

PROFESSIONAL INDEMNITY

(Issued by General Director of BIDV Insurance Corporation according to Decision No. 1450/QĐ-PHH dated 06/07/2020)

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 US\$250 for each of **You** or per **Employee** of **Yours** per day; and
 - 4.1.5. the maximum amount provided by this extension shall be specified in the **Schedule**.
- 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) day 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) day 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) day 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) day 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 be specified in the **Schedule**.

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 for any one **Claim** and in the aggregate under this **Policy** shall be specified in the **Schedule** ;

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 US\$1,000 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) day 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) day 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 wilful 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.

6.21. **Sanction Limitation and Exclusion** - **We** shall not provide cover nor be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Us** or any member of **Our** group to any sanction, prohibition or restriction under United Nations resolutions, Australian autonomous sanctions, or the trade or economic sanctions, laws or regulations of any country

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**.
- 7.7. **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.
- 7.8. **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.
- 7.9. **Defence and Settlement of Claims** – **We** may:
- 7.9.1. 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;
 - 7.9.2. 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**.
- 7.10. **Jurisdictional Limitation** – The cover provided by this **Policy** shall apply to **Claims** brought anywhere in the world, except:
- 7.10.1. **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 the courts of the United States of America or the Dominion of Canada;
 - 7.10.2. **Claims** and actions to which the laws of the United States of America or the Dominion of Canada apply;

7.10.3. **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.

7.11. Limit of Indemnity (Inclusive of Defence Costs and Expenses)

7.11.1. **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**.

7.11.2. 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**.

7.12. **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.

7.13. **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.

7.14. **Notices to Us** – Notice of any **Claim** or circumstance must be given as soon as practicable and in writing to the address in the **Schedule**.

7.15. **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**.

7.16. **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**.

7.17. **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.

7.18. **Policy Construction and Interpretation:**

7.18.1. The **Proposal Form** shall form the basis of this contract.

7.18.2. 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.

7.18.3. 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.

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

7.19. **Premium Payment Warranty** – Any premium due must be paid and received by **Us** within thirty (30) 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.

7.20. **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**.

7.27. Currency Clause

- 7.27.1 **You** may for the purpose of effecting this **Policy**, pay the **Premium** in the Vietnam Dong (VND) equivalent of any other currency which was intended to be applicable to this **Policy**, instead of such other applicable currency. The exchange rate applicable shall be the selling exchange rate published by BIDV (Bank for Investment and Development of Vietnam JSC) at the time of **Premium** payment.
- 7.27.2 All **Claims** shall be paid in VND. Where any settlement/judgement or other element of any **Claim** is payable in any currency other than VND, such payment shall be made in the VND equivalent of such other currency. The exchange rate applicable shall be the selling exchange rate published by BIDV (Bank for Investment and Development of Vietnam JSC) at the time of payment of such **Claim**.

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 BIDV Insurance Corporation

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 8.15.2, 8.15.3 and 8.15.4. 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**.