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### Beazley Claims Service

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Delivering great claims service is one of Beazley's top priorities. Our Claims Service Standards highlight what our stakeholders can expect when working with our Claims Team – expertise, responsiveness, partnership, fairness, and accountability. Please visit [www.beazley.com](http://www.beazley.com) to read more about our Claims Service Standards under Our Approach to Claims.

# Professional Liability Section

## Coverages

### Professional Liability

To pay **loss** resulting from any **claim** first made against any **insured** during the **policy period** for a:

- (a) **professional services wrongful act**;
- (b) **patient accident**; or
- (c) **cyber incident**.

## Exclusions from cover

The **insurance company** will not be liable for any **loss** or **claim**:

### Assumed Liability

arising out of, based upon or attributable to any liability assumed by the **insured** under any contract or agreement, either oral or written, including any hold harmless or indemnity agreements.

This Exclusion will not apply to the extent the **insured** would have been liable in the absence of such contract or agreement.

### Contractual Liability

arising out of, based upon or attributable to any contractual liability or obligation, including any breach of contract or agreement, either oral or written.

This Exclusion will not apply to the extent the **insured** would have been liable in the absence of such liability or obligation.

### Data Processing Services

arising out of, based upon or attributable to any **insured's** data processing services.

### Failure to Pay Bond

arising out of, based upon or attributable to any failure to pay any bond, debt, financial guarantee or debenture, or any interest in connection with the foregoing.

### Financial Advice

arising out of, based upon or attributable to any financial or investment advice given, referrals, warranties, guarantees or predictions of future performance made by any **insured** as regards specific and identifiable investment items including but not limited to personal property, real property, stocks, bonds or securities.

### Intellectual Property

arising out of, based upon or attributable to any actual or alleged plagiarism, misappropriation of



likeness, breach of confidence, or misappropriation or infringement of any intellectual property right, including patent, trademark, trade secret, trade dress and copyright.

Libel/Slander

arising out of, based upon or attributable to any actual or alleged publication or utterance of libel or slander or other defamatory or disparaging material, or a publication or utterance in violation of an individual's right to privacy.

Other Insureds

arising out of, based upon or attributable to any **claims** brought against any **insured** by another **insured**.

This Exclusion will not apply to **bodily injury** sustained by any **insured** as a recipient of **professional services** performed, or failing to be performed, by any other **insured**.

Personal Injury and Property Damage

arising out of, based upon or attributable to any **personal injury** or **property damage**.

This Exclusion will not apply to a **professional services wrongful act**, **patient accident** or **cyber incident**.

Prior Knowledge and Prior Notice

arising out of, based upon or attributable to:

- (a) any act, error, omission, **accident**, incident or event committed prior to the inception date if any member of the **control group** on or before such date knew or could have reasonably foreseen that such act, error, omission, **accident**, incident or event might be expected to be the basis of a **claim** or **loss**; or
- (b) any **claim**, **loss**, incident or circumstance of which notice has been provided under any prior policy of which this Policy is a renewal or replacement.

Recall

arising out of, based upon or attributable to the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of any work product, including when resulting from or incorporating the results of **professional services**.

This Exclusion will not apply to loss of use of such work product resulting from or incorporating the results of **professional services**.

## Claim Requirements and Information

Notification of Claims

As a condition to coverage under this Policy, the **insured** must give notice to the **insurance company** of any **claim** made against the **insured** as soon as practicable but in no event later than 30 days after the end of the **policy period**.

Notification of Circumstances

The **insured** must during the **policy period** notify the **insurance company** of any fact or circumstance which could reasonably give rise to a **claim**.



Any notice must include:

- (a) the reasons why the **insured** reasonably anticipates that such fact or circumstances could give rise to a **claim**, and
- (b) full particulars of the dates, acts and persons involved (where available).

If a **claim** is made after the end of the **policy period** and arises from a fact or circumstance reported under this provision, then such **claim** will be deemed to have been made at the same time as the fact or circumstance was reported to the **insurance company**.

#### Related Claims

All **related claims**:

- (a) are considered a single **claim** for the purpose of this Policy, irrespective of the number of claimants or **insureds** involved in the **claim**, and
- (b) are deemed to have been made at the time of the first such **claim**, and
- (c) will be treated by the **insurance company** as having been reported when the first of such **claims** was reported or is deemed to have been reported to the **insurance company**.

#### Notice to the Insurance Company

All notices to the **insurance company** must be sent either by e-mail to or by mail to the address specified in the Declarations.

#### Defense and Settlement

- (a) Duties

The **insurance company** has the right and duty to defend any **claim** against the **insured** seeking amounts which are payable under the terms of this Policy, even if any part of such **claim** is groundless, false or fraudulent.

Defense counsel will be mutually agreed by the **named insured** and the **insurance company** but, in the absence of such agreement, the **insurance company's** decision will be final.

- (b) Consent to **defense costs**

The **insurance company** will not be obligated to pay **defense costs** unless it has given prior written consent to such **defense costs** being incurred (except if expressly specified in this Policy that prior consent is not first required).

- (c) Settlement of **claims**

The **insured** cannot admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or dispose of any **claim** without the prior written consent of the **insurance company**.

If the **insured** refuses to consent to any settlement recommended by the **insurance company** and acceptable to the claimant, the **insurance company's** liability for **loss** will not exceed:

- i. the amount for which the **claim** could have been settled, less the remaining Retention, plus
- ii. the **defense costs** incurred up to the time of such refusal;

or the applicable Limit of Liability, whichever is less, and the **insurance company** will have the right to withdraw from the further defense of such **claim**.



## Definitions

The following definitions are applicable to this Coverage:

**claim** means:

- (a) a written demand for monetary damages or services (including any request to toll or waive a statute of limitations);
- (b) a civil or administrative proceeding; or
- (c) an arbitration, mediation or other form of alternative dispute resolution proceeding.

**computer systems** means computers, any software residing on such computers and any associated devices or equipment:

- (a) operated by and either owned by or leased to the **insured organization**; or
- (b) operated by a third party pursuant to written contract with the **insured organization** and used for the purpose of providing hosted computer application services to the **insured organization** or for processing, maintaining, hosting, or storing the **insured organization's** electronic data.

**cyber incident** means **bodily injury** to any **patient** caused by a **system failure** which occurs in the performance of or failure to perform **professional services** on or after the **retroactive date** and before the end of the **policy period**.

**damages** means judgments (including pre and post-judgment interest), awards and settlements incurred by the **insured**.

**damages** will not include:

- (a) future profits, restitution, disgorgement of unjust enrichment or profits by an **insured**, or the costs of complying with orders granting injunctive or equitable relief;
- (b) return or offset of fees, charges or commissions charged by or owed to an **insured** for goods or services already provided or contracted to be provided;
- (c) taxes or loss of tax benefits;
- (d) fines, sanctions or penalties;
- (e) punitive or exemplary damages or any damages which are a multiple of compensatory damages, unless insurable by law in any applicable venue that most favors coverage for such damages;
- (f) liquidated damages, but only to the extent that such damages exceed the amount for which the **insured** would have been liable in the absence of such liquidated damages agreement;
- (g) costs incurred by the **insured** to correct, re-perform or complete any **professional services**;
- (h) any amounts for which the **insured** is not liable, or for which there is no legal recourse against the **insured**; or
- (i) any amounts deemed uninsurable by law.

**defense costs** means:

- (a) reasonable legal fees, costs and expenses necessarily incurred by or on behalf of the **insured** in connection with the investigation, defense, settlement or appeal of a **claim**;
- (b) all other fees, costs and expenses incurred by or on behalf of the **insured** with the **insurance company's** prior written consent; and
- (c) premiums for appeal bonds for covered judgments or bonds to release property used to secure



a legal obligation, if required for a **claim** against any **insured**. However, the **insurance company** will have no obligation to appeal or to obtain such bonds.

**defense costs** will not include the salary of any **insured**, the cost of their time or costs or overheads of the **insured organization**.

**facilities of the named insured** means all locations at which **professional services** are performed, or fail to be performed, by any **insured** while acting within the scope of that person's duties to the **named insured**, pursuant to the express direction or authority of the **named insured**. Such locations may include remote offices or clinics owned or leased by the **named insured**, the residence of any **patient** or the site of an accident, medical crisis or disaster.

**independent contractor** means any natural person who performs labor or service for the **named insured** pursuant to a written contract or agreement, where such labor or service is under the exclusive direction of the **named insured**. The status of an individual as an **independent contractor** shall be determined as of the date of an alleged act, error or omission by any such **independent contractor** or as of the date of the **accident**. This coverage shall apply in excess of any other valid and collectible insurance available to any such **independent contractor**.

**insured** means:

- (a) the **insured organization**;
- (b) a director, executive officer, stockholder, **medical director**, **manager**, administrator or employed physician of the **insured organization**, but only with respect to the performance of his or her duties as such for the **insured organization**. However, coverage for any employed physician is contingent on any such employed physician being scheduled in the Declarations;
- (c) an **employee** or volunteer worker of the **insured organization**, but only with respect to the performance of his or her duties as such for the **insured organization**;
- (d) a partner or member if the **named insured** is a partnership or joint venture, but only with respect to his or her liability as such on behalf of the **insured organization**;
- (e) any person who previously qualified as an **insured** under subparagraphs (b) and (c) above, but only with respect to the performance of his or her duties as such on behalf of the **insured organization**;
- (f) any **independent contractor** and/or agent of the **named insured**. If the **independent contractor** is a physician, coverage for such **independent contractor** is contingent on any such **independent contractor** being scheduled in the Declarations; and
- (g) the estate, heirs, legal representative, trusts, estate planning vehicles or assigns of any **insured** in the event of their death, incapacity or bankruptcy.

**loss** means:

- (a) **damages**; and
- (b) **defense costs**.

**medical director** means an employed or independent contractor physician whose responsibilities are:

- (a) oversight of the **insured's** operations to ensure that appropriate care is provided;
- (b) monitoring and implementation of resident care policies;
- (c) oversight and supervision of physician services;
- (d) overseeing the overall clinical care of residents to ensure that care is in line with all guidelines;
- (e) ensuring the support of essential medical consultants;



- (f) oversight and supervision of clinical services of nurse practitioners or physician assistants in the performance of their role.

However, direct patient care provided by a **medical director** is excluded under this Policy unless otherwise scheduled in the Declarations.

**patient** means any person, human body or animal at or in the course of transit to or from the **facilities of the named insured** for the purpose of receiving **professional services**.

**patient accident** means **personal injury** to any **patient** or **property damage** to any **patient's** property caused by an **accident** which occurs in the performance of or failure to perform **professional services** on or after the **retroactive date** and before the end of the **policy period**.

**personal injury** means:

- (a) **bodily injury**;
- (b) false arrest, false imprisonment, detention or malicious prosecution;
- (c) libel, slander, defamation of character or invasion of right of privacy, unless arising out of any advertising activities; or
- (d) wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor.

**professional services** means services listed in the Declarations.

**professional services wrongful act** means **bodily injury** to any **patient** arising out of any negligent act, error or omission, misstatement, misleading statement or misrepresentation by the **insured** in the performance of or failure to perform **professional services** that occurs on or after the **retroactive date** and before the end of the **policy period**.

**related claims** means all **claims** arising from the same or a series of related, repeated or continuing acts, errors, omissions or events.

**security breach** means a failure of computer security to prevent:

- (a) **unauthorized access or use of computer systems**, including **unauthorized access or use** resulting from the theft of a password from a **computer system** or from any **insured**;
- (b) a denial of service attack affecting **computer systems**;
- (c) a denial or service attack affecting **computer systems** that are not owned, operated or controlled by an **insured**; or
- (d) infection of **computer systems** by malicious code or transmission of malicious code from **computer systems**.

**system failure** means an unintentional and unplanned interruption of **computer systems**.

**system failure** will not include any interruption of **computer systems** resulting from (i) a **security breach**, or (ii) the interruption of any third party computer system.

**unauthorized access of use** means the gaining of access to or use of **computer systems** by an unauthorized person(s) or the use of **computer systems** in an authorized manner.

