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Beazley Claims Service

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 to read more about our Claims Service Standards under Our Approach to Claims.

Technology Services, Technology Products Liability and Media Liability Section

Coverages

Technology Services, Technology Products Liability and Media Liability

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

- (a) **tech services wrongful act**;
- (b) **tech product wrongful act**; or
- (c) **media wrongful act**.

Bodily Injury and Property Damage

To pay **loss** resulting from any **claim** first made against any **insured** during the **policy period** for **bodily injury** or **property damage** arising out of a **tech services wrongful act**, **tech product wrongful act** or **media wrongful act**.

Exclusions from cover

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

Contractual Liability

With respect to Technology Services and Media Liability Coverages:

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:

- (a) the obligation to perform **tech services**;
- (b) a **claim** for misappropriation of ideas under implied contract; or
- (c) to the extent the **insured** would have been liable in the absence of such contract or agreement.

Infrastructure Failure

arising out of, based upon or attributable to failure or malfunction of satellites or of power, utility, mechanical or telecommunications (including internet) infrastructure or services that are not under the **insured organization's** direct operational control.

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, unless specifically covered under the Media Liability Coverage.



Licensing Bodies and Joint Ventures

arising out of, based upon or attributable to:

- (a) the actual or alleged obligation to make licensing fee or royalty payments; or any **claim** brought by or on behalf of any intellectual property licensing bodies or organizations; or
- (b) any **claim** made by or on behalf of any independent contractor, joint venture or venture partner arising out of or resulting from disputes over ownership or rights in **media material** or services provided by such independent contractor, joint venture or venture partner.

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 **tech services** performed, or failing to be performed, by any other **insured**.

Over-Redemption

arising out of, based upon or attributable to:

- (a) any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
- (b) the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount.

Patent & Misappropriation of Information

arising out of, based upon or attributable to:

- (a) infringement, misuse or abuse of patent or patent rights;
- (b) misappropriation of trade secret arising out of or related to **tech products** or any other products; or
- (c) disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person or entity prior to the date he or she became an **insured** or **subsidiary** of the **insured organization**.

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 **bodily injury** or **property damage** arising out of a **tech services wrongful act**, **tech product wrongful act** or **media wrongful act**.

Prior Knowledge and Prior Notice

arising out of, based upon or attributable to:

- (a) any act, error, omission, incident or event committed prior to the inception date if any member of the **control group** on or before the **continuity date** knew or could have reasonably foreseen that such act, error, omission, 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, reprinting, reposting, recall, inspection,



repair, replacement, reproduction, removal or disposal of any **tech products, media material** or work product, including when resulting from or incorporating the results of **tech services**.

This Exclusion will not apply to the resulting loss of use of such **tech products, media material** or work product resulting from or incorporating the results of **tech 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 circumstance could give rise to a **claim**, and
- (b) full particular 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 purposes 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: (i) 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 these Coverages:

claim means:

- (a) a written demand for monetary damages, services, or any non-monetary or injunctive relief (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.

continuity date means:

- (a) the Continuity Date listed in the Declarations; and
- (b) with respect to any **subsidiaries** acquired after the Continuity Date listed in the Declarations, the date the **named insured** acquired such **subsidiary**.

damages means judgments (including pre and post-judgment interest), awards and settlements incurred by the **insured**. With the prior written consent of the **insurance company**, **damages** also includes the direct net cost of providing any future service credits offered by the **insured organization** in lieu of a monetary payment.

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 **tech services** or **media activities**;
- (h) discounts, coupons, prizes, awards or other incentives offered to the **insured's** customers or clients;
- (i) any amounts for which the **insured** is not liable, or for which there is no legal recourse against the **insured**; or
- (j) 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**.

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**. 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, **manager** or administrator of the **insured organization**, but only with respect to the performance of his or her duties as such for the **insured organization**;
- (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 the performance of his or her duties 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) in relation to Technology Services and Technology Products Liability Coverages, any **independent contractor** and/or agent of the **named insured**;
- (g) the estate, heirs, legal representatives, trusts, estate planning vehicles or assigns of any **insured** in the event of their death, incapacity or bankruptcy; and
- (h) the lawful spouse, including any natural person qualifying as a domestic partner of any **insured**, but solely by reason of any act, error or omission of an **insured** other than such spouse or domestic partner.

loss means:

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

media activities means creating, displaying, broadcasting, disseminating or releasing **media material** by or on behalf of the **insured organization** to the public, including any blog, webcasts, websites, broadcast or cable stations, or social media web pages, created and maintained by or on behalf of the **insured organization**.

media wrongful act means one or more of the following acts committed in the course of the **insured organization's** performance of **media activities**, **professional services** or **tech services** on or after the **retroactive date** and before the end of the **policy period**:

- (a) defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
- (b) a violation of the rights of privacy of an individual, including false light, intrusion upon seclusion and public disclosure of private facts;
- (c) invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
- (d) false arrest, detention or imprisonment;
- (e) invasion of or interference with any right to private occupancy, including trespass, wrongful entry or eviction;
- (f) plagiarism, piracy, or misappropriation of ideas under implied contract;
- (g) infringement of copyright;
- (h) infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or service mark, or improper deep-linking or framing or infringement of domain name including cybersquatting violations;
- (i) negligence regarding the content of any **media activities**, including harm caused through any reliance or failure to rely upon such content;
- (j) misappropriation of a trade secret;
- (k) unfair competition including a violation of Section 43(a) of the Lanham Act, but only if alleged in conjunction with any of the facts listed in paragraphs (g) or (h) above.

media material means any information, including words, sounds, numbers, images or graphics, but will not include computer software or the actual goods, products or services described, illustrated or displayed in such **media material**.

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.



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

tech products means a computer or telecommunications hardware or software product, or related electronic product, that is created, manufactured or developed by the **insured organization** for others, or distributed, licensed, leased or sold by the **insured organization** to others, for compensation, including software updates, service packs and other maintenance releases provided for such products.

If Professional Liability Coverage is purchased, **tech products** must be directly related to **professional services**.

tech product wrongful act means:

- (a) any negligent act, error, omission, misstatement, misleading statement, misrepresentation or unintentional breach of a contractual obligation by the **insured** that results in the failure of **tech products** to perform the function or serve the purpose intended; or
- (b) software copyright infringement by the **insured** with respect to **tech products**; that occurs on or after the **retroactive date** and before the end of the **policy period**.

tech services means computer, cloud computing, and electronic technology services, including:

- (a) data processing, software as a service (SaaS), platform as a service (PaaS), infrastructure as a service (IaaS), network as a service (NaaS);
- (b) data and application hosting, computer systems analysis, and technology consulting and training; or
- (c) custom software programming for a specific client of the **insured organization** and, computer and software systems installation and integration;

performed by the **insured**, or by others acting under the **insured organization's** trade name, for others for a fee.

If Professional Liability Coverage is purchased, **tech services** must be directly related to **professional services**.

tech services wrongful act means any negligent act, error, omission, misstatement, misleading statement, misrepresentation or unintentional breach of a contractual obligation by the **insured** in the performance of or failure to perform **tech services** that occurs on or after the **retroactive date** and before the end of the **policy period**.