent from the **Company** or in the case of notices by post, three business days after having been posted by the **Company** to the **Insured**'s last address known to the **Company**.

#### 4.11 OTHER INSURANCE

- 4.11.1 as soon as is reasonably practical but within 15 days after entering into any other contract of insurance, the **Insured** shall notify the **Company** of, and shall give the **Company** full details of, any such other insurance which provides indemnity, in full or in part, for any of the liabilities insured hereunder.
- 4.11.2 to the extent that the **Insured** has any other insurance in force in respect of the liabilities insured hereunder, the **Company** shall only be liable under this **Policy** for the excess beyond any amount insured by such other insurance in respect of that liability, whether or not such insurance is valid or collectible.

#### 4.12 REASONABLE CARE

The **Insured** must:

- 4.12.1 exercise reasonable care that only competent **Employees** are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition and;
- 4.12.2 take all reasonable precautions to:
  - 4.12.2.1 prevent **Personal Injury, Property Damage** or **Advertising Liability**; and
  - 4.12.2.2 prevent the manufacture, sale or supply of defective products and
  - 4.12.2.3 comply with and ensure that its **Employees**, servants and agents comply with all statutory obligations, by-laws or regulations imposed by all relevant public authorities for the:
    - 4.12.2.3.1 safety of persons or property;
    - 4.12.2.3.2 disposal of waste products;

4.12.2.3.3 handling, storage or use of flammable liquids or substances, gases or toxic chemicals;

4.12.3 at its own expense take reasonable action to trace, recall or modify any **Insured's Products** containing any defect or deficiency of which the **Insured** has knowledge or has reason to suspect, including (but not limited to) any of the **Insured's Products** subject to governmental or statutory ban.

#### 4.13 **SANCTION LIMITATION**

The **Company** shall not provide cover and shall not 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 the **Company** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

#### 4.14 **STATUTORY REQUIREMENTS**

This **Policy** does not cover liability in respect of claims made or actions instituted within any country state or territory outside Malaysia where the **Insured** is required to obtain or secure insurance with an insurer or organisation licensed in that country state or territory to grant such insurance.

#### 4.15 **SUBROGATION**

The **Company** may prosecute in the **Insured's** name for damages or otherwise. The **Company** may do this before or after the **Company** has paid the **Insured's** claim and whether or not the **Insured** has been fully compensated for any actual loss. The **Insured** must execute and deliver instruments and papers and do everything that is necessary to assist the **Company** in the exercise of those rights.

If the **Insured** has agreed not to seek compensation from another person who is liable to compensate the **Insured** for any loss, damage or liability which is covered by this **Policy**, the **Company** will not cover the **Insured** under this **Policy** for that loss, damage or liability.

#### 4.16 **WORDS - GENDER**

4.16.1 words importing persons shall include corporations and other legal entities.

4.16.2 the singular includes references to the plural and vice versa and any gender includes reference to all other genders.

#### 4.17 **CONDITION PRECEDENT**

The validity of this **Policy** is subject to the condition precedent that:

4.17.1 for the risk insured, the named **Insured** has never had any insurance terminated in the last twelve (12) months due solely or in part to a breach of any premium payment condition; or

4.17.2 if the named **Insured** has declared that it has breached any premium payment condition in respect of a previous policy taken up with another insurer in the last twelve (12) months:

4.17.2.1 the named **Insured** has fully paid all outstanding premium for time on risk calculated by the previous insurer based on the customary short period rate in respect of the previous policy; and

4.17.2.2 a copy of the written confirmation from the previous insurer to this effect is first provided by the named insured to the company before cover incepts.

#### 4.18 **PAYMENT OF PREMIUM**

Any premium due must be paid to and received by the **Company** within 60 days of the inception/ renewal of the **Policy** or the effective date of the endorsement. If this condition is not complied with, this **Policy** is automatically cancelled and the **Company** shall be entitled to the short-rate premium for the period during which the **Company** was on risk.



(Requirement for Financial Service ACT 2013)

**IMPORTANT NOTICE:**

1. The following are channels available for complaints on insurance related matters. You can contact our Complaint Unit for assistance at 03-7861 8400 or the following authorised bodies:

(a) FINANCIAL MEDIATION BUREAU (FMB)  
LEVEL 25, DATARAN KEWANGAN DARUL  
TAKAFUL  
NO. 4 JALAN SULTAN SULAIMAN  
50000 KUALA LUMPUR  
TEL: 03-2272 2811  
FAX: 03-2274 5752

(b) LAMAN INFORMASI NASIHAT DAN  
KHIDMAT (LINK)  
BANK NEGARA MALAYSIA  
P.O BOX 10922  
50929 KUALA LUMPUR  
TEL:1-300-88-5465 (LINK)  
FAX: 03-2174 1515