



BALENS

Specialist Insurance Brokers

Balens Irish Health Professionals Scheme Professional Liability and Malpractice Insurance Policy

In partnership with



XL Insurance

This Policy is administered by Balens, with companies Balens Ltd registered in England, company number 4931050, having its registered address at Bridge House, Portland Road, Malvern WR14 2TA and Balens Europe BV registered in the Netherlands, Chamber of Commerce Number 73057959, at Prins Hendrikkade 169-I, 1011 TC, Amsterdam, the Netherlands

This Policy is underwritten by XL Insurance Company SE. Registered in Ireland with Company number 641686 and having its registered address at 8 St. Stephen's Green, Dublin 2 D02 VK30, Ireland

A Warm Welcome to Balens and AXA XL

A Warm Welcome to Balens

Balens have a long history of specialising in the delivery of quality support and advice to Health, Well-being and Health-Related Professionals and Organisations. **Balens** are an International ethical firm mainly devoted to the design and delivery of a wide range of industry leading insurance and financial services solutions. Not only to individual practitioners but associations, organisations, businesses, charities and corporate entities. **We** believe in a friendly, listening and flexible approach in looking after **Your** business and look forward to being of service to **You** in the years ahead.

Balens are very proud to be working with AXA XL and are pleased to offer **You** the latest version of their unique Insurance Package. This policy takes **Our** industry-leading wording even further in terms of clarity and scope and has been updated to reflect current market practice giving **You** even more protection than before - if there is anything **You** don't understand, please ask **Balens'** staff.

In order to maintain the low cost and high quality of the cover on this scheme, and ensure that **You** are protected, please read and observe the terms and conditions that need to be fulfilled in order for cover to operate and a claim to be dealt with by **Us** - thank you!

A Warm Welcome to AXA XL

Thank **You** for taking out **Your** insurance policy with AXA XL and welcome to XL Catlin Services SE.

We're here to help **Your Business** move forward. With an incredible blend of people, products, services and technology, **We** are looking at risk in a new way. From insurance to reinsurance, **We** can help you find innovative answers for a changing world.

Our insurance and reinsurance companies provide property, casualty, professional and specialty products to industrial, commercial and professional firms, insurance companies and other enterprises globally. Clients look to AXA XL for answers to their most complex risks and to help move their world forward.

Powerful analytics, deeper insights, and market-leading technologies. **We** at AXA XL are open to new ideas and ready to take on difficult challenges — from the most familiar to the most complex.

You need innovative, creative solutions to your risks. **We're** here to find them.

To learn more, visit axaxl.com

Balens Health Professionals Scheme Policy

This policy is a contract between **You** and **Us** administered by **Balens** on **Our** behalf.

This policy consists of the Definitions, Exclusions and Conditions, the **Schedule**, the Sections stated as operative in the **Schedule** and **Endorsements**, if any, all of which are a single document and are to be read as one contract. In deciding to accept this policy and in setting the terms and premium **We** have relied on the information which **You** have provided to **Us**.

We will, in consideration of the payment of the premium, insure **You**, subject to the terms and conditions of this policy, against the events set out in the operative Sections during the **Period of Insurance** or any subsequent period for which **We** agree to accept payment of premium.

Please read this policy carefully and make sure that it meets **Your** needs. If any corrections are necessary **You** should contact **Balens** through whom this policy was arranged.

Please keep this policy in a safe place – **You** may need to refer to it if you have to make a claim.

1.1 Accessibility

Upon request **Balens** can provide Braille, audio or large print versions of the policy and the associated documentation including the Key Facts document. If **You** require an alternative format **You** should contact **Balens** through whom this policy was arranged.

1.2 Fair Processing Notice

This Privacy Notice describes how XL Insurance Company SE (for the purpose of this notice “**we**”, “**us**” or the “**Insurer**”) collect and use the personal information of **insureds**, claimants and other parties (for the purpose of this notice “**you**”) when we are providing our insurance and reinsurance services.

The information provided to the **Insurer**, together with medical and any other information obtained from **you** or from other parties about **you** in connection with this policy, will be used by the **Insurer** for the purposes of determining **your** application, the operation of insurance (which includes the process of underwriting, administration, claims management, analytics relevant to insurance, rehabilitation and customer concerns handling) and fraud prevention and detection. **We** may be required by law to collect certain personal information about **you**, or as a consequence of any contractual relationship **we** have with **you**. Failure to provide this information may prevent or delay the fulfilment of these obligations.

Information will be shared by the **Insurer** for these purposes with group companies and third party insurers, reinsurers, insurance intermediaries and service providers. Such parties may become data controllers in respect of **your** personal information. Because **we** operate as part of a global business, **we** may transfer **your** personal information outside the European Economic Area for these purposes.

You have certain rights regarding **your** personal information, subject to local law. These include the rights to request access, rectification, erasure, restriction, objection and receipt of **your**

personal information in a usable electronic format and to transmit it to a third party (right to portability).

If **you** have questions or concerns regarding the way in which **your** personal information has been used, please contact: compliance@axxl.com.

We are committed to working with you to obtain a fair resolution of any complaint or concern about privacy. If, however, **you** believe that **we** have not been able to assist with **your** complaint or concern, **you** have the right to make a complaint to the relevant Information Commissioner's Office.

For more information about how **we** process your personal information, please see our full privacy notice at: <https://axxl.com/privacy-and-cookies>.

Brokers, Intermediaries, Partners, Employers and other Third Parties

If **you** provide **us** with information about someone else, **we** will process their personal information in line with the above. Please ensure **you** provide them with this notice and encourage them to read it as it describes how **we** collect, use, share and secure personal information when **we** provide our services as an insurance and reinsurance business.

1.3 Third Party Rights

No third party will be able to enforce any rights under this policy.

1.4 Insurance Act 1936

All monies which become or may become payable by **Us** under this policy shall in accordance with Section 93 of the Insurance Act 1936 be payable and paid in the Republic of Ireland.

1.5 Stamp Duties Consolidations Act 1999

The appropriate stamp duty has been or will be paid in accordance with the provisions of Section 5 of the Stamp Duties Consolidation Act 1999.

1.6 Government Charges

The premium includes any such charges.

1.7 Currency

The currency of all premiums, sums insured, limits of liabilities and excesses shown in this policy or **Schedule** or any subsequent renewal notice or **Endorsement** shall be treated as being Euro.

1.8 Law and Jurisdiction

The parties are free to choose the law applicable to this policy. Unless specifically agreed to the contrary this policy shall be governed by Irish law and subject to the exclusive jurisdiction of the courts of the Republic of Ireland.

The language of this policy and all communications relating to it will be in English.

1.9 Cancellation and Cooling-Off Period

a) Your Right to Cancel during the Cooling-Off Period

You are entitled to cancel this policy by notifying **Us** through **Balens** within fourteen (14) days of either:

- i) the date **You** receive this policy; or
- ii) the start of **Your Period of Insurance**;

whichever is the later.

A full refund of any premium paid will be made unless **You** have made a claim in which case the full annual premium is due.

b) Your Right to Cancel after the Cooling-Off Period

You are entitled to cancel this policy after the cooling-off period by notifying **Us** through **Balens**. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a claim in which case the full annual premium is due.

c) Our Right to Cancel

We are entitled to cancel this policy, if there is a valid reason to do so, including for example:

- i) any failure by **You** to pay the premium; or
- ii) a change in risk which means **We** can no longer provide **You** with insurance cover; or
- iii) non-cooperation or failure to supply any information or documentation **We** request, such as details of a claim;

by giving **You** fourteen (14) days' notice in writing. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a claim in which case the full annual premium is due.

1.10 Information You Have Given Us

In deciding to accept this policy and in setting the terms including premium **We** have relied on the information which **You** have provided to **Us**. **You** must take care when answering any questions **We** ask by ensuring that any information provided is accurate and complete.

If **We** establish that **You** deliberately or recklessly provided **Us** with untrue or misleading information **We** will have the right to:

- a) treat this policy as if it never existed;
- b) decline all claims; and
- c) retain the premium.

If **We** establish that **You** carelessly provided **Us** with untrue or misleading information **We** will have the right to:

- i) treat this policy as if it never existed, refuse to pay any claim and return the premium **You** have paid, if **We** would not have provided **You** with cover;
- ii) treat this policy as if it had been entered into on different terms from those agreed, if **We** would have provided **You** with cover on different terms;
- iii) reduce the amount **We** pay on any claim in the proportion that the premium **You** have paid bears to the premium **We** would have charged **You**, if **We** would have charged **You** more.

We will notify **You** in writing if i), ii) and/or iii) apply.

If there is no outstanding claim and ii) and/or iii) apply, **We** will have the right to:

- 1) give **You** thirty (30) days' notice that **We** are terminating this policy; or
- 2) give **You** notice that **We** will treat this policy and any future claim in accordance with ii) and/or iii), in which case **You** may then give **Us** thirty (30) days' notice that **You** are terminating this policy.

If this policy is terminated in accordance with 1) or 2), **We** will refund any premium due to **You** in respect of the balance of the **Period of Insurance**.

1.11 **Changes We Need to Know About**

You must tell **Us** as soon as practicably possible of any changes in the information **You** have provided to **Us** which happen before or during any **Period of Insurance**.

When **We** are notified of a change **We** will tell **You** if this affects **Your** policy. For example **We** may cancel **Your** policy in accordance with the Cancellation and Cooling-Off Provisions, amend the terms of **Your** policy or require **You** to pay more for **Your** insurance. If **You** do not inform **Us** about a change it may affect any claim **You** make or could result in **Your** insurance being invalid.

1.12 **Fraud**

If **You**, or anyone acting for **You**, makes a fraudulent claim, for example a loss which is fraudulently caused and/or exaggerated and/or supported by a fraudulent statement or other device, **We**:

- a) will not be liable to pay the claim; and
- b) may recover from **You** any sums paid by **Us** to **You** in respect of the claim; and
- c) may by notice to **You** treat this policy as having been terminated with effect from the time of the fraudulent act.

If **We** exercise **Our** right under c) above:

- i) **We** shall not be liable to **You** in respect of a relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to **Our** liability under this policy (such as the occurrence of a loss, the making of a claim, or the notification of a potential claim); and.
- ii) **We** need not return any of the premium paid.

1.13 Sanctions

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

1.14 Complaints Procedure

We are dedicated to providing a high quality service and **We** want to ensure that **We** maintain this at all times.

If **You** have any questions or concerns about the policy or the handling of a claim please contact **Your** broker through whom this policy was arranged.

If **You** wish to make a complaint **You** can do so at any time by referring the matter to:

XL Catlin Services SE, Irish Branch
8 St Stephen's Green
Dublin
D02 VK30

Telephone Number: +353 01 607 5300

Email: XLICSEcomplaints@axaxl.com

XL Catlin Services SE acts on **Our** behalf in the administration of complaints.

The complaint will be acknowledged, in writing, within 5 (five) business days of it being made.

If **You** remain dissatisfied after the Complaints Department has considered the complaint or a final decision has not been received within forty (40) business days, **You** can refer the complaint to the Financial Services and Pensions Ombudsman at:

Financial Services and Pensions Ombudsman
Lincoln House
Lincoln Place
Dublin 2
D02 VH29
Ireland

Email: info@fspo.ie

Telephone Number: +353 1 567 7000

The European Commission also provides an on-line dispute resolution (ODR) platform that allows consumers to submit their complaint through a central site, which will forward the complaint to the right Alternative Dispute Resolution (ADR) scheme. The ADR scheme for XL Insurance Company SE is the Financial Services and Pensions Ombudsman, which can be contacted directly using the contact details above. For more information about ODR please visit <http://ec.europa.eu/odr>

1.15 **Guarantee Scheme**

Depending upon where in the EEA **You** and/or the insured risk is located there may be a local scheme that applies. Where a scheme is available in an EEA member state it may cover only limited types of insurance (e.g. compulsory motor cover) although some jurisdictions have wider schemes. If **You** have any questions, please contact **Us**.

1.16 **Regulatory Information**

a) **XL Insurance Company SE**

XL Insurance Company SE is a European public limited liability company and is regulated by the Central Bank of Ireland.

Registered Office 8 St. Stephen's Green, Dublin 2 D02 VK30, Ireland.

Registered in Ireland Number 641686.

You can check this information on the Central Bank of Ireland's website at www.centralbank.ie, which includes a register of all the firms they regulate

b) **XL Catlin Services SE**

XL Catlin Services SE acts on behalf of XL Insurance Company SE in the administration of complaints. XL Catlin Services SE is a registered insurance intermediary authorised and regulated by the Central Bank of Ireland.

Registered office is XL House, 8 St Stephen's Green, Dublin 2 Ireland.

Registered in Ireland No. 659610

You can check this information on the Central Bank of Ireland's website at www.centralbank.ie, which includes a register of all the firms they regulate.

c) **Balens Ltd and Balens Europe BV (Balens)**

Balens Ltd are authorised and regulated by the UK Financial Conduct Authority (Firm Reference No. 305787). Registered office is Bridge House, Portland Road, Malvern, Worcestershire, WR14 2TA, United Kingdom. Registered in England No. 4931050.

You can check this out on the FCA's website at www.fca.org.uk which includes a register of all the firms they regulate or by calling the FCA on 0800 111 6768.

Balens Europe B.V. are licenced in the Netherlands by the Financial Markets Authority (Autoriteit Financiële Markten (AFM)). The license number is 12046134 and **You** can check this in the register of the AFM at <https://www.afm.nl/nl-nl/professionals/registers>. Registered office is Prins Hendrikkade 169-I, 1011 TC, Amsterdam, the Netherlands. Chamber of Commerce number 73057959.

Balens Europe BV is a wholly-owned subsidiary of Balens Ltd.

Definitions

Certain words in this policy have special meanings. These meanings are given below and apply wherever the words appear in bold.

Balens

Balens Ltd and Balens Europe BV the Specialist Intermediary responsible for the design and management of the Health, Beauty, Fitness and Wellbeing Scheme. They issue documents on behalf of the Insurer and they provide advice and support to the Insured.

Business

Means the business stated in the **Schedule** conducted by the **Insured** at or from the **Premises** of the **Insured**, and extends to include

- a) agency, healthcare services, advice, information, medico -legal work, witness, teaching, demonstrations, workshops, lectures, retreats, supervision, consultancy and carers
- b) maintenance of property and the **Premises**
- c) first aid, fire and ambulance services
- d) private work carried out within the **Territorial Limits** by an **Employee** of the **Insured** for any director or senior executive of the **Insured**
- e) participation in exhibitions, lectures, workshops, events and demonstrations within the **Territorial Limits**.
- f) the provision and management of canteen, social, sports and welfare organisations for the benefit of **Employees** of the **Insured**.

Claim

- (i) a written demand for damages or other remedy made by a third party in accordance with the laws of a territory specified in the **Schedule** as a Covered Jurisdiction; or,
- (ii) where applicable, proceedings brought under the jurisdiction of a competent court or tribunal within a territory specified in the **Schedule** as a Covered Jurisdiction; or
- (iii) an award made by a competent court or tribunal anywhere in the world to enforce a judgement, award or settlement made in accordance with the laws of or under the jurisdiction of a territory specified in the **Schedule** as a Covered Jurisdiction.

Costs and Expenses

- a) costs incurred with the **Insurer's** written consent in defending any claim for damages
- b) costs incurred with the **Insurer's** written consent for:
 - i) representation at any coroner's inquest or fatal injury inquiry
 - ii) defending in any court of summary jurisdiction any proceeding in respect of any act or omission causing or relating to any event which may be the subject of reimbursement under this policy.

Costs and Expenses do not include:

- (a) the **Insured's** own costs, fees or expenses or value attributable to the time spent in dealing with a claim or
- (b) a circumstance or legal costs and expenses incurred in the defence of any criminal proceedings brought against the **Insured** or in an appeal against conviction by the **Insured**.

Data Processing System

Any computer or data processing equipment or media or microchip or integrated circuit or any similar device or any computer software or computer firmware.

Employee

- a) Any person under a contract of service or apprenticeship
- b) any person who is hired to or borrowed by the **Insured**
- c) any person engaged in connection with a work experience or training scheme or students engaged in case study or pre-qualification work
- d) any labour master or person supplied by a labour master
- e) any person engaged by labour only subcontractors
- f) any self-employed person working on a labour only basis under the control or supervision of the **Insured**
- g) any voluntary helper while working for the **Insured** in connection with the **Business**.

Endorsement

A change in the terms and conditions of this insurance agreed by **You** and **Us**. **Endorsements** which apply to **Your** policy (if any) will be shown in the **Schedule**.

Injury

Bodily injury, illness, mental injury, mental anguish, nervous shock or disease (including death).

Insurer / We / Us / Our

XL Insurance Company SE.

Insured / You / Your

The **Insured** stated in the **Schedule** including for example health, fitness, beauty or well-being professional, teacher, student, clinic, school, agent or other health related business carrying on the **Business**.

Offshore

Any offshore installation or support or accommodation vessel for any offshore installation or in transit to from or between any offshore installation or support or accommodation vessel for any offshore installation.

Period of Insurance

The period stated in the **Schedule**.

Pollution

Any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including for example smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including for example material to be recycled, reconditioned or reclaimed) or contamination of any kind of the atmosphere or of any water, land, buildings or other **Property**.

Premises

Any place where a Health Professional or a Health-Related Business undertakes activities in the course of the **Business** or on a voluntary basis.

Products

Any commodities or goods or anything (including audio, video or written materials, packaging, containers and labels) sold, supplied, hired out, constructed, erected, installed, repaired, serviced, processed, stored, handled, transported or disposed of by or on behalf of the **Insured** or any structure constructed, erected or installed or contract work executed by or on behalf of the **Insured** in the course of the **Business** of the **Insured**.

Property

Material property.

Schedule

The document showing the **Insured's** name, the Limits of Liability, the **Period of Insurance** and the sections of this policy which apply.

Territorial Limits

The **Territorial Limits** stated in the **Schedule**.

Terrorism

An act, including for example the use of violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf or in connection with any organisation(s) or government(s), committed for political or other purposes including the intention to influence any government and/or to put the public, or any section of the public in fear.

Treatment

Provision of advice, treatments, therapies or cosmetic procedures in connection with the **Business**

Trust

An organisation and/or body specifically set up to hold and protect assets for charitable purposes.

Trustee

An individual person or member of a board given control or powers of administration of property in **Trust** for a charitable body with a legal obligation to administer it.

Insuring clauses

Section I Professional Liability

The **Insurer** shall reimburse the **Insured** for all sums that the **Insured** shall become legally liable to pay as damages and **Costs and Expenses** for all **Claims** arising out of the conduct of the **Business** within the **Territorial Limits** and during the **Period of Insurance** for:

- a) any breach of professional duty due to a negligent act, error or omission committed or alleged to have been committed by the **Insured** or on the **Insured's** behalf; or
- b) any act of libel or slander committed or uttered in good faith by the **Insured**; or
- c) unintentional infringement of any intellectual property right, design right, registered design, trademark or patent committed by the **Insured**; or
- d) unintentional breach of confidentiality or unintentional misuse of any information which could be treated as confidential in nature or has restrictions regarding its use by the **Insured**.

The liability of the Insurer for any one **Claim** payable by the Insured to any claimant or number of claimants in respect of any one occurrence or all occurrences of a series arising out of one original cause shall not exceed the limit of liability specified in the **Schedule**.

In addition to the limit of liability the **Insurer** will pay **Costs and Expenses** other than in respect of any **Claim** made in the United States of America or Canada and any territory under their jurisdiction where the limit of liability will be inclusive of **Costs and Expenses**.

Exclusions applicable to Section I

This Section I does not apply to or include cover for or arising out of or relating to:

- 1) **Clinical Trials**
any clinical trials requiring authorisation under the European Union Regulation No 536/2014 (Clinical Trials on Medicinal Products for Human Use) or clinical investigation requiring approval by the Irish Health Products Regulatory Authority.
- 2) **Criminal or Malicious Acts**
any criminal, fraudulent act or omission or malicious act
- 3) **Directors' and Officers' Liability**
the liability of any person in their capacity as a director or officer of any company or other entity or as a **Trustee** of any **Trust**

4) **Employment**

- a) liability arising out of **Injury** of any **Employee**
- b) liability arising out of any obligation owed by the **Insured** as an employer or potential employer to any business partner, director, member, employee or applicant for employment.

5) **Employers and Employment Liability**

breach of any duty owed by the **Insured** as an employer to an **Employee** or former **Employee** or applicant for employment, provided that this exclusion shall not exclude any claim by an **Employee** who has been treated by the **Insured** as a patient or client when such claim is brought in that capacity and when such treatment is for matter unrelated to the person's employment. For the purpose of clarification, the **Insured** may waive payment of their normal charge or any of their charges.

6) **Insolvency**

the **Insured's** insolvency or bankruptcy. This exclusion will not apply to any claim or circumstance that would be covered under this policy but for the **Insured's** insolvency or bankruptcy.

7) **Maintaining Insurance**

the failure to arrange or maintain insurance.

8) **Prior Circumstances and Claims**

any circumstance, fact, matter of occurrence that:

- a) the **Insured** knew or that in the **Insurer's** opinion the **Insured** ought to have known prior to inception of this policy which might give rise to a claim against the **Insured**
- b) was notified by the **Insured** under any other insurance policy prior to inception of this policy.

9) **Trading Losses**

any claims for any trading losses or trading liabilities.

10) **Warranties and Guarantees**

any claim which arises under any express reimbursement, warranty (except warranty of authority) or guarantee or similar provision save in so far as such liability would have arisen to the same extent in the absence of such express reimbursement, warranty, guarantee or similar provision.

Section II Public Liability

The **Insurer** shall reimburse the **Insured** for all sums that the **Insured** shall become legally liable to pay as damages and **Costs and Expenses** for all **Claims** arising out of the conduct of the **Business** within the **Territorial Limits** and during the **Period of Insurance** for:

- a) accidental **Injury** to any person other than an **Employee** where such **Injury** arises out of and in the course of the employment
- b) accidental loss of or accidental damage to **Property**
- c) accidental nuisance or trespass, obstruction, loss of amenities or interference with any right of way, light, air or water
- d) wrongful arrest, detention, malicious prosecution
- e) libel or slander, arising from the **Business** of the **Insured**
- f) breach of confidentiality or misuse of any information which is confidential in nature or has restriction concerning its use.

The liability of the Insurer for any one **Claim** payable by the **Insured** to any claimant or number of claimants in respect of any one occurrence or all occurrences of a series arising out of one original cause shall not exceed the limit of liability specified in the **Schedule**.

In addition to the limit of liability the **Insurer** will pay **Costs and Expenses** other than in respect of any **Claim** made in the United States of America or Canada and any territory under their jurisdiction where the limit of liability will be inclusive of **Costs and Expenses**.

Exclusions applicable to Section II

This Section II does not apply to or include cover for or arising out of or relating to:

Property Held in Trust

liability in respect of loss of or damage to **Property** belonging to the **Insured** which is leased, let or lent to the **Insured** but this shall not apply to customers' or **Employees'** property. However this exclusion shall not apply in respect of premises leased, let, rented, hired or lent to the **Insured** for legal liability.

Contract or Agreement

loss or damage arising under agreement unless liability would have attached to the **Insured** in the absence of such agreement.

Insurance

loss or damage to premises caused by fire or any other peril against which a tenancy or other agreement stipulates that insurance for the premises shall be affected by or on behalf of the **Insured** under a specific policy for buildings.

Remedying Defects

for the costs of or remedying any defect or alleged defect in land or premises sold or disposed of by the **Insured** or for any reduction in the value

Section III Products Liability

The **Insurer** shall reimburse the **Insured** for all sums that the **Insured** shall become legally liable to pay as damages and **Costs and Expenses** arising from:

- a) accidental **Injury** to any person other than an **Employee**; or
- b) accidental loss of or accidental damage to **Property**;

occurring during the currency of this policy within the **Territorial Limits** caused by **Products**.

The liability of the **Insurer** for all compensation payable by the **Insured** in respect of all such **Injury** and such loss of or such damage to such **Property** occurring during any one **Period of Insurance** shall not exceed the limit of liability.

In addition to the limit of liability the **Insurer** will pay **Costs and Expenses** other than in respect of any claim made in the United States of America or Canada and any territory under their jurisdiction where the limit of liability will be inclusive of **Costs and Expenses**.

Exclusions applicable to Section III

This Section III does not apply to or include cover for or arising out of or relating to:

1) **Products to Non Patients or Clients**

any **Products** supplied by the **Insured** to a person or entity who is not a patient or client where no advice or **Treatment** has taken place and where the annual turnover in respect of such **Products** supplied is above €35,000.

2) **Prohibited Substances**

the unlawful sale, supply, use or application of any prohibited substance

3) **Replacing or Rectifying Products**

replacing, reinstating, rectifying, recalling or guaranteeing the performance of any **Products**.

4) **Excluded Products**

- a) Retin-A or a concentration of Glycolic and other Alpha-Hydroxy acids in excess of 50% by volume unbuffered/esterified
- b) Henna products containing Paraphenylene Diamine (PPD).
- c) Concentrations of TCA (trichloroacetic acid 7% combined with salicylic acid 2%) in excess of these respective percentages

General Exclusions

All the individual policy Sections are subject to the following exclusions except where stated below.

This policy does not apply to or include cover for or arising out of or relating to:

1) **AIDS, Hepatitis and TSE**

the infection and /or transfer of Hepatitis or any condition directly or indirectly caused by or associated with Human T- Cell Lymphotropic Virus type II (HTLC III) or Lymphadenopathy Associated Virus (LAV) or the mutants, derivatives or variations thereof, or in any way related to Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome or Creutzfeldt-Jacob Disease (CJD) or any syndrome or condition of a similar kind, however it may be named

2) **Liquidated or Punitive Damages or Fines**

- a) liquidated damages, penalties or fines which attach solely because of a contract or agreement
- b) any award of punitive or exemplary damages

3) **Loss of Data**

- a) loss, destruction or damage
- b) additional expenditure or extra expenses
- c) legal liability
- d) other fees, costs, disbursements, awards or other expenses caused by or contributed to by or consisting of or arising in whole or in part from;
 - i) the way in which any **Data Processing System** responds to or deals with or fails to respond to or fails to deal with any true calendar date
 - ii) any **Data Processing System** responding to or dealing in any way with:
 - 1) any data denoting a calendar date or dates as if such data did not denote a calendar date or dates
 - 2) any data not denoting a calendar date or dates as if such data denoted a calendar date or dates

whether such **Data Processing System** is the property of the **Insured** or not and whether operating before during or after the Year 2000

4) **Nuclear**

- a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

5) **Overseas Companies**

any associated or subsidiary company of the **Insured** or branch office or representative of the **Insured** with Power of Attorney domiciled elsewhere than in the Republic of Ireland.

6) **Pollution**

This exclusion shall not apply to **Pollution** caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the **Period of Insurance** unless such **Pollution** occurs in the United States of America or Canada and any territory under their jurisdiction.

All **Pollution** which arises out of one incident shall be treated as having occurred at the time such incident takes place.

7) **Sexual Harassment**

conviction of actual or attempted sexual relations, sexual contact or intimacy, sexual harassment or sexual exploitation whether under the guise of **Treatment** or not, or in the course of **Treatment** or not. This exclusion does not apply to defence costs or legal expenses for the successful defence of any such claim or investigation. If the **Insurer** provisionally advances defence costs under this policy and the **Insurer** is not liable to indemnify the **Insured** under this policy, then the **Insured** will repay all costs incurred by the **Insurer**.

8) **Training**

training establishment or course run by the **Insured** and offered to the public as delivering a qualification of competency, unless cover is arranged to do so and stated as such in the **Schedule**. This exclusion does not apply in respect of Healing or Reiki Master.

9) **War**

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

This policy also excludes any loss, damage, cost or expense caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to an act of war.

10) **Age**

therapeutic **Treatment** or advice given to persons under 16 years of age unless the parent or guardian has provided consent.

11) **Students' Work**

activities being undertaken in respect of any **Treatment**, given by any person who is not qualified in such except:

- a) under the direct supervision of a qualified person or
- b) with the specific agreement of **Balens**; or
- c) for students' case study work, or for other work prior to qualification being obtained, if assessed and declared ready or competent to do so by their school or tutor

providing that:

- i) students do not practice outside the scope of what they have been taught, and that regular supervision and / or on-going case consultation and review for such case studies is in place
- ii) students are to declare to any recipient in advance that they are not qualified.
- iii) students may charge a fee if appropriate, provided this is allowed by the tutor or school in question and that it is a modest amount and evidently lower than an experienced and qualified professional would normally charge

12) **Asbestos**

any asbestos, asbestos fibres or any derivatives of asbestos including any product containing asbestos, asbestos fibres or derivatives.

13) **Terrorism**

Any act of **Terrorism**.

This policy also excludes any loss, damage, cost or expense caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to an act of **Terrorism**.

14) **Tour Operators Liability**

- a) the sale or provision of travel or accommodation, holidays, package tours, excursions, retreats or business trips; or
- b) from Package Holidays and Travel Trade Act 1995 or any similar legislation or Statutory Instrument for the time being in force within the European Union.

15) **Exposure to Ultraviolet Radiation**

exposure to Ultraviolet Radiation

For the purposes of this exclusion Ultraviolet Radiation shall mean radiation within the ultraviolet region (wavelength 10 nanometres to 400 nanometres) on the electromagnetic spectrum.

16) **Coronavirus Absolute Exclusion**

Notwithstanding any other provision, no cover is provided under this policy for any claim, loss, liability, cost or expense of whatever nature directly or indirectly arising out of, contributed to by or resulting from coronavirus disease (COVID-19), severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), or any mutation or variation thereof.

This exclusion also applies to any claim, loss, cost or expense of whatever nature directly or indirectly arising out of, contributed to by or resulting from:

- (i) Any fear or threat (whether actual or perceived) of; or
- (ii) Any action taken in controlling, preventing, suppressing or in any way relating to any outbreak of;

coronavirus disease (COVID-19), severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), or any mutation or variation thereof.

General Extensions

The insurance under this policy is subject to the following extensions provided always that:

- a) these extensions are subject to the terms, limitations and conditions of the policy
- b) the total liability of the **Insurer** to pay compensation shall not exceed the limit of liability.

1) Patient Confidentiality

This policy extends to reimburse the **Insured** in respect of legal costs incurred where the **Insured** has refused to release on ethical or therapeutic grounds confidential patient information, where required to do so in the form of a report or witness attendance by a court, disciplinary hearing or tribunal case.

Provided always that:

- a) the liability of the **Insurer** shall not exceed €15,000, any one occurrence during the **Period of Insurance**
- b) this limit will form part of and not be in addition to the limit of liability stated in the **Schedule**.

2) Good Samaritan Acts & First Aid

This policy extends to cover the **Insured** and any director, partner or **Employee** of the **Insured** in respect of any first aid or emergency medical assistance rendered where they are present during an emergency situation.

3) Loss of Reputation

The **Insurer** will reimburse the **Insured** for costs incurred with the **Insurer's** consent in respect of the appointment of public relations professionals as a result of a complaint, lawsuit or other action by a third party.

Provided always that:

- a) the liability of the **Insurer** shall not exceed €30,000 any one occurrence during the **Period of Insurance**
- b) this limit will form part of and not be in addition to the limit of liability stated in the **Schedule**.

4) Retrospective Extension

The cover provided by;

- a) Section I - Professional Liability
- b) Section II - Public Liability
- c) Section III - Products Liability

extends to cover the **Insured** in respect of all sums which they shall become legally liable to pay as compensation:

- i) that happened prior to the commencement of the **Period of Insurance** and is first notified in writing to the **Insured** during the **Period of Insurance** or any time thereafter; or:
- ii) where cover is not provided by a previous insurance policy.

Retrospective Extension replacing 4 above in respect of new joiners to the scheme post 1.4.2011

The cover provided by;

- a) Section I - Professional Liability
- b) Section II - Public Liability
- c) Section III - Products Liability

extends to cover the **Insured** in respect of all sums which they shall become legally liable to pay as compensation:

- i) that happened prior to commencement of the **Period of Insurance** and is first notified in writing to the **Insured** during the **Period of Insurance** and
- ii) where cover is not provided by a previous insurance policy solely by reason of the event likely to give rise to a claim being intimated to them outside the period specified for the notification of claims.

It may impact the **Insured's** ability to make a claim under this policy if the **Insured** does not provide full details of the previous policy cover to the **Insurer** in the event of a claim notification.

5) Teaching

This policy is extended to reimburse the **Insured** for legal liability incurred in respect of teaching provided as an individual tutor, where the **Insured** is not personally responsible for the delivery of a certificate of competence, or a qualification, and is not running a training establishment for the delivery of such unless otherwise stated in the **Schedule**. The delivery of qualifications and certificates of competence for Healing or Reiki Master are however automatically included.

6) Upgrade Clause

Any increase in the limits of liability during the **Period of Insurance** as endorsed on the **Schedule** following consideration of premium will thereafter apply retrospectively for Section 1 - Professional Liability, Section II - Public Liability and Section III - Products Liability of this policy.

This extension will not apply to any claim or incident that was likely to give rise to a claim that was known to the **Insured** before the increase in limit of liability was stated on the **Schedule**.

7) Pre Disciplinary Hearing and Complaints Costs

This policy is extended to pay **Costs and Expenses** incurred with the **Insurer's** written consent in preparing a response to allegations of unprofessional conduct or behaviour likely to give rise to a disciplinary hearing with a professional body or regulator.

Provided always that:

- a) the liability of the **Insurer** shall not exceed €1,500 any one occurrence during the **Period of Insurance**
- b) this limit will form part of and not be in addition to the limit of liability stated in the **Schedule**.

8) **Loss of Documents**

This policy is extended to reimburse the **Insured** in respect of any expense incurred by the **Insured** with the **Insurer's** written consent in replacing or restoring documents whether owned by, or the responsibility of the **Insured** in the conduct of the **Insured's Business** which are discovered lost or damaged and notified to the **Insured** during the **Period of Insurance**.

Provided always that:

- a) the liability of the **Insurer** shall not exceed €70,000 any one occurrence during the **Period of Insurance**
- b) this limit will form part of and not be in addition to the limit of liability stated in the **Schedule**.

9) **Car Park Liability**

The **Insurer** will, in respect of vehicles which are the responsibility of persons other than the **Insured** that are held in trust by or in the custody or control of the **Insured**, reimburse the **Insured** against legal liability in respect of loss of or damage to such vehicles.

Provided always that:

- a) such vehicles are not:
 - i) being stored by the **Insured** for a fee or other consideration
 - ii) held in trust by or in the custody or control of the **Insured** for the purposes of work being carried out on them
- b) the liability of the **Insurer** shall not exceed €25,000 any one occurrence during the **Period of Insurance**
- c) this limit will form part of and not be in addition to the limit of liability stated in the **Schedule**.

10) **Court Attendance Costs**

In the event of any of the persons listed below attending court as a witness at the request of the **Insurer** in connection with a claim in respect of which the **Insured** is entitled to reimbursement under this policy, the **Insurer** will provide compensation to the **Insured** at the following rates per day for each day on which attendance is required:

- a) any director or partner of the **Insured** €700
- b) any **Employee** €300.

11) **Cross Liability**

Each person or party specified as the **Insured** in the **Schedule** is separately covered under this Section in respect of claims made against any of them by any other such person or party subject to the **Insurer's** total liability not exceeding the stated limit of liability.

12) **Safety Health and Welfare at Work**

The **Insurer** will reimburse the **Insured** or at the request of the **Insured** any director or **Employee** of the **Insured** for legal costs and expenses incurred in the defence of any criminal proceedings brought for a breach of Safety Health and Welfare at Work Legislation or any regulations made there under committed or alleged to have been committed during the **Period of Insurance** including:

- a) costs of prosecution awarded against the **Insured** or any director or **Employee** of the **Insured**
- b) legal costs and expenses incurred with the consent of the **Insurer** in an appeal against conviction arising from such proceedings.

Provided always that the **Insurer** shall not be liable under this extension for:

- i) the payment of fines and penalties of any kind
- ii) the cost of appeal against improvements or prohibition notices.

13) **Reimbursement to Other Persons including Personal Representatives**

In the event of any claim in respect of which the **Insured** named would be entitled to receive reimbursement under this policy being brought or made against:

- a) any director, business partner, agent or member
- b) any **Employee** or volunteer
- c) any public or local authority or other principal for whom the **Insured** are or have been carrying out work but only to the extent required by the contract for the work
- d) any **Employee** acting as a member of the **Insured's** first aid or medical arrangements but excluding conventional medical practitioners in respect of liability for damages and legal costs resulting from **Treatment** given
- e) any officer or member of the **Insured's** catering, social, sports or welfare organisations
- f) any personal representative of the **Insured** in the event of the **Insured's** death

the **Insurer** will reimburse such person if the **Insured** so requests against such claim and/or any costs, charges and expenses in respect thereof.

Provided always that:

- i) such person is not entitled to reimbursement under any other insurance; and
- ii) such person will as though they were the **Insured** observe, fulfil and be subject to the terms and conditions of this policy; and
- iii) the **Insurer** shall not be liable under this extension unless the **Insured** has the sole conduct and control of all claims.

General Conditions

1) Claims Procedure

The **Insured** shall not except at their own cost, take any steps to compromise or settle any claim or admit liability without specific instructions in writing from the **Insurer**, nor give any information or assistance to any person claiming against them, but the **Insurer** shall conduct and control all proceedings in respect of any claims for which the **Insurer** may be liable under this policy and may use the name of the **Insured** to enforce for the benefit of the **Insurer** any order made for costs or otherwise or to make or defend any claim for reimbursement or damages against any third party or for any other purpose connected with this policy.

2) Discharge of Liability

The **Insurer** may at any time pay to the **Insured** in connection with any claim or series of claims the amount of the limit of liability (after deduction of sums already paid as compensation in respect of such claim or claims or other relevant claims) or any lesser amount for which such claim or claims can be settled and upon such payment being made, the **Insurer** relinquish the conduct and control of and be under no further liability in connection with such claim or claims other than the payment of costs and expenses incurred prior to the time of such payment.

3) Instruments

The **Insurer** shall have no liability under the policy, if the **Insured** fails to comply with the following provisions unless the **Insured** shows that non-compliance with these terms could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred;

- a) hypodermic needles are used once only;
- b) any other instrument having need to contact or penetrate tissue shall be either:
 - i) used once only
 - ii) sterilised to the current professionally recognised standard if (iii) below has been updated
 - iii) sterilised using one of the following disinfection process options:

1) Instrument boiler	100°	5-10 minutes
2) Sub-Atmospheric steam	73°C	10 minutes
3) Washer disinfectant	65°C	5-10 minutes
	70-71°C	3 minutes
	80°C	1 minute
	90°C	1 second
- c) any surface which has received spillage of human or animal body fluid or has been contacted by human or animal tissue shall be disinfected by the use of one of the following or otherwise effectively sterilised to the current recognised professional standard:
 - i) Formaldehyde

- ii) 2% Glutaraldehyde
- iii) 70% Alcohol
- iv) Chlorine releasing agents
- v) Clear soluble phenols.

The disinfectant chosen must be effective, compatible with the items processed and if an irritant substance is used, all traces of the disinfectant must be removed before the instrument is re-used.

- d) all clinical waste is disposed of into a Sharps container immediately after use and further disposed of by an appropriately qualified waste contractor or other approved method according to the currently recognised professional standard.

4) **Notice of Claims**

The **Insured** shall on the happening of any loss, damage, injury or accident, give notice as soon as practically possible to **Balens**, Bridge House, Portland, Road, Malvern, Worcs, WR14 2TA telephone 01684-893006, email claims@balens.co.uk, and shall at their own expense deliver to Balens a claim with such detailed particulars and proofs as may be required

5) **Other Insurances**

If at any time any claim arises under this policy there be any other insurance covering the same liability the **Insurer** shall not be liable to pay or contribute more than its rateable proportion of any such claim and costs and expenses.

6) **Payment by Instalments**

Where the **Insured** has agreed under a separate credit agreement to pay the premium by instalments any default in payment on the due date will automatically terminate the policy cover immediately from the date of such default.

7) **Record Keeping**

The **Insurer** shall have no liability under the policy, if the **Insured** fails to comply with the following provisions unless the **Insured** shows that non-compliance with these terms could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred:

- a) Keep adequate records of each and every **Treatment** given to each and every client.
- b) The record is to include details of the consultation process, the **Treatment**, the result of the **Treatment** and any aftercare instructions given where appropriate.
- c) The record shall be kept for at least 7 years following the last occasion on which **Treatment** was given. In the case of **Treatment** to minors, it is advisable that records should be kept for at least 7 years after they reach the age of majority (18).
- d) In the case of trial or demonstration sessions undertaken at shows, seminars, talks, events, conferences, courses and exhibitions instead of a), b) or c) above, the name and brief details of the person, date of session and condition being treated should be recorded.

- e) In the case of sessions or classes undertaken in the form of yoga, pilates, fitness, exercise, meditation or mediumship instead of a), b), c) or d) above, the name and brief details of the person, date of session and any other relevant observations should be recorded.
- f) The record is to include evidence of patch testing where applicable.

8) **Treatment by Beauty Therapists, Cosmetologists and Hairdressers**

The following condition will only apply in respect of beauty therapists, cosmetologists and hairdressers. The **Insurer** shall have no liability under the policy, if the **Insured** or any authorised **Employee** fails to comply with the following provisions unless the **Insured** shows that non-compliance with these terms could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred:

- a) When working at a third party premises place a protective and impermeable sheet over the floor and furniture whilst working when using a procedure which could cause staining or other damage to such items.
- b) For all **Treatment** where the client is required to perform aftercare, written instructions describing that care shall be given to each and every client on each and every occasion that such **Treatment** is given.
- c) For hair, eyebrow, eyelash, tinting or perming, the **insured** shall take a skin test at least 24 hours before applying an eyelash or eyebrow tint to any persons for the first time in accordance with maker's instructions and the guidelines taught by the qualifying College or as subsequently recommended as best current professional practice
- d) Always carry out a tint test;
 - i) before the provision of the first **Treatment**
 - ii) after a change in their medical history
 - iii) when the **insured** has changed any preparations used in tinting **Treatments** or changed the manufacturer of their tinting preparations
 - iv) at a 12 month interval since the last **Treatment**.

Cover shall not apply to any incident which may arise from **Treatment** given following an allergic reaction to a skin test.

- e) Follow the recommended professional association or original training college guidelines for the **Treatments** described hereunder;
 - i) Telangiectasia/Dilated Capillaries
 - ii) Spider Neavus, Campbell de Morgan Spots
 - iii) Haemangioma
 - iv) Skin Tags
- f) Obtain medical referral before providing **Treatment** for;
 - i) Hair removal from moles or treating moles in any way
 - ii) Age Spots or Pigmentation

- iii) Syringoma
- g) Hold a Level 3 or above beauty therapy qualification or be a qualified doctor, nurse or other health professional as agreed by **Balens** to use a laser or other light therapy machine for the following **Treatments**:
 - i) Hair removal
 - ii) Intense Pulsed Light (IPL)
 - iii) Skin Rejuvenation
 - iv) Laser tattoo removal

and hold manufacturers training and only use the equipment that is designed for this purpose and which is regularly serviced and maintained.

- h) Use specifically designed equipment and jewellery for ear piercing and all jewellery. The piercing instrument and jewellery inserted into the ear lobe must be sterile and comply with the Dangerous Substances and Preparation, (Nickel) (Safety) Regulations 2000. Excludes Pierces under the age of 16 years unless the parent is present and has given written consent to the procedure and Excludes Piercing undertaken elsewhere than in a hygienic room or area at the **Premises** unless specifically agreed by the **insurer**
- i) Check and record that any persons are not allergic to acrylics or plastics before applying false nails or nail extensions.
- j) Ensure that case studies or other pre-qualification work undertaken by students are approved, supervised, reviewed and directed by the college or tutor concerned.
- k) In respect of Enlighten, IPL laser and other similar light based invasive therapies not undertake **Treatment** of clients;
 - i) With light induced epilepsy light sensitivity, porphyria, diabetes, skin tumours, skin cancer, hypo/hyperpigmentation who have previously received laser **Treatment** in the area to which light would be applied.
 - ii) Who may be pregnant.
 - iii) Taking photosensitive medication.
 - iv) Who are under the age of 16

9) **Qualifications**

The **Insured** should be suitably qualified to perform the **Treatments** noted on the **Schedule** and provide a formal qualification in the event of a claim, if not previously supplied. For new or own developed therapies/activities, or where a formal qualification may not exist, the **Insured** must provide evidence of competency and/or experience, which is approved by **Balens**, prior to the start of the **Period of Insurance**.

10) **Virtual Consultations or Internet-based videos**

The following condition will only apply in respect of internet-based consultations, telephone-based consultations or internet-based videos.

The **Insurer** shall have no liability under the policy, if the **Insured** fails to comply with the following provisions unless the **Insured** shows that non-compliance with these terms could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred;

- a) any **Treatment**, counselling, nutrition advice or exercise-based instruction declared and accepted by **Balens** is undertaken by a fully qualified Therapist or Practitioner
- b) all relevant aftercare guidance or consultation procedures, in line with training guidelines, are to be declared to and consented by the client with evidence recorded in a durable medium.



X^L Insurance



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