QBE Professional Indemnity
INSURANCE POLICY

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.

“WE WOULD REMIND YOU THAT YOU MUST DISCLOSE TO US, FULLY AND FAITHFULLY, THE FACTS YOU KNOW OR OUGHT TO KNOW, OTHERWISE YOU MAY NOT RECEIVE ANY BENEFIT FROM YOUR POLICY.”

PIDCIL002-Q-0812
QBE Professional Indemnity
INSURANCE POLICY

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1. PREAMBLE

1.1 Premium
When You pay to Us the Premium, We will provide You with the cover You have chosen as set out in this Policy.

1.2 Policy
This Policy, the Proposal Form, the Schedule and any endorsement attached will be read as one contract and any word or expression will carry its ordinary meaning unless the word has been defined.

1.3 Claims Made
This Policy operates on a ‘claims made and reported’ basis. This means that We will cover You for Claims made against You and notified to Us during the Period of Insurance. This Policy does not cover You for:

1.3.1 acts, errors or omissions actually or allegedly committed before the Retroactive Date of the Policy; or
1.3.2 Claims made after the expiry of the Period of Insurance even though the event which leads to the Claim may have occurred during the Period of Insurance; or
1.3.3 Claims notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy; or
1.3.4 Claims made, threatened or intimated against You before the commencement of the Period of Insurance; or
1.3.5 facts or circumstances of which You first became aware before the Period of Insurance, and which You knew or ought reasonably to have known had the potential to lead to a claim under this Policy; or
1.3.6 Claims arising out of circumstances declared in the Proposal Form for the current Period of Insurance or any previous proposal form.

2. COVER

2.1 Civil Liability
We will pay You or on Your behalf for:

2.1.1 any legal liability to pay Compensation; and
2.1.2 any costs and expenses awarded against You;

arising from any civil liability resulting from a Claim for breach of professional duty in the conduct of Your Business provided that the Claim is first made during the Period of Insurance and reported to Us during the Period of Insurance or, where applicable, during the extended reporting period.

2.2 Defence Costs and Expenses
Where cover is provided by this Policy, We will also pay You or on Your behalf for any reasonable costs and expenses (including taxes and interest applying, but not loss of earnings) incurred in the defence of any Claim made against You, provided that We have agreed in writing to such payment. Any payment under this clause will be included in the Limit of Indemnity.

3. SCOPE OF COVER

This Policy covers Your civil liability, which includes liability for:

3.1 Breach of Confidentiality – Claims arising from any unintentional breach of confidentiality or misuse of information in the conduct of Your Business.

3.2 Contractual Liability (Tort Liability) – Claims arising from a breach of contractual obligations or a duty of care to provide professional services in the conduct of Your Business, but this does not extend to cover any liability assumed by You under any express warranty, guarantee, representation, hold harmless agreement, indemnity contract or similar agreement unless such liability would attach in the absence of any such agreement.

3.3 Defamation – Claims arising from defamation but not defamation made by You or at Your direction with the knowledge of the falsity of the statement.

3.4 Infringement of Intellectual Property Rights – Claims arising from any unintentional infringement of intellectual property rights which includes any unintentional infringement of copyright, trademark, registered design or patent, or any plagiarism.

3.5 Joint Venture Liability – Your liability as set out in the insurance provision clause in Your joint venture agreement, or where not stated, Your proportion of liability arising from Your participation in a joint venture in connection with Your Business provided that Your fee declaration includes Your proportion of fees from the joint venture.

3.6 Loss of Documents – Claims arising from the loss of Your or any third party’s Documents, for which You are legally responsible, that have been destroyed, damaged, lost or mislaid, and after diligent search or attempts to recover them, cannot be found or recovered.

3.7 Trade Practices and Related Legislation – Claims brought under any consumer protection, competition, fair trading or any equivalent legislation.

3.8 Vicarious Liability – Your liability in respect of the work done by a third party for You or on Your behalf pursuant to a contract between You and the third party, however this does not extend to cover any such third party for their own liabilities.

4. AUTOMATIC EXTENSIONS

We agree to provide You with the following cover for nil additional premium, provided that nothing contained here will increase the Limit of Indemnity that We are providing under this Policy.

4.1 Compensation for Court Attendance – We will compensate You for Your legally compellable attendance at any court hearing, arbitration or formal interview as a witness of fact in connection with a Claim notified to Us provided that:
4.1.1 such attendance is considered by Us to be necessary or beneficial to reduce liability which may result in a payment under this Policy; and
4.1.2 We have given Our written consent prior to Your attendance; and
4.1.3 no Deductible shall apply to this extension; and
4.1.4 such compensation shall be limited to RM250 for each of You or per Employee of Yours per day; and
4.1.5 the maximum amount provided by this extension shall not exceed RM10,000 in the aggregate.

4.2 Continuous Cover – We will accept Your late notification of Claims, facts or circumstances which should have been made under a previous professional indemnity policy between You and Us for Your Business provided that:
4.2.1 no cover is available under any other previous professional indemnity policy; and
4.2.2 We have continuously been providing You with professional indemnity cover since the earliest professional indemnity policy to which the Claim should have been notified to; and
4.2.3 there was neither fraudulent non-compliance with Your duty of disclosure nor fraudulent misrepresentation by You in respect of such facts or circumstances; and
4.2.4 the cover available under this extension shall be in accordance with this Policy, but the limit of indemnity available shall be no greater than that of the earliest professional indemnity policy to which the Claim, fact or circumstance, had it been notified, would have responded.

4.3 Contractors and Consultants – Notwithstanding clause 3.8 Vicarious Liability, We agree to indemnify Your contractors and consultants as Employees provided that:
4.3.1 at least 90% of such contractor’s or consultant’s income is derived from You; and
4.3.2 such contractors or consultants are acting under the direct control and supervision of a principal, partner or director of Yours in accordance with Your standard procedures and risk management framework; and
4.3.3 such indemnity is only provided in respect of work performed for You and on Your behalf and for which You are legally liable.

4.4 Extended Reporting Period – In the event that this Policy is not renewed or is cancelled for any reason other than non-payment of premium, then You have up to ninety (90) days from the effective date of expiry or cancellation of this Policy to notify Us of any Claim first made during the Period of Insurance or during the ninety (90) days period commencing immediately following the expiry or cancellation of this Policy as provided above provided that:
4.4.1 the cover available under this extension is limited to events which take place prior to the expiry of the Period of Insurance or cancellation of this Policy; and
4.4.2 nothing in this clause will reinstate or increase the Limit of Indemnity or extend the Period of Insurance; and
4.4.3 this extended reporting period will automatically cease when You affect another professional indemnity insurance policy or at the end of the ninety (90) days period as provided above, whichever is the earlier.

4.5 Intentional Acts – We will cover You for Claims in relation to Your conduct or the conduct of Your Employees, contractors or consultants which would otherwise have been excluded by Exclusion 6.5 Intentional Acts (Fraudulent, Dishonest and Criminal Acts and Statutory Breaches) provided that:
4.5.1 You are not proven to have committed or condoned the intentional act;
4.5.2 this cover does not extend to the estates, heirs, legal representatives or assigns of any of You who is proven to have committed or condoned the intentional act.

We will not cover loss of money, including but not limited to cash, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes.

4.6 Newly Created Subsidiaries
4.6.1 We will automatically cover, for nil additional premium, any newly created Subsidiary of Yours that comes into existence during the Period of Insurance as a Named Insured provided that:
4.6.1.1 You inform Us within thirty (30) days and furnish Us with any further information that We require; and
4.6.1.2 that such newly created Subsidiary:
  4.6.1.2.1 has a projected revenue that does not exceed 20% of Your revenue reasonably anticipated in the next twelve (12) months as declared in the Proposal Form; and
  4.6.1.2.2 is not domiciled in the United States of America / Dominion of Canada or any of their territories or protectorates; and
4.6.1.2.3 provides the same professional services as Your Business.
4.6.2 Where the newly created Subsidiary does not conform only to clause 4.6.1.2.1 above, We will automatically cover, for nil additional premium, such new Subsidiary for thirty (30) days commencing immediately following such newly created Subsidiary’s incorporation. This cover will cease automatically after the expiry of this thirty (30) days period or the expiry of the Period of Insurance, whichever is the earlier.
4.6.3 Where such newly created Subsidiary does not conform to clause 4.6.1.2.2 and 4.6.1.2.3 no cover will be provided under this extension.
4.6.4 Should You require cover to extend to such newly created Subsidiary or beyond the thirty (30) days period (if provided), You will:
  4.6.4.1 submit to Us in writing any further information that We may require; and
  4.6.4.2 agree to any additional premium and/or terms and conditions that We require.

4.7 Official Investigation and Enquiry Costs and Expenses – We will pay for any costs and expenses reasonably incurred with Our prior written consent in the official investigation or enquiry of any complaint or notification provided that:
4.7.1 any such official investigation is in relation to a breach of professional duties in the conduct of Your Business;
4.7.2 the investigation, examination or enquiry, or notice of intended investigation, examination or enquiry is commenced during the Period of Insurance and is notified by You to Us during the same Period of Insurance;
4.7.3 We shall be entitled, at Our discretion, to appoint legal representation to represent You in the investigation, examination or enquiry;
4.7.4 the maximum amount provided by this extension shall not exceed RM200,000 in the aggregate under this Policy.

For the purpose of this extension, an official investigation includes an investigation, examination or enquiry by way of a royal commission or coronial enquiry or conducted by a regulatory authority such as a Monetary Authority or Securities Commission or equivalent or any disciplinary committee of any association or professional body of which You are a member, but does not include any investigation, examination or enquiry conducted by a parliament or equivalent body.

4.8 Public Relations Expenses – We will pay for any costs and expenses reasonably incurred with Our prior written consent when You engage the services of a public relations consultant for the sole purpose of protecting Your reputation that has been brought to question as a direct result of a Claim covered under this Policy, provided that:

4.8.1 You notify Us within thirty (30) days of first being aware of Your reputation being brought into question and provide Us with full written details outlining the circumstances surrounding the event;

4.8.2 Our maximum liability for all such public relations expenses shall not exceed RM50,000 for any one Claim and in the aggregate under this Policy;

4.8.3 No Deductible shall apply for this extension.

4.9 Replacement Documents Costs – We will cover You for costs and expenses incurred to replace Your or any third party’s Documents, for which You are legally responsible, that have been destroyed, damaged, lost or mislaid, and after diligent search or attempts to recover them, cannot be found or recovered provided that:

4.9.1 such Documents were placed in Your physical custody or control in the ordinary course of Your Business; and

4.9.2 the loss was discovered during the Period of Insurance and You reported this loss to Us during the Period of Insurance; and

4.9.3 We will cover You for the reasonable costs of replacement incurred with Our prior written consent but not for any consequential loss, which includes:

4.9.3.1 loss of income, profits or business; and

4.9.3.2 loss of opportunity; and

4.9.3.3 damage to the goodwill and the reputation of Your Business; however arising.

4.9.4 We will not cover You for:

4.9.4.1 the theft, corruption or erasure of any data by a computer virus or Your former Employee, partner or principal; or

4.9.4.2 damage to Documents caused by gradual deterioration, wear and tear, or the actions of moths, vermin or insects.

4.9.5 the maximum indemnity provided by this extension shall not exceed ten (10) percent of the Limit of Indemnity in the aggregate under this Policy.

4.9.6 the Deductible applicable for this extension shall be RM1,000 for each and every claim.

4.10 Take-overs

4.10.1 In the event that You take-over an existing entity, We will automatically cover such entity as a Named Insured for nil additional premium provided that:

4.10.1.1 You inform Us within thirty (30) days of the legal completion of the take-over by You of the existing entity and furnish Us with any further information that We require; and

4.10.1.2 that such newly acquired entity:

4.10.1.2.1 has a revenue that does not exceed 20% of Your revenue reasonably anticipated in the next twelve (12) months as declared in the Proposal Form; and

4.10.1.2.2 is not domiciled in the United States of America / Dominion of Canada or any of their territories or protectorates; and

4.10.1.2.3 provides the same professional services as Your Business.

4.10.2 Where such newly acquired entity does not conform to only clause 4.10.1.2.1 above, We will automatically cover, for nil additional premium, such entity for thirty (30) days commencing immediately following the acquisition of such entity. This cover will cease automatically after the expiry of this thirty (30) days period or the expiry of the Period of Insurance, whichever is the earlier.

4.10.3 Where such newly acquired entity does not conform to clause 4.10.1.2.2 and 4.10.1.2.3 no cover will be provided under this extension.

4.10.4 The cover provided under this clause is only applicable to civil liability incurred after the date on which the newly acquired entity was taken over.

4.10.5 Should You require cover to extend to such newly acquired entity, or beyond the thirty (30) days period (if provided), You will:

4.10.5.1 submit to Us in writing any further information that We may require; and

4.10.5.2 agree to any additional premium and/or terms and conditions that We require.

5. OPTIONAL EXTENSIONS

Where We have listed in the Schedule the following optional extensions as being provided, We agree to provide You with the following cover, provided that nothing contained here will increase the Limit of Indemnity that We are providing under this Policy unless explicitly stated.
5.1 Automatic Reinstatement – In the event that the Limit of Indemnity is reduced (in whole or in part) due to payments by Us under this Policy, We will reinstate the Limit of Indemnity by the amount which the Limit of Indemnity was reduced provided that:

5.1.1 the reinstated Limit of Indemnity will only be available for any subsequent payments that are entirely unrelated to those which caused the abovementioned reduction of the Limit of Indemnity;

5.1.2 the maximum amount paid by Us for any number of Claims, facts or circumstances which arise out of or are attributable to or are in any way connected with a single originating cause shall not exceed the Limit of Indemnity;

5.1.3 the total aggregate amount payable under this Policy shall not be more than two times the Limit of Indemnity; and

5.1.4 if You hold any other policy providing coverage in excess of this Policy, then the reinstated amount of the Limit of Indemnity will take effect only after the total exhaustion of any amounts payable under any such other excess policies, but before any similar reinstatement of such other policies is affected.

5.2 Previous Business – We will cover You for Claims arising from Your previous business provided that the services provided by such previous business are the same as those provided by Your Business and subject to the provisions of Exclusion 6.16 Retroactive Date.

6. EXCLUSIONS

We will not pay for:

6.1 Asbestos – any Claim directly or indirectly arising out of, in consequence of, or contributed to by asbestos, asbestos fibres or derivatives of asbestos. However this will not apply to any Claim or part of any Claim for financial loss arising out of a breach of professional duty where the cause of the breach does not relate to any asbestos exposure.

6.2 Assumed Duty or Obligation – any Claim directly or indirectly arising out of, in consequence of, or contributed to by Your assumption of any liability which is outside the normal course of Your Business.

6.3 Fines and Penalties – any fines and/or penalties.

6.4 Insured vs. Insured – any Claim:

6.4.1 by or on behalf of You; or

6.4.2 by or on behalf of any parent, Subsidiary or associated company of Yours; or

6.4.3 from any Family Member;

unless such Claim emanates from an independent third party.

6.5 Intentional Acts (Fraudulent, Dishonest and Criminal Acts and Statutory Breaches)

6.5.1 any Claim directly or indirectly arising out of, in consequence of, or contributed to by an actual act or omission by You or Your Employees, contractors or consultants which was fraudulent, dishonest, malicious or criminal; and

6.5.2 any liability arising directly or indirectly out of, in consequence of, or contributed to by any willful breach of any statute, regulation, contract or duty by You or Your Employees, contractors or consultants.

6.6 Internal Expenses and Overheads – internal expenses, overhead expenses and all other costs and expenses which would have been incurred even if there was not any Claim, circumstance and/or notification.

6.7 Management Liability – any Claim directly or indirectly arising out of, in consequence of, or contributed to by Your activity not undertaken as part of the provision of professional services in the conduct of Your Business, and where such Claim or inquiry costs arise in connection with Your functions and duties as a director and/or officer of any legal entity and/or corporation and/or incorporated body.

6.8 Nuclear – any Claim directly or indirectly arising out of, in consequence of, or contributed to by ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of any nuclear fuel.

6.9 Obligation to Employees – any Claim:

6.9.1 for bodily injury, mental injury, sickness, disease or death of any one of Your employees arising out of, or in the course of their employment;

6.9.2 for damage to, destruction of, including loss of use of, any property of Yours arising out of, or in the course of, Your employment.

6.10 Occupiers Liability – any Claim directly or indirectly arising out of, in consequence of, or contributed to by any liability incurred or alleged to have been incurred as a result of any occupation or ownership of real property and/or real estate by You.

6.11 Pollution

6.11.1 any Claim directly or indirectly arising out of, in consequence of, or contributed to by:

6.11.1.1 the actual or alleged discharge, release or escape of Pollutants arising from the design or specification of equipment or structures which are critical to, and designed with the intention of, restricting the release of Pollutants into the environment; or

6.11.1.2 any enforcement action or proceeding in connection with the containment, clean up, removal or treatment of such Pollutants.

6.11.2 For the purpose of this exclusion, Pollutants shall mean:

6.11.2.1 any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals; or

6.11.2.2 any waste materials including materials recycled, reconditioned or reclaimed; or
6.11.2.3 any other air emission, odour, waste water, oil, oil products, infectious or medical waste or any noise emission.

6.12 Prior, Pending and Known Claims or Circumstances - subject to Automatic Extension 4.2 Continuous Cover:

6.12.1 any Claim made or intimated against You prior to the commencement of the Period of Insurance;
6.12.2 any fact or circumstances occurring prior to the Period of Insurance that You:
   6.12.2.1 ought reasonably to have known could lead to a Claim; or
   6.12.2.2 notified under any previous policy.

6.13 Products – any Claim directly or indirectly arising out of, in consequence of, or contributed to by the sale, supply, installation, alteration, modification or manufacture of goods by You or on Your behalf.

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

6.15 Refund of Fees – refund of fees charged to a third party and the related costs and expenses.

6.16 Retroactive Date – any Claim arising out of Your activities carried out prior to the Retroactive Date.

6.17 Terrorism – any Claim directly or indirectly arising out of, in consequence of, or contributed to by any Act of Terrorism.

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 or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

For the avoidance of doubt, We shall not be liable under this Policy to indemnify You in respect of any loss, damage, death, injury, illness, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with:

6.17.1 any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss; or
6.17.2 any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

6.18 Trading Debts – any Claim directly or indirectly arising out of, in consequence of, or contributed to by any of Your trading debts or trading losses, or any guarantee or undertaking given by You for a debt or performance of any obligation by a third party.

6.19 USA/Canada Territory and Jurisdiction – any Claim:

6.19.1 arising from any civil liability incurred in the United States of America / Dominion of Canada or any of their territories or protectorates; or
6.19.2 brought in a court of the United States of America / Dominion of Canada or any of their territories or protectorates.

6.20 War – any Claim directly or indirectly arising out of, in consequence of, or contributed to by war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, military rising, insurrection, rebellion, revolution, military or usurped power, martial law or looting or pillaging in connection therewith, strike, lock-out, riot, civil commotion assuming the proportions of or amounting to a popular rising, mutiny, or confiscation or nationalisation or requisition or destruction or damage to property by or under the order of any government or public authority.

7. CONDITIONS

7.1 Advanced Payment of Defence Costs Until Final Adjudication – We may, at Our discretion, advance defence costs and expenses to You prior to the final disposition or until the final non-appealable adjudication of any Claim covered under this Policy. If We advance such defence costs and expenses to You, We retain Our rights to stop any such advancement and to recover such defence costs and expenses from You once it has been determined that You were not entitled to such cover under this Policy.

7.2 Alteration of Risk – In the event of any material change in Your risk covered under this Policy, You will inform Us in writing as soon as practicable and We will be entitled to amend the terms and conditions of this Policy and/or charge additional premium if We deem that there has been an increase in risk exposure. If You do not accept Our terms, this increased risk exposure will not be covered under this Policy.

7.3 Assignment of Interest – No change in, or modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy and signed by an authorised employee of Ours.

7.4 Cancellation – You may cancel this Policy at any time by notifying Us in writing and We will allow a pro-rata refund of premium for the unexpired Period of Insurance. However, if this Policy is cancelled within the first three (3) months of the Period of Insurance, only 75% of the premium will be refunded.

If a Claim and/or circumstance has been notified to Us under this Policy, We will be entitled to the entire premium and no refund of premium will be made. If You withdraw such Claim and/or circumstance and subsequently cancel this Policy, We will allow a refund of premium for the unexpired Period of Insurance as per above.

We will not cancel this Policy except on the grounds of non-payment of premium.

7.5 Cessation of Entities (Automatic Run-off) – In the event that any Named Insured ceases to exist or operate or is consolidated with, merged into or acquired by another entity, the cover provided to such Named Insured will automatically be limited to cover civil liability incurred prior to the effective date on which such entity ceased to exist or operate or was consolidated with, merged into or acquired by another entity, unless otherwise agreed in writing by Us.

7.6 Claim Assessment Costs – We will pay all costs and expenses incurred to assess Our liability under this Policy.
Claims Cooperation – You will provide Us with all information and assistance that We may reasonably require to investigate and/or defend any Claim and/or circumstance.

Deductibles – Only one Deductible will apply to each and every Claim and You will be responsible for the first amounts of every Claim up to the Deductible amount which applies. In the event that We pay for the Deductibles in the first instance, You will reimburse Us with the amount, up to the Deductible amount, within thirty (30) days of Us paying.

Defence and Settlement of Claims – We may:

9.1 instruct You to conduct the defence of the Claim if We believe that the Claim will not exceed the Deductible, in which case You will be responsible for Your own costs and expenses and any settlement up to the Deductible amount. In the event that any costs and expenses or payment made to dispose of the claim exceeds the Deductible, We will reimburse You all reasonable costs and expenses;

9.2 take over and conduct, in Your name, the defence or settlement of any Claim at any time, in which case We will then have sole control of the Claim.

Jurisdictional Limitation – The cover provided by this Policy shall apply to Claims brought anywhere in the world, except:

10.1 Claims made and actions instituted within the United States of America or the Dominion of Canada or any other territory coming within the jurisdiction of courts of the United States of America or the Dominion of Canada;

10.2 Claims and actions to which the laws of the United States of America or the Dominion of Canada apply;

10.3 Claims arising out of the enforcement of any judgment, order or award obtained within, or determined pursuant to, the laws of the United States of America or the Dominion of Canada or their territories or protectorates.

Limit of Indemnity (Inclusive of Defence Costs and Expenses)

11.1 Our total liability in respect of all claims or losses, including costs and expenses, during the Period of Insurance, will not exceed the aggregate Limit of Indemnity.

11.2 Where Optional Extension 5.1 Automatic Reinstatement has been provided, Our maximum liability under this Policy, including costs and expenses, during the Period of Insurance, will not exceed two times the aggregate Limit of Indemnity.

Multiple Claims – if more than one Claim arises from the same originating cause, these Claims shall constitute one Claim under this Policy and only one Deductible shall apply.

Not to Admit, Negotiate or Repudiate – You will not admit, negotiate or repudiate any Claim, fact and/or circumstance. We will not be liable for any Claim, fact or circumstance and/or any costs and expenses incurred without Our prior written consent. Provided that You comply with this condition, We shall not unreasonably withhold or delay any such consent.

Notices to Us – Notice of any Claim or circumstance must be given as soon as practicable and in writing to:

Clubs Manager
QBE Insurance (Malaysia) Berhad
No 638, Level 6, Block B1, Leisure Commerce Square
No. 9, Jalan PJ5 8/9
46150 Petaling Jaya
Selangor Darul Ehsan

Notices to You – any written notice that We give to the first Named Insured will be deemed to have been given to all of You and shall be effective immediately on receipt by the first Named Insured of a personal delivery or electronic communication sent from Us or in the case of notices by post, three (3) business days after having been posted by Us to Your last address known to Us.

Notification of Circumstances Leading to a Claim – You will notify Us as soon as practicable in writing of any fact or circumstance which may reasonably lead to a Claim that You become aware of during the Period of Insurance. Any Claim which subsequently arises out of this fact or circumstance will be deemed to have been made during the Period of Insurance.

Other Insurance – if any Claim or circumstance notified under this Policy is insured under another insurance policy, then this Policy will only pay after the indemnity provided by that other insurance has been exhausted or after the Deductible has been fully paid, whichever is the greater, unless such other policy is written to be specifically in excess of the cover provided by this Policy. Further You will notify Us of the existence of such other insurance policy or source of indemnity, together with the full details and such further information that We may reasonably require.

Policy Construction and Interpretation:

18.1 The Proposal Form shall form the basis of this contract.

18.2 The construction, interpretation and meaning of the provisions of this Policy shall be determined in accordance with the laws of the state, administrative region, territory or country in which this Policy is issued and any dispute relating thereto shall be submitted to the exclusive jurisdiction of the courts of such state, administrative region, territory or country.

18.3 The marginal notes and titles of paragraphs in this Policy are included for descriptive purposes only and do not form any part of this Policy for the purpose of its construction or interpretation.

18.4 Under this Policy, the masculine includes the feminine and the singular includes the plural and vice versa.

Premium Payment Warranty – Any premium due must be paid and received by Us within sixty (60) days of the inception of this Policy. In the event that We do not receive such payment, this Policy will be automatically cancelled and We will be entitled to the pro-rata premium for the time for which We were on risk.

Reasonable Care to Mitigate Losses – If You, either prior to or during the Period of Insurance become aware of a situation which could, if not rectified, lead to a Claim or increase the quantum of a Claim, You will use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any liability under this Policy. Compliance with this condition shall be at Your own cost, unless otherwise agreed in writing by Us.
7.21 Reporting of Claims – You will give Us written notice of:

7.21.1 any Claim made against You; or
7.21.2 the receipt of notice from, or information as to any intention by any party to claim against You;

as soon as practicable.

7.22 Severability and Non-Imputation – If there are more than one Named Insured under this Policy, or if any one Named Insured is comprised of more than one party:

7.22.1 any failure on the part of any of the parties to:

7.22.1.1 comply with their duty of disclosure; or
7.22.1.2 comply with any term or condition in this Policy; or

7.22.2 the misrepresentation by any of the parties to Us before this contract of insurance was entered into; or

7.22.3 the commission by any of the parties of any act that would be excluded by Exclusion 6.5 Intentional Acts (Fraudulent, Dishonest and Criminal Acts and Statutory Breaches);

will not prejudice the rights of the other parties to the cover provided under this Policy provided that such other parties:

7.22.4 are entirely innocent and had no prior knowledge of any of the failure of or commission of the acts mentioned above; and

7.22.5 inform Us as soon as practicable in writing with all relevant information and circumstances after becoming aware of the failure of or commission of the acts mentioned above.

7.23 Statutory Compliance

If any provision in this Policy is inconsistent with the law of the country state or territory applying to any Claims made or actions instituted:

7.23.1 where such provision can be read in a manner to make it valid and enforceable, it shall be read to the extent to achieve that result; or

7.23.2 in any other case, such provision shall be deemed deleted from this Policy in order to make this Policy valid and enforceable.

7.24 Subrogation of Rights – Where We have paid a Claim under this Policy, We become entitled to all Your rights of recovery, and You shall execute all papers required and shall do everything necessary to secure and preserve such rights, including but not limited to the execution of documents and giving of evidence necessary to enable Us to effectively bring suit in Your name.

We will not subrogate against any principal, partner, director or Employee or former Employee of Yours under this Policy unless that person is found to have committed an act that would otherwise have been excluded by Exclusion 6.5 Intentional Acts (Fraudulent, Dishonest and Criminal Acts and Statutory Breaches).

7.25 Territorial Limitation – The cover provided by this Policy shall apply to civil liability incurred anywhere in the world, except within the United States of America or the Dominion of Canada or any other territory coming within the jurisdiction of the courts of the United States of America or the Dominion of Canada.

7.26 Your Right to Contest – In the event that We recommend a settlement in respect of any Claim and You do not agree that such Claim should be settled, You may elect to contest such Claim, provided that Our liability in connection with such Claim shall not exceed the amount for which the Claim could have been settled plus the costs and expenses incurred with Our written consent up to the date of such election, less the Deductible.

8. DEFINITIONS

8.1 Claim – means:

8.1.1 the receipt by You of any written or verbal notice of demand for Compensation made by a third party against You;

8.1.2 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 You.

8.2 Compensation – means monies paid or agreed to be paid by judgment, award or settlement for civil liability and/or costs of non-monetary civil relief, including any costs awarded against You.

8.3 Deductible – means the amount You first bear in relation to each Claim and as specified in the Schedule. The Deductible applies to all amounts payable under this Policy including the cover provided under clause 2.2 Defence Costs and Expenses.

8.4 Documents – means deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature, whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

8.5 Employee – means any person employed under a contract of service or apprenticeship during or prior to commencement of the Period of Insurance.

8.6 Family Member – means:

8.6.1 any spouse, companion (who permanently resides with You), or domestic partner of Yours; or

8.6.2 any parent of Yours, or parent of Your spouse, partner or companion; or

8.6.3 any sibling or child of Yours.

8.7 Limit of Indemnity – means the applicable limit of liability specified in the Schedule.
8.8 **Named Insured** – means the person, persons, partnership, company, corporation or other entity specified as the insured in the Schedule.

8.9 **Period of Insurance** – means the period specified in the Schedule.

8.10 **Policy** – means this document, the Proposal Form, the Schedule and each endorsement issued by Us and attached or intended to be attached to it.

8.11 **Proposal Form** – means the written proposal made by You to Us containing particulars and statements which, together with any other information provided by You to Us, form the basis of this Policy.

8.12 **Retroactive Date** – means the date stated as the retroactive date in the Schedule

8.13 **Schedule** – means the schedule of insurance including any endorsement schedule given to You by Us.

8.14 **Subsidiary** – means:

8.14.1 any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the Named Insured;

8.14.2 any entity over which the Named Insured is in a position to exercise effective direction or control.

8.15 **We, Our, Us** – means QBE Insurance (Malaysia) Berhad.

8.16 **You, Your, Yours** – means:

8.16.1 the Named Insured;

8.16.2 any person who is, during the Period of Insurance, a principal, partner or director of the Named Insured but only in respect of work performed while a principal, partner or director of the Named Insured;

8.16.3 any person who is, during the period of insurance, an Employee of the Named Insured but only in respect of work performed while an Employee of the Named Insured;

8.16.4 any former principal, partner, director or Employee of the Named Insured, but only in respect of work performed while a principal, partner, director or Employee of the Named Insured;

8.16.5 the estates, heirs, legal representatives or assigns in the event of the death or incapacity of any person described in clauses 8.16.2, 8.16.3 and 8.16.4 provided that such persons observe and are subject to all the terms of this Policy insofar as they can apply;

8.17 **Your Business** – means the business conducted by You under the name stated in the Schedule and as described in the Schedule.

**IMPORTANT NOTICE:**
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:

1. **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

2. **LAMAN INFORMASI NASIHAT DAN KHIDMAT (LINK)**  
   BANK NEGARA MALAYSIA  
   P.O BOX 10922  
   50929 KUALA LUMPUR  
   TEL: 1-300-89-5465 (LINK)  
   FAX: 03-2174 1515