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Beazley Claims Service

Delivering great claims services 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.

NOTICE: THIS POLICY PROVIDES INSURANCE FOR CONSUMABLE PRODUCTS. PLEASE REVIEW THE COVERAGE PROVIDED UNDER THIS POLICY CAREFULLY AND DISCUSS WITH YOUR INSURANCE AGENT OR BROKER.

The **insurance company** agrees with the **named insured** in consideration of the payment of, or agreement to pay, the premium and subject to all the provisions of this Policy:

Covered

Consumable products

To reimburse the **named insured** for any **loss** caused by:

- (a) **adulteration** of;
- (b) **tampering** of;
- (c) **adverse publicity** in relation to: or
- (d) **cyber incident** in relation to;

the **insured's products**, which is first discovered during the **policy period** and reported to the **insurance company** pursuant to the Insured Incident and Circumstances Requirements section of this Policy.

Additional cover

Government advisory

To reimburse the **named insured** for any **loss** caused by any **government advisory** which is first discovered during the **policy period** and reported to the **insurance company** pursuant to the Insured Incident and Circumstances Requirements section of this Policy.

Exclusions from cover

This Insurance Policy does not apply to any **loss**:

Asbestos. Nuclear. Radiation

arising out of, based upon or attributable to any ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radiological, electromagnetic or nuclear irritant or contaminant, or asbestos or any materials containing asbestos in whatever form or quantity.

Banned substances

arising out of, based upon or attributable to any use of materials or substances in the manufacturing process which have been banned or declared unsafe by any governmental entity or authority.

Carcinogen

arising out of, based upon or attributable to any carcinogen.



Criminal, dishonest, fraudulent and malicious acts and omissions

arising out of, based upon or attributable to any criminal, dishonest, fraudulent or malicious act or omission, or intentional or knowing violation of the law, if committed by any **responsible person** or by others if any **responsible person** was aware of such conduct or activity.

Fines and penalties

which constitutes fines, penalties, punitive or exemplary damages imposed by third parties, courts or governmental organizations or agencies.

Insured against insured

arising out of, based upon or attributable to any **claim** brought by or on behalf of any **insured** against any other **insured**.

Liability for bodily injury and property damage

attributable to or consisting of liability to any third party for **bodily injury**, **property damage** or loss of use of tangible property.

Natural deterioration or decomposition

arising out of, based upon or attributable to the natural deterioration or decomposition of any **insured's product** having passed its specified or reasonably expected expiration date for use or consumption.

Pre-existing conditions

arising out of, based upon or attributable to any pre-existing condition, circumstance or situation of which any **responsible person** was aware prior to the inception of this Policy, and which had caused or could reasonably have been expected to cause, lead to or result in an **insured incident**.

Responsible person's knowledge

arising out of, based upon or attributable to an **insured incident** that occurs after any **responsible person** has knowledge of:

- (a) a defect or deviation in the production, preparation or manufacture of the **insured's product**;
- (b) circumstances which have or are likely to result in such deviation or defect; or
- (c) a violation of any governmental law or regulation;

and fails to take reasonable corrective action regarding such defect, deviation, circumstances or violation.

War and terrorism

arising out of, based upon or attributable to, directly or indirectly occasioned by, happening through or in consequence of: war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority or any act of terrorism.



Limit of insurance

The Limit of Insurance under this Policy is specified in the Declarations and is the maximum amount payable by the **insurance company** for all **loss**, except for **consultant costs**, in excess of the applicable Retention, in respect of all **insureds**.

Any **loss**, except for **consultant costs**, paid by the **insurance company** under this Policy will reduce the Limit of Insurance.

Where any Sub-Limit of Insurance is specified in this Policy or the Declarations, the **insurance company** will have no liability in excess of such Sub-Limit of Insurance. Any Sub-Limit of Insurance will be part of, and not in addition to, the Limit of Insurance.

There will be no obligation to pay any **loss** after the Limit of Insurance has been exhausted, or after deposit of the Limit of Insurance in a court of competent jurisdiction.

Consultant costs are in addition to and not subject to the Limits of Insurance.

Retention

This Policy applies only to **loss** in excess of the Retention specified in the Declarations, which will apply separately to each and every **insured incident**.

Consultant costs are not subject to the Retention.

Insured incident and circumstances - requirements

Notification of insured incident and circumstances

(a) Insured incidents

As a condition precedent to coverage under this Policy, the **named insured** must give notice to the **insurance company** of any **insured incident** as soon as practicable after any **responsible person** first discovers such **insured incident** but in no event later than 45 days after the end of the **policy period**.

(b) Circumstances

The **named insured** may during the **policy period** notify the **insurance company** of any fact or circumstance which could reasonably give rise to an **insured incident**.

Any notice must include:

- i. the reasons why the **named insured** reasonably anticipates that such fact or circumstance could give rise to an **insured incident**, and
- ii. particulars of the dates, location and nature of the circumstances.

Any subsequent **insured incident** reported to the **insurance company** arising from such fact or circumstance will be deemed as having been reported at the time such fact or circumstance was first reported to the **insurance company** pursuant to this paragraph.



(c) 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.

Assistance and cooperation

If any **insured incident** or fact or circumstance is reported by the **named insured** under this Policy, the **insured** will give all information and assistance to the **insurance company** as it may need to investigate such matters. The **insured** will cooperate with the **insurance company** in responding to such **insured incident** or fact or circumstance. The **insured** agrees not to take any action which in any way increases the **insurance company's** exposure under this Policy.

Except where expressly provided for in this Policy, any costs to provide such information or assistance to the **insurance company** will be at the **insured's** own cost.

Other insurance

The insurance under this Policy will apply in excess of any other valid and collectible insurance available to any **insured**, including any self-insured retention or deductible of such insurance. This provision will not apply where such other insurance is written only as specific excess insurance over this Policy.

Subrogation and recoveries

If any payment is made under this Policy, the **insured** will transfer its rights of recovery against any third party to the **insurance company**. The **insured** will do whatever is reasonably necessary to secure and preserve such rights after a fact or circumstance giving rise to any **insured incident**.

Action against the insurance company

No action will lie against the **insurance company** unless and until the **insured** has fully complied with all the terms of this Policy and unless the action is started within 24 months after inception of the **insured incident**.

General conditions

Calculation of loss

(a) Written request for payment

In the event of any covered **loss**, the **named insured** must provide the **insurance company** with a written request for payment as soon as practicable.

This written demand must include:

- i. a computation of the **loss** showing in detail how the **loss** has been calculated and what assumptions have been made; and
- ii. any documentary evidence, including true copies of the **insured's** books of account, bills, invoices, vouchers and other relevant documents that the **insurance company** or its representatives (including forensic accountants) may require.



(b) Cooperation of the insured for the calculation of loss

The **insured** must cooperate and assist the **insurance company's** and its designates with their investigations, including reasonable access to any premises, personnel and documents the **insurance company** deems necessary for the purpose of the calculation of **loss**.

(c) Determination of the amount by the insurance company

The **insurance company** will apply standard accounting principles as recognized by the relevant regulatory authorities in the **named insured's** home jurisdiction. If the **insured** does business in more than one jurisdiction the relevant accounting principles to be applied will be those of the jurisdiction in which the **subsidiary**, division or other organizational unit that sustained the **loss** is based.

Whether or not any partial payments have been made, the **named insured** must submit to the **insurance company** a final written statement of **loss** including all items of **loss** no later than 18 months after an **insured incident** becomes known to the **insured**.

Nothing in the condition will be deemed to amend or supersede the provisions of the Clause Notification of insured incidents or circumstances.

Appraisal of a covered loss in the event of disagreement

In the event that the **insurance company** and the **insured** cannot agree on the monetary value of a covered **loss** and the **insurance company** rejects the **insured's** final statement of that **loss**, the amount of that covered **loss** will be submitted for an independent appraisal. The process is as follows:

(a) Written demand

A written demand for an independent appraisal must be made by either party within sixty (60) days of the **insurance company's** rejection;

(b) Selection of the appraiser

Once this demand has been made, each party shall select a competent and disinterested appraiser and notify the other party of the name of the appraiser selected within 20 days of such demand;

(c) Selection of the umpire

Within 15 days of designating the respective appraisers, the appraisers shall first select a competent and disinterested umpire. If they cannot agree on the selection of an umpire, such umpire shall be selected by the then current President of the Chartered Institute of Loss Adjusters.

(d) Submission of the case by the parties and decision

After 30 days of the appointment of the umpire, both parties will submit their cases to the appraisers and the umpire. The appraisal panel will then make a decision on the amount of the covered **loss** along with details and itemization of the elements of the **loss**. The decision must be signed at least by two of the three panel members.



Each party will be responsible for payment of fees to its chosen appraiser and will share equally other expenses of the appraisal, including the umpire's fees.

Currency

Limits of Insurance, premiums, other amounts as expressed in this policy and **loss** payable under the policy are in U.S. currency. If the **loss** paid by the **insurance company** has been calculated in a currency other than U.S. currency, the rate of exchange will be based on the published wholesale exchange rate on the date the **insurance company** receives written notice of the **insured incident**. However, if it is subsequently determined that there was no **adulteration** or **tampering**, the exchange rate for **consultant costs** will be based on the published wholesale exchange rate on the date the **consultant costs** are first submitted to the **insurance company** in writing.

Salvage

Any salvage or other recovery, after expenses incurred in salvage or recovery is deducted, will accrue entirely to the **insurance company's** benefit until the **insurance company** recovers all sums it has paid. In case of damage to property bearing a brand or trademark, or which in any way carries or implies the guarantee or the responsibility of the **insured**, the salvage value of such damaged property will be determined after removal in the customary manner of all such brands or trademarks or other identifying characteristics, the costs of which will be borne by the **insured**.

The **insured's** good will and public image will be considered in determining whether any **insured's product** should be involved in salvage recovery. The **insured** agrees not to unreasonably restrict our right to salvage. The **insured** will have full right to the possession of all goods involved in any **insured incident** and will retain control of all damaged goods. The **insured** may not under any circumstances abandon any property to the **insurance company**.

Due diligence

The **insured** agrees to exercise due diligence to take all reasonable and practical steps to avoid any happening or circumstances giving rise to any **insured incident** and to make all reasonable efforts to mitigate any **loss** occurring as a result of any **insured incident**.

Mergers and acquisitions

- (a) In the event an **insured** acquires another entity whose revenues do not exceed 10% of the total annual revenues of the **named insured** as specified in the **application**, then such acquired entity will be considered part of the **insured**, and this Policy will apply, from the date of such acquisition, for any **loss** in any way involving such entity; or
- (b) In the event the **named insured**:
 - i. merges with another entity such that the **named insured** is the surviving entity; or
 - ii. acquires another entity whose revenues exceed the percentage threshold specified in (a) above,

then this Policy will only apply for a period of sixty days, from the date of such merger or acquisition, for any **loss** in any way involving such merged or acquired entity.

After sixty days, coverage will only be available under this Policy if:

1. the **named insured** provides the **insurance company** with information in connection with such merger or acquisition as the **insurance company** requires; and
2. the **named insured** accepts any special terms, conditions, exclusions or additional premium charge as may be required by the **insurance company**.



- (c) Coverage for such entity specified in (a) or (b) above will only apply to any **insured incident** first discovered after the date of such merger or acquisition.

Cancellation

- (a) By the **named insured**

If the **named insured** has not reported any **insured incident** or facts or circumstances which may give rise to an **insured incident**, the **named insured** may cancel this Policy by giving the **insurance company** 30 days written notice. In such event the **insurance company** will give the **named insured** a pro-rata refund of the premium for the remaining portion of the **policy period** after the expiration of the notice period for cancellation.

- (b) By the **insurance company**

The **insurance company** will have the right to cancel this Policy, with effect from inception, where permitted by law, if the premium has not been paid to the **insurance company** within 30 days of the inception of the **policy period**.

The **insurance company** will provide in writing 10 days' notice of cancellation to the **named insured** or via the **named insured's** insurance broker.

If the premium is paid in full to the **insurance company** before the 10 day notice period expires, notice of cancellation will automatically be revoked.

Authorization

The **named insured** will be considered the agent of all the **insureds**. This means that the **named insured**:

- (a) will act on behalf of all the **insureds** with respect to the giving of or receipt of all notices pertaining to this Policy, and
- (b) will accept any endorsements to this Policy, and
- (c) will be responsible for the payment of all premiums and Retentions and for receiving any return premiums.

Assignment

No **insured** may assign this Policy or any right under it without the prior written consent of the **insurance company**.

Headings

The titles of provisions or endorsements in this Policy are intended solely for convenience and reference. They are not deemed in any way to limit, expand or otherwise affect the provisions to which they relate.

Single form of a word

Whenever the singular form of a word is used in this Policy, the same word will include the plural when required by context.

Governing law

This Policy will be governed by and construed in accordance with the laws of the state designated in the Declarations.



Service of suit

In the event the **insurance company** does not pay any amount claimed to be due under this Policy, the **insurance company** at the request of the **insured** will submit to the jurisdiction of any court of competent jurisdiction within the United States.

Nothing in this General Condition constitutes or should be understood to constitute a waiver of the **insurance company's** rights:

- (a) to commence an action in any court of competent jurisdiction in the United States, or
- (b) to remove an action to United States District Court, or
- (c) to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States.

The service of process in such suit may be made upon the firm specified in the Declarations.

The firm specified in the Declarations is authorized and directed to accept service of process on behalf of the **insurance company** in any such suit and upon the request of the **insured** enter a general appearance upon the **insurance company's** behalf.

Entire agreement

By acceptance of the Policy, the **insured** agrees that this Policy embodies all agreements between the **insurance company** and the **insured** relating to this Policy. No change or modification to this Policy will be effective unless made by endorsement issued by the **insurance company**.

Representation by the insured

The **insured** agrees that the statements contained in the **application** are true, accurate and are not misleading. The **insured** also agrees that the **insurance company** issued this Policy, and assume the risks hereunder, in reliance upon the truth of such **application**.

The insurance company's consent

Where the **insured** is required under this Policy to seek the consent of the **insurance company**, the **insurance company** will not unreasonably withhold, delay or deny such consent.

Sanction limitation

The **insurance company** will not be liable to provide any cover, benefit or pay any **loss** under this Policy to the extent that the provision of such cover, benefit or payment of such **loss** would expose the **insurance company** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the United States of America, Canada, European Union or United Kingdom.

Definitions

The following definitions are applicable to this Policy:

adulteration/adulterated means:

- (a) accidentally or unintentionally containing physical, chemical or biological materials, or pathogen; or
- (b) being mislabelled

in a manner that has caused or would cause **bodily injury** or **property damage**.



adverse publicity means any widely disseminated publication of an implied **adulteration** specifically naming the **insured** and the **insured's product**.

application means the completed and signed application for this Policy including any written materials submitted with the application, all of which will be deemed part of this Policy, as if physically attached.

bodily injury means physical injury (including death at any time resulting therefrom), sickness or disease.

business loss means the actual **income loss** and **extra expense** the **insured** sustained solely and directly as a result of an **insured incident** as covered under this Policy.

claim means:

- (a) a written demand for monetary damages or services;
- (b) a civil or administrative proceeding; or
- (c) an arbitration, mediation or other form of alternative dispute resolution proceeding arising out of an **insured incident**.

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

consultant costs means the reasonable and necessary fees and expenses incurred by the **insured** for advisory services provided by the **insurance company's** approved crisis consultants to assist the **insured** in responding to an **insured incident**.

costs and expenses means the reasonable and necessary monetary amount the **insured** has sustained or incurred above the **insured's** normal operating expenses to recover, withdraw, recall, restore, repair, replace or refund the **insured's product** including the expenses to re-establish the **insured's product** to the projected level of sales or market share anticipated prior to the **insured incident**.

customer means any party or parties to whom the **insured** has directly or indirectly provided, supplied or sold the **insured product**. **Customer** does not include a consumer who purchases the **insured's product** for personal use or consumption.

cyber incident means any **adulteration** of an **insured's product** caused by a **security breach**.

extra expense means the reasonable and necessary expenses incurred by the **insured**, over and above those expenses the **insured** would have incurred had no **insured incident** occurred, to minimize, mitigate, reduce or avoid **income Loss** during the time of a slowdown, cessation or shut down of the **insured's** business operations resulting out of an **insured incident**.

forensic accounting services means the reasonable and direct cost and expenses of a forensic accountant, approved by the **insurance company**, for the purpose of assisting the **insured** or the **insured's customer** with the presentation of a **loss** (other than **forensic accounting services**) to the **insurance company**.

government advisory means a published written warning by the FDA, USDA, CDC or by any similar government agency or authority or the equivalent body in other jurisdiction outside the USA, not to consume or use an **insured's product** because of an **adulteration** of a product identical to such **insured's product**.

income loss means the **insured's** sales revenue lost after the decrease in sales attributable to and caused directly by an **insured incident** less;

- (a) The costs of raw materials and all other costs that would have been incurred during the same period but which have been saved as a result of an **insured incident**; and
- (b) The amount of increased sales, if any, of any other product of the **insured** within the same product line as the **insured's product** as a result of an **insured incident**

insured means:

- (a) the **named insured**;
- (b) any **subsidiary**; and
- (c) any partnership or joint venture, which is a corporate entity, while the **named insured** has **management control**, or while the right to elect or otherwise appoint more than 50% of such entity's directors, trustees or other equivalent executive is owned or controlled by the **named insured** directly or indirectly.

insured incident means any **adulteration, tampering, adverse publicity, cyber incident** or **government advisory** as covered under this Policy. All related, repeated or continuing **insured incidents** will be deemed a single **insured incident**.

insured's product means any topical or ingestible product for human use or consumption, including any of their ingredients, components or packaging, that:

- (a) is in production by the **insured**;
- (b) has been manufactured, processed, treated, assembled, labeled, handled, packaged, stored, or distributed by the **insured** or by any contract manufacturer on behalf of the **insured** or;
- (c) is available for sale by the **insured** or is sold by, or on behalf of the **insured** by any distributor, wholesaler or retailer.

insurance company means Syndicate 2623/623 at Lloyd's.

investigation costs means the costs incurred by the **insured** for analysis and/or physical examination necessary to determine if the **insured's product** is **adulterated** or **tampered**.

loss means:

- (a) **investigation costs**;
- (b) **consultant costs**;
- (c) **costs and expenses**;
- (d) **business loss**;
- (e) **third party damages**; or
- (f) **forensic accounting services**.

management control means:

- (a) controls the composition of the board of directors;
- (b) controls more than half of the shareholder voting power; or
- (c) holds more than half of the issued share capital.

named insured means the entity specified in the Declarations.

policy period means the period specified in the Declarations.

property damage means:

- (a) physical injury to; or
 - (b) destruction of;
- tangible property other than the **insured's product**.

responsible person means any principal, partner, corporate officer, director, general counsel (or most senior legal counsel) or risk manager of the **insured** or any individual in a substantially similar position.

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**; or
- (c) infection of **computer systems** by malicious code or transmission of malicious code from **computer systems**.

subsidiary means any entity in which the **named insured** either directly or indirectly has or had **management control** on or before the inception date of this Policy. Coverage for such entity will only apply for any **insured incident** that occurred while the **named insured** had **management control** of such entity.

tampering means any actual, alleged or threatened intentional, malicious, wrongful or illegal **adulteration**.

third party damages means:

- (a) reasonable compensatory damages, including costs, expenses, or loss of profit, that the **insured** becomes legally obligated to reimburse or pay its **customers** solely and directly in connection with a **claim** made by a **customer** against the **insured**; or
- (b) reasonable legal fees, costs and expenses necessarily incurred by or on behalf of the **insured** in connection with the investigation, defence, settlement or appeal of a **claim** made by a **customer** against the **insured**.

third party damages will not include the salary of any employee of the **insured**, the cost of their time or any other costs or overhead of the **insured**.

unauthorized access or 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 unauthorized manner.

