

Beazley InfoSec Hong Kong

THIS POLICY'S LIABILITY INSURING AGREEMENTS PROVIDE COVERAGE ON A CLAIMS MADE AND REPORTED BASIS AND APPLY ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR THE OPTIONAL EXTENSION PERIOD (IF APPLICABLE) AND REPORTED TO THE UNDERWRITERS IN ACCORDANCE WITH THE TERMS OF THIS POLICY. AMOUNTS INCURRED AS CLAIMS EXPENSES UNDER THIS POLICY WILL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO RETENTIONS.

Please refer to the Declarations, which show the insuring agreements that the **Named Insured** purchased. If an insuring agreement has not been purchased, coverage under that insuring agreement of this Policy will not apply.

The Underwriters agree with the **Named Insured**, in consideration of the payment of the premium and subject to all the provisions, terms and conditions of this Policy:

INSURING AGREEMENTS

Breach Response

To indemnify the **Insured Organisation** for **Breach Response Costs** incurred by the **Insured Organisation** because of an actual or reasonably suspected **Data Breach** or **Security Breach** that the **Insured** first discovers during the **Policy Period**.

First Party Loss

To indemnify the **Insured Organisation** for:

Business Interruption Loss

Business Interruption Loss that the **Insured Organisation** sustains as a result of a **Security Breach** or **System Failure** that the **Insured** first discovers during the **Policy Period**.

Dependent Business Interruption Loss

Dependent Business Loss that the **Insured Organisation** sustains as a result of a **Dependent Security Breach** or a **Dependent System Failure** that the **Insured** first discovers during the **Policy Period**.

Cyber Extortion Loss

Cyber Extortion Loss that the **Insured Organisation** incurs as a result of an **Extortion Threat** first made against the **Insured Organisation** during the **Policy Period**.

Data Recovery Costs

Data Recovery Costs that the **Insured Organisation** incurs as a direct result of a **Security Breach** that the **Insured** first discovers during the **Policy Period**.

Liability

Data & Network Liability

To pay **Damages** and **Claims Expenses**, which the **Insured** is legally obligated to pay because of any **Claim** first made against any **Insured** during the **Policy Period** for:

1. a **Data Breach**;
2. a **Security Breach**;
3. the **Insured Organisation's** failure to timely disclose a **Data Breach** or **Security Breach**;
4. failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:
 - (a) prohibits or restricts the **Insured Organisation's** disclosure, sharing or selling of **Personally Identifiable Information**;
 - (b) requires the **Insured Organisation** to provide an individual access to **Personally Identifiable Information** or to correct incomplete or inaccurate **Personally Identifiable Information** after a request is made; or
 - (c) mandates procedures and requirements to prevent the loss of **Personally Identifiable Information**;

provided the **Insured Organisation** has in force, at the time of such failure, a **Privacy Policy** that addresses those subsections above that are relevant to such **Claim**.

Regulatory Defence & Penalties

To pay **Penalties** and **Claims Expenses**, which the **Insured** is legally obligated to pay because of a **Regulatory Proceeding** first made against any **Insured** during the **Policy Period** for a **Data Breach** or a **Security Breach**.

Payment Card Liabilities & Costs

To indemnify the **Insured Organisation** for **PCI Fines, Expenses and Costs** which it is legally obligated to pay because of a **Claim** first made against any **Insured** during the **Policy Period**.

Media Liability

To pay **Damages** and **Claims Expenses**, which the **Insured** is legally obligated to pay because of any **Claim** first made against any **Insured** during the **Policy Period** for **Media Liability**.

Criminal Reward

To indemnify the **Insured Organisation** for **Criminal Reward Funds**.

DEFINITIONS

Additional Insured means any person or entity that the **Insured Organisation** has agreed in writing to add as an **Additional Insured** under this Policy prior to the commission of any act for which such person or entity would be provided coverage under this Policy, but only to the extent the **Insured Organisation** would have been liable and coverage would have been afforded under the terms and conditions of this Policy had such **Claim** been made against the **Insured Organisation**.

Breach Notice Law means any statute or regulation that requires notice to persons whose personal information was accessed or reasonably may have been accessed by an unauthorised person. **Breach Notice Law** also includes any statute or regulation requiring notice of a **Data Breach** to be provided to governmental or regulatory authorities.

Breach Response Costs means the following fees and costs incurred by the **Insured Organisation** with the Underwriters' prior written consent in response to an actual or reasonably suspected **Data Breach** or **Security Breach**:

1. for a lawyer to provide necessary legal advice to the **Insured Organisation** to evaluate its obligations pursuant to **Breach Notice Laws** or a **Merchant Services Agreement**;
2. for a computer security expert to determine the existence, cause and scope of an actual or reasonably suspected **Data Breach**, and if such **Data Breach** is actively in progress on the **Insured Organisation's Computer Systems**, to assist in containing it;
3. for a PCI Forensic Investigator to investigate the existence and extent of an actual or reasonably suspected **Data Breach** involving payment card data and for a Qualified Security Assessor to certify and assist in attesting to the **Insured Organisation's** PCI compliance, as required by a **Merchant Services Agreement**;
4. to notify those individuals whose **Personally Identifiable Information** was potentially impacted by a **Data Breach**;
5. to provide a call centre to respond to inquiries about a **Data Breach**;
6. to provide a credit monitoring, identity monitoring or other personal fraud or loss prevention solution, to be approved by the Underwriters, to individuals whose **Personally Identifiable Information** was potentially impacted by a **Data Breach**; and
7. public relations and crisis management costs directly related to mitigating harm to the **Insured Organisation** which are approved in advance by the Underwriters in their discretion.

Breach Response Costs will not include any internal salary or overhead expenses of the **Insured Organisation**.

Business Interruption Loss means:

1. **Income Loss**;

2. **Forensic Expenses**; and
3. **Extra Expense**;

actually sustained during the **Period of Restoration** as a result of the actual interruption of the **Insured Organisation's** business operations caused by a **Security Breach** or **System Failure**. Coverage for **Business Interruption Loss** will apply only after the **Waiting Period** has elapsed.

Business Interruption Loss will not include (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; (iii) loss incurred as a result of unfavorable business conditions; (iv) loss of market or any other consequential loss; (v) **Dependent Business Loss**; or (vi) **Data Recovery Costs**.

Claim means:

1. a written demand received by any **Insured** for money or services, including the service of a suit or institution of regulatory or arbitration proceedings;
2. with respect to coverage provided under the Regulatory Defence & Penalties insuring agreement only, institution of a **Regulatory Proceeding** against any **Insured**; and
3. with respect to coverage provided under part 1. of the Data & Network Liability insuring agreement only, a demand received by any **Insured** to fulfill the **Insured Organisation's** contractual obligation to provide notice of a **Data Breach** pursuant to a **Breach Notice Law**;

Multiple **Claims** arising from the same or a series of related, repeated or continuing acts, errors, omissions or events will be considered a single **Claim** for the purposes of this Policy. All such **Claims** will be deemed to have been made at the time of the first such **Claim**.

Claims Expenses means:

1. all reasonable and necessary legal costs and expenses resulting from the investigation, defence and appeal of a **Claim**, if incurred by the Underwriters, or by the **Insured** with the prior written consent of the Underwriters; and
2. the premium cost for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required in any **Claim** against an **Insured**; provided the Underwriters will have no obligation to appeal or to obtain bonds.

Claims Expenses will not include any salary, overhead, or other charges by the **Insured** for any time spent in cooperating in the defence and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Policy, or costs to comply with any regulatory orders, settlements or judgments.

Computer Systems means computers, any software residing on such computers and any associated devices or equipment:

1. operated by and either owned by or leased to the **Insured Organisation**; or
2. with respect to coverage under the Liability insuring agreement, operated by a third party pursuant to written contract with the **Insured Organisation** and used for the purpose of providing hosted computer application services to the **Insured Organisation** or for processing, maintaining, hosting or storing the **Insured Organisation's** electronic data.

Continuity Date means:

1. the Continuity Date listed in the Declarations; and
2. with respect to any **Subsidiaries** acquired after the Continuity Date listed in the Declarations, the date the **Named Insured** acquired such **Subsidiary**.

Control Group means any principal, partner, corporate officer, director, general counsel (or most senior legal counsel) or risk manager of the **Insured Organisation** and any individual in a substantially similar position.

Criminal Reward Funds means any amount offered and paid by the **Insured Organisation** with the Underwriters' prior written consent for information that leads to the arrest and conviction of any individual(s) committing or trying to commit any illegal act related to any coverage under this Policy; but will not include any amount based upon information provided by the **Insured**, the **Insured's** auditors or any individual hired or retained to investigate the illegal acts. All **Criminal Reward Funds** offered pursuant to this Policy must expire no later than 6 months following the end of the **Policy Period**.

Cyber Extortion Loss means:

1. any **Extortion Payment** that has been made by or on behalf of the **Insured Organisation** with the Underwriters' prior written consent to prevent or terminate an **Extortion Threat**; and
2. reasonable and necessary expenses incurred by the **Insured Organisation** with the Underwriters' prior written consent to prevent or respond to an **Extortion Threat**.

Damages means a monetary judgment, award or settlement, including any award of prejudgment or post-judgment interest; but **Damages** will not include:

1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of complying with orders granting injunctive or equitable relief;
2. 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;
3. taxes or loss of tax benefits;
4. fines, sanctions or penalties;
5. 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 punitive, exemplary or multiple damages;
6. discounts, coupons, prizes, awards or other incentives offered to the **Insured's** customers or clients;
7. 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;
8. fines, costs or other amounts an **Insured** is responsible to pay under a **Merchant Services Agreement**; or

9. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**.

Data means any software or electronic data that exists in **Computer Systems** and that is subject to regular back-up procedures.

Data Breach means the theft, loss, or **Unauthorised Disclosure** of **Personally Identifiable Information** or **Third Party Information** that is in the care, custody or control of the **Insured Organisation** or a third party for whose theft, loss or **Unauthorised Disclosure** of **Personally Identifiable Information** or **Third Party Information** the **Insured Organisation** is liable.

Data Recovery Costs means the reasonable and necessary costs incurred by the **Insured Organisation** to regain access to, replace, or restore **Data**, or if **Data** cannot reasonably be accessed, replaced, or restored, then the reasonable and necessary costs incurred by the **Insured Organisation** to reach this determination.

Data Recovery Costs will not include: (i) the monetary value of profits, royalties, or lost market share related to **Data**, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of **Data**; (ii) legal costs or legal expenses; (iii) loss arising out of any liability to any third party; or (iv) **Cyber Extortion Loss**.

Dependent Business means any entity that is not a part of the **Insured Organisation** but which provides necessary products or services to the **Insured Organisation** pursuant to a written contract.

Dependent Business Loss means:

1. **Income Loss**; and
2. **Extra Expense**;

actually sustained during the **Period of Restoration** as a result of an actual interruption of the **Insured Organisation's** business operations caused by a **Dependent Security Breach** or **Dependent System Failure**. Coverage for **Dependent Business Loss** will apply only after the **Waiting Period** has elapsed.

Dependent Business Loss will not include (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; (iii) loss incurred as a result of unfavorable business conditions; (iv) loss of market or any other consequential loss; (v) **Business Interruption Loss**; or (vi) **Data Recovery Costs**.

Dependent Security Breach means a failure of computer security to prevent a breach of computer systems operated by a **Dependent Business**.

Dependent System Failure means an unintentional and unplanned interruption of computer systems operated by a **Dependent Business**.

Dependent System Failure will not include any interruption of computer systems resulting from (i) a **Dependent Security Breach**, or (ii) the interruption of computer systems that are not operated by a **Dependent Business**.

Digital Currency means a type of digital currency that:

1. requires cryptographic techniques to regulate the generation of units of currency and verify the transfer thereof;

2. is both stored and transferred electronically; and
3. operates independently of a central bank or other central authority.

Extortion Payment means **Money, Digital Currency**, marketable goods or services demanded to prevent or terminate an **Extortion Threat**.

Extortion Threat means a threat to:

1. alter, destroy, damage, delete or corrupt **Data**;
2. perpetrate the **Unauthorised Access or Use of Computer Systems**;
3. prevent access to **Computer Systems** or **Data**;
4. steal, misuse or publicly disclose **Data, Personally Identifiable Information** or **Third Party Information**;
5. introduce malicious code into **Computer Systems** or to third party computer systems from **Computer Systems**; or
6. interrupt or suspend **Computer Systems**;

unless an **Extortion Payment** is received from or on behalf of the **Insured Organisation**.

Extra Expense means reasonable and necessary expenses incurred by the **Insured Organisation** during the **Period of Restoration** to minimize, reduce or avoid **Income Loss**, over and above those expenses the **Insured Organisation** would have incurred had no **Security Breach, System Failure, Dependent Security Breach** or **Dependent System Failure** occurred.

Forensic Expenses means reasonable and necessary expenses incurred by the **Insured Organisation** to investigate the source or cause of a **Business Interruption Loss**.

Income Loss means an amount equal to:

1. net profit or loss before interest and tax that the **Insured Organisation** would have earned or incurred; and
2. continuing normal operating expenses incurred by the **Insured Organisation** (including payroll), but only to the extent that such operating expenses must necessarily continue during the **Period of Restoration**.

Individual Contractor means any natural person who performs labor or service for the **Insured Organisation** pursuant to a written contract or agreement with the **Insured Organisation**. The status of an individual as an **Individual Contractor** will be determined as of the date of an alleged act, error or omission by any such **Individual Contractor**.

Insured means:

1. the **Insured Organisation**;
2. any director or officer of the **Insured Organisation**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organisation**;

3. an employee (including a part time, temporary, leased or seasonal employee or volunteer) or **Individual Contractor** of the **Insured Organisation**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Insured Organisation's** business;
4. a principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organisation**;
5. any person who previously qualified as an **Insured** under parts 2. - 4., but only with respect to the performance of his or her duties as such on behalf of the **Insured Organisation**;
6. an **Additional Insured**, but only as respects **Claims** against such person or entity for acts, errors or omissions of the **Insured Organisation**;
7. the estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Policy; and
8. 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.

Insured Organisation means the **Named Insured** and any **Subsidiaries**.

Loss means **Breach Response Costs, Business Interruption Loss, Claims Expenses, Criminal Reward Funds, Cyber Extortion Loss, Damages, Data Recovery Costs, Dependent Business Loss, PCI Fines, Expenses and Costs, Penalties**, and any other amounts covered under this Policy.

Multiple **Losses** arising from the same or a series of related, repeated or continuing acts, errors, omissions or events will be considered a single **Loss** for the purposes of this Policy.

With respect to the Breach Response, First Party Loss insuring agreement, all acts, errors, omissions or events (or series of related, repeated or continuing acts, errors, omissions or events) giving rise to a **Loss** or multiple **Losses** in connection with such insuring agreements will be deemed to have been discovered at the time the first such act, error, omission or event is discovered.

Media Liability means one or more of the following acts committed by, or on behalf of, the **Insured Organisation** in the course of creating, displaying, broadcasting, disseminating or releasing **Media Material** to the public:

1. 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 organisation;
2. a violation of the rights of privacy of an individual, including false light, intrusion upon seclusion and public disclosure of private facts;
3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
4. plagiarism, piracy, or misappropriation of ideas under implied contract;

5. infringement of copyright;
6. infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark or service name;
7. improper deep-linking or framing;
8. false arrest, detention or imprisonment;
9. invasion of or interference with any right to private occupancy, including trespass, wrongful entry or eviction; or
10. unfair competition, if alleged in conjunction with any of the acts listed in parts 5. or 6. 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**.

Merchant Services Agreement means any agreement between an **Insured** and a financial institution, credit/debit card company, credit/debit card processor or independent service operator enabling an **Insured** to accept credit card, debit card, prepaid card or other payment cards for payments or donations.

Money means a medium of exchange in current use authorized or adopted by a domestic or foreign government as a part of its currency.

Named Insured means the Named Insured listed in the Declarations.

PCI Fines, Expenses and Costs means the monetary amount owed by the **Insured Organisation** under the terms of a **Merchant Services Agreement** as a direct result of a suspected **Data Breach**. With the prior consent of the Underwriters, **PCI Fines, Expenses and Costs** includes reasonable and necessary legal costs and expenses incurred by the **Insured Organisation** to appeal or negotiate an assessment of such monetary amount. **PCI Fines, Expenses and Costs** will not include any charge backs, interchange fees, discount fees or other fees unrelated to a **Data Breach**.

Penalties means:

1. any monetary civil fine or penalty payable to a governmental entity that was imposed in a **Regulatory Proceeding**; and
2. amounts which the **Insured** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment or settlement of a **Regulatory Proceeding** (including such amounts required to be paid into a "Consumer Redress Fund");

but will not include: (a) costs to remediate or improve **Computer Systems**; (b) costs to establish, implement, maintain, improve or remediate security or privacy practices, procedures, programs or policies; (c) audit, assessment, compliance or reporting costs; or (d) costs to protect the confidentiality, integrity and/or security of **Personally Identifiable Information** or other information.

The insurability of **Penalties** will be in accordance with the law in the applicable venue that most favors coverage for such **Penalties**.

Period of Restoration means the 180-day period of time that begins upon the actual and necessary interruption of the **Insured Organisation's** business operations.

Personally Identifiable Information means:

1. any information concerning an individual that is defined as personal information under any **Breach Notice Law**; and
2. an individual's driver's license number, unpublished telephone number, and credit, debit or other financial account numbers in combination with associated security codes, access codes, passwords or PINs; if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual's financial account or medical record information.

but will not include information that is lawfully made available to the general public.

Policy Period means the period of time between the inception date listed in the Declarations and the effective date of termination, expiration or cancellation of this Policy and specifically excludes any Optional Extension Period or any prior policy period or renewal period.

Privacy Policy means the **Insured Organisation's** public declaration of its policy for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to **Personally Identifiable Information**.

Regulatory Proceeding means a request for information, civil investigative demand, or civil proceeding brought by or on behalf of any national, local or foreign governmental entity in such entity's regulatory or official capacity.

Securities means negotiable and non-negotiable instruments or contracts representing either **Money** or tangible property that has intrinsic value.

Security Breach means a failure of computer security to prevent:

1. **Unauthorised Access or Use of Computer Systems**, including **Unauthorised Access or Use** resulting from the theft of a password from a **Computer System** or from any **Insured**;
2. a denial of service attack affecting **Computer Systems**;
3. with respect to coverage under the Liability insuring agreements, a denial of service attack affecting computer systems that are not owned, operated or controlled by an **Insured**; or
4. infection of **Computer Systems** by malicious code or transmission of malicious code from **Computer Systems**.

Subsidiary means any entity:

1. which, on or prior to the inception date of this Policy, the **Named Insured** owns, directly or indirectly, more than 50% of the outstanding voting securities ("Management Control"); and
2. which the **Named Insured** acquires Management Control after the inception date of this Policy; provided that:

- (i) the revenues of such entity do not exceed 15% of the **Named Insured's** annual revenues; or
- (ii) if the revenues of such entity exceed 15% of the **Named Insured's** annual revenues, then coverage under this Policy will be afforded for a period of 60 days, but only for any **Claim** that arises out of any act, error, omission, incident or event first occurring after the entity becomes so owned. Coverage beyond such 60 day period will only be available if the **Named Insured** gives the Underwriters written notice of the acquisition, obtains the written consent of Underwriters to extend coverage to the entity beyond such 60 day period and agrees to pay any additional premium required by Underwriters.

This Policy provides coverage only for acts, errors, omissions, incidents or events that occur while the **Named Insured** has Management Control over an entity.

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.

Third Party Information means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public.

Transfer Account means an account maintained by the **Insured Organisation** at a **Financial Institution** from which the **Insured Organisation** can initiate the transfer, payment or delivery of **Money** or **Securities**.

Unauthorised Access or Use means the gaining of access to or use of **Computer Systems** by an unauthorised person(s) or the use of **Computer Systems** in an unauthorised manner.

Unauthorised Disclosure means the disclosure of (including disclosure resulting from phishing) or access to information in a manner that is not authorized by the **Insured Organisation** and is without knowledge of, consent or acquiescence of any member of the **Control Group**.

Waiting Period means the period of time that begins upon the actual interruption of the **Insured Organisation's** business operations caused by a **Security Breach**, **System Failure**, **Dependent Security Breach** or **Dependent System Failure**, and ends after the elapse of the number of hours listed as the **Waiting Period** in the Declarations.

EXCLUSIONS

The coverage under this Policy will not apply to any **Loss** arising out of:

Bodily Injury or Property Damage

1. physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease or death; or
2. physical injury to or destruction of any tangible property, including the loss of use thereof, but electronic data will not be considered tangible property;

Trade Practices and Antitrust

any actual or alleged false, deceptive or unfair trade practices, antitrust violation, restraint of trade, unfair competition (except as provided in the Media Liability insuring agreement), or false or deceptive or misleading advertising; but this exclusion will not apply to:

1. the Breach Response insuring agreement; or
2. coverage for a **Data Breach** or **Security Breach**, provided no member of the **Control Group** participated or colluded in such **Data Breach** or **Security Breach**;

Gathering or Distribution of Information

1. the unlawful collection or retention of **Personally Identifiable Information** or other personal information by or on behalf of the **Insured Organisation**; but this exclusion will not apply to **Claims Expenses** incurred in defending the **Insured** against allegations of unlawful collection of **Personally Identifiable Information**; or
2. the distribution of unsolicited email, text messages, direct mail, facsimiles or other communications, wire tapping, audio or video recording, or telemarketing, if such distribution, wire tapping, recording or telemarketing is done by or on behalf of the **Insured Organisation**; but this exclusion will not apply to **Claims Expenses** incurred in defending the **Insured** against allegations of unlawful audio or video recording;

Prior Known Acts & Prior Noticed Claims

1. any act, error, omission, incident or event committed or occurring prior to the inception date of this Policy if any member of the **Control Group** on or before the **Continuity Date** knew or could have reasonably foreseen that such act, error or omission, incident or event might be expected to be the basis of a **Claim** or **Loss**;
2. any **Claim**, **Loss**, incident or circumstance for which notice has been provided under any prior policy of which this Policy is a renewal or replacement;

Racketeering, Benefit Plans, Employment Liability & Discrimination

1. any actual or alleged violation of any racketeering, fraud, organized crime or conspiracy law;
2. any actual or alleged acts, errors or omissions related to any of the **Insured Organisation's** pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts;
3. any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees; or
4. any actual or alleged discrimination;

but this exclusion will not apply to coverage under the Breach Response insuring agreement or parts 1., 2. or 3. of the Data & Network Liability insuring agreement that results from a **Data Breach**; provided no member of the **Control Group** participated or colluded in such **Data Breach**;

Sale or Ownership of Securities & Violation of Securities Laws

1. the ownership, sale or purchase of, or the offer to sell or purchase stock or other securities; or

2. an actual or alleged violation of a securities law or regulation;

Criminal, Intentional or Fraudulent Acts

any criminal, dishonest, fraudulent, or malicious act or omission, or intentional or knowing violation of the law, if committed by an **Insured**, or by others if the **Insured** colluded or participated in any such conduct or activity; but this exclusion will not apply to:

1. **Claims Expenses** incurred in defending any **Claim** alleging the foregoing until there is a final non-appealable adjudication establishing such conduct; or
2. with respect to a natural person **Insured**, if such **Insured** did not personally commit, participate in or know about any act, error, omission, incident or event giving rise to such **Claim** or **Loss**.

For purposes of this exclusion, only acts, errors, omissions or knowledge of a member of the **Control Group** will be imputed to the **Insured Organisation**;

Patent, Software Copyright, Misappropriation of Information

1. infringement, misuse or abuse of patent or patent rights;
2. infringement of copyright arising from or related to software code or software products other than infringement resulting from a theft or **Unauthorised Access or Use** of software code by a person who is not a past, present or future employee, director, officer, partner or independent contractor of the **Insured Organisation**; or
3. use or misappropriation of any ideas, trade secrets or **Third Party Information** (i) by, or on behalf of, the **Insured Organisation**, or (ii) by any other person or entity if such use or misappropriation is done with the knowledge, consent or acquiescence of a member of the **Control Group**;

Governmental Actions

a **Claim** brought by or on behalf of any national, local or foreign governmental entity, in such entity's regulatory or official capacity; but this exclusion will not apply to the Regulatory Defence & Penalties insuring agreement;

Other Insureds & Related Enterprises

a **Claim** made by or on behalf of:

1. any **Insured**; but this exclusion will not apply to a **Claim** made by an individual that is not a member of the **Control Group** under the Data & Network Liability insuring agreement, or a **Claim** made by an **Additional Insured**; or
2. any business enterprise in which any **Insured** has greater than 15% ownership interest or made by any parent company or other entity which owns more than 15% of the **Named Insured**;

Trading Losses, Loss of Money & Discounts

1. any trading losses, trading liabilities or change in value of accounts;

2. any loss, transfer or theft of monies, securities or tangible property of the **Insured** or others in the care, custody or control of the **Insured Organisation**;
3. the monetary value of any transactions or electronic fund transfers by or on behalf of the **Insured** which is lost, diminished, or damaged during transfer from, into or between accounts; or
4. the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount;

Media-Related Exposures

with respect to the Media Liability insuring agreement:

1. any contractual liability or obligation; but this exclusion will not apply to a **Claim** for misappropriation of ideas under implied contract;
2. the actual or alleged obligation to make licensing fee or royalty payments;
3. any costs or expenses incurred or to be incurred by the **Insured** or others for the reprinting, reposting, recall, removal or disposal of any **Media Material** or any other information, content or media, including any media or products containing such **Media Material**, information, content or media;
4. any **Claim** brought by or on behalf of any intellectual property licensing bodies or organisations;
5. the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, contract price estimates, or the failure of any goods or services to conform with any represented quality or performance;
6. any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
7. any **Claim** made by or on behalf of any independent contractor, joint venturer or venture partner arising out of or resulting from disputes over ownership of rights in **Media Material** or services provided by such independent contractor, joint venturer or venture partner;

First Party Loss

with respect to the First Party Loss insuring agreements:

1. seizure, nationalization, confiscation, or destruction of property or data by order of any governmental or public authority;
2. costs or expenses incurred by the **Insured** to identify or remediate software program errors or vulnerabilities or update, replace, restore, assemble, reproduce, recollect or enhance data or **Computer Systems** to a level beyond that which existed prior to a **Security Breach, System Failure, Dependent Security Breach, Dependent System Failure** or **Extortion Threat**;

3. failure or malfunction of satellites or of power, utility, mechanical or telecommunications (including internet) infrastructure or services that are not under the **Insured Organisation's** direct operational control; or
4. fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.

LIMIT OF LIABILITY AND COVERAGE

Limits of Liability

The Policy Aggregate Limit of Liability listed in the Declarations (the "**Policy Aggregate Limit of Liability**") is the Underwriters' combined total limit of liability for all **Loss** payable under this Policy.

The limit of liability payable under each insuring agreement will be an amount equal to the **Policy Aggregate Limit of Liability** unless another amount is listed in the Declarations. Such amount is the aggregate amount payable under this Policy pursuant to such insuring agreement and is part of, and not in addition to, the **Policy Aggregate Limit of Liability**.

All **Dependent Business Loss** payable under this Policy is part of and not in addition to the **Business Interruption Loss** limit listed in the Declarations.

The Underwriters will not be obligated to pay any **Loss**, or to defend any **Claim**, after the **Policy Aggregate Limit of Liability** has been exhausted, or after deposit of the **Policy Aggregate Limit of Liability** in a court of competent jurisdiction.

RETENTIONS

The Retention listed in the Declarations applies separately to each incident, event or related incidents or events giving rise to a **Claim** or **Loss**. The Retention will be satisfied by monetary payments by the **Named Insured** of covered **Loss** under each insuring agreement. If any **Loss** arising out of an incident or **Claim** is subject to more than one Retention, the Retention for each applicable insuring agreement will apply to such **Loss**, provided that the sum of such Retention amounts will not exceed the largest applicable Retention amount.

Coverage for **Business Interruption Loss** and **Dependent Business Loss** will apply after the **Waiting Period** has elapsed and the Underwriters will then indemnify the **Named Insured** for all **Business Interruption Loss** and **Dependent Business Loss** sustained during the **Period of Restoration** in excess of the Retention.

Satisfaction of the applicable Retention is a condition precedent to the payment of any **Loss** under this Policy, and the Underwriters will be liable only for the amounts in excess of such Retention.

OPTIONAL EXTENSION PERIOD

Upon non-renewal or cancellation of this Policy for any reason except the non-payment of premium, the **Named Insured** will have the right to purchase, for additional premium in the amount of the Optional Extension Premium percentage listed in the Declarations of the full Policy Premium listed in the Declarations, an Optional Extension Period for the period of time listed in the Declarations. Coverage provided by such Optional Extension Period will only apply to **Claims** first made against any **Insured** during the Optional Extension Period and reported to the Underwriters during the Optional Extension Period, and arising out of any act, error or omission committed before the end

of the **Policy Period**. In order for the **Named Insured** to invoke the Optional Extension Period option, the payment of the additional premium for the Optional Extension Period must be paid to the Underwriters within 30 days of the termination of this Policy.

The purchase of the Optional Extension Period will in no way increase the **Policy Aggregate Limit of Liability** or any sublimit of liability. At the commencement of the Optional Extension Period the entire premium will be deemed earned, and in the event the **Named Insured** terminates the Optional Extension Period for any reason prior to its natural expiration, the Underwriters will not be liable to return any premium paid for the Optional Extension Period.

All notices and premium payments with respect to the Optional Extension Period option will be directed to the Underwriters through entity listed for Administrative Notice in the Declarations.

GENERAL CONDITIONS

Notice of Claim or Loss

The **Insured** must notify the Underwriters of any **Claim** as soon as practicable, but in no event later than: (i) 30 days after the end of the **Policy Period**; or (ii) the end of the Optional Extension Period (if applicable). Notice must be provided through the contacts listed for Notice of Claim, Loss or Circumstance in the Declarations.

With respect to **Breach Response Costs**, the **Insured** must notify the Underwriters of any actual or reasonably suspected **Data Breach** or **Security Breach** as soon as practicable after discovery by the **Insured**, but in no event later than 60 days after the end of the **Policy Period**. Notice must be provided through the contacts listed for Notice of Claim, Loss or Circumstance in the Declarations. Notice of an actual or reasonably suspected **Data Breach** or **Security Breach** in conformance with this paragraph will also constitute notice of a circumstance that could reasonably be the basis for a **Claim**.

With respect to **Cyber Extortion Loss**, the **Named Insured** must notify the Underwriters via the email address listed in the Notice of Claim, Loss or Circumstance in the Declarations as soon as practicable after discovery of an **Extortion Threat** but no later than 60 days after the end of the **Policy Period** and shall thereafter also provide written notice by telecopy, email or express mail within five (5) days following the **Extortion Threat**. The **Named Insured** must obtain the Underwriters' consent prior to incurring **Cyber Extortion Loss**.

With respect to **Data Recovery Costs**, **Business Interruption Loss** and **Dependent Business Loss** the **Named Insured** must notify the Underwriters through the contacts for Notice of Claim, Loss or Circumstance in the Declarations as soon as practicable after discovery of the circumstance, incident or event giving rise to such loss. The **Named Insured** will provide the Underwriters a proof of **Data Recovery Costs**, **Business Interruption Loss** and **Dependent Business Loss**, and this Policy will cover the reasonable and necessary costs, not to exceed HKD5150,000, that the **Named Insured** incurs to contract with a third party to prepare such proof. All loss described in this paragraph must be reported, and all proofs of loss must be provided, to the Underwriters no later than 6 months after the end of the **Policy Period**.

Any **Claim** arising out of a **Loss** that is covered under the Breach Response, First Party Loss insuring agreement and that is reported to the Underwriters in conformance with the foregoing will be considered to have been made during the **Policy Period**.

If the Insured does not give notice of any Claim in accordance with this section, then the Underwriters will have no liability under this Policy in respect of that claim.

Notice of Circumstance

With respect to any circumstance that could reasonably be the basis for a **Claim**, the **Insured** may give written notice of such circumstance to the Underwriters through the contacts listed for Notice of Claim, Loss or Circumstance in the Declarations as soon as practicable during the **Policy Period**. Such notice must include:

1. the specific details of the act, error, omission or event that could reasonably be the basis for a **Claim**;
2. the injury or damage which may result or has resulted from the circumstance; and
3. the facts by which the **Insured** first became aware of the act, error, omission or event.

Any subsequent **Claim** made against the **Insured** arising out of any circumstance reported to Underwriters in conformance with the foregoing will be considered to have been made at the time written notice complying with the above requirements was first given to the Underwriters during the **Policy Period**.

Notice of an actual or suspected **Data Breach** or **Security Breach** to the Beazley Breach Response Services Team will qualify such incident as a notified circumstance under this Policy.

Defence of Claims

Except with respect to coverage under the Payment Card Liabilities & Costs insuring agreement, the Underwriters have the right and duty to defend any covered **Claim** or **Regulatory Proceeding**. Defence counsel will be mutually agreed by the **Named Insured** and the Underwriters but, in the absence of such agreement, the Underwriters' decision will be final.

With respect to the Payment Card Liabilities & Costs insuring agreement, coverage will be provided on an indemnity basis and legal counsel will be mutually agreed by the **Named Insured** and the Underwriters.

The Underwriters will pay actual loss of salary and reasonable expenses resulting from the attendance by a corporate officer of the **Insured Organisation** at any mediation meetings, arbitration proceedings, hearings, depositions, or trials relating to the defence of any **Claim**, subject to a maximum of HKD20,000 per day and HKD1,001,417 in the aggregate, which amounts will be part of and not in addition to the **Policy Aggregate Limit of Liability**.

Settlement of Claims

If the **Insured** refuses to consent to any settlement recommended by the Underwriters and acceptable to the claimant, the Underwriters' liability for such **Claim** will not exceed:

1. the amount for which the **Claim** could have been settled, less the remaining Retention, plus the **Claims Expenses** incurred up to the time of such refusal; plus
2. sixty percent (60%) of any **Claims Expenses** incurred after the date such settlement or compromise was recommended to the **Insured** plus sixty percent (60%) of any **Damages, Penalties and PCI Fines, Expenses and Costs** above the amount for which the **Claim** could have been settled;

and the Underwriters will have the right to withdraw from the further defence of such **Claim**.

The **Insured** may settle any **Claim** where the **Damages, Penalties, PCI Fines, Expenses and Costs** and **Claims Expenses** do not exceed the Retention, provided that the entire **Claim** is resolved and the **Insured** obtains a full release on behalf of all **Insureds** from all claimants.

Assistance and Cooperation

The Underwriters will have the right to make any investigation they deem necessary, and the **Insured** will cooperate with the Underwriters in all investigations, including investigations regarding coverage under this Policy and the information and materials provided to the underwriters in connection with the underwriting and issuance of this Policy. The **Insured** will execute or cause to be executed all papers and render all assistance as is requested by the Underwriters. The **Insured** agrees not to take any action which in any way increases the Underwriters' exposure under this Policy. Expenses incurred by the **Insured** in assisting and cooperating with the Underwriters do not constitute **Claims Expenses** under the Policy.

The **Insured** will not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **Claim** without the written consent of the Underwriters, except as specifically provided in the Settlement of Claims clause above. Compliance with a **Breach Notice Law** will not be considered an admission of liability.

Subrogation

If any payment is made under this Policy and there is available to the Underwriters any of the **Insured's** rights of recovery against any other party, then the Underwriters will maintain all such rights of recovery. The **Insured** will do whatever is reasonably necessary to secure such rights and will not do anything after an incident or event giving rise to a **Claim** or **Loss** to prejudice such rights. The **Insured** shall do nothing after an incident or event giving rise to a **Claim** or **Loss** to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to **Loss** paid by the Underwriters, and lastly to the **Retention**. Any additional amounts recovered shall be paid to the **Named Insured**.

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 portion thereof unless such other insurance is written only as specific excess insurance over the **Policy Aggregate Limit of Liability** or any other applicable Limit of Liability of this Policy.

Entire Agreement

By acceptance of the Policy, all **Insureds** agree that this Policy embodies all agreements between the Underwriters and the **Insured** relating to this Policy. Notice to any agent, or knowledge possessed by any agent or by any other person, will not effect a waiver or a change in any part of this Policy or stop the Underwriters from asserting any right under the terms of this Policy; nor will the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy signed by the Underwriters.

Newly Acquired Subsidiaries

During the **Policy Period**, if the **Named Insured** or any **Subsidiary** acquires another entity whose annual revenues are more than fifteen percent (15%) of the **Named Insured's** total annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, such acquired entity shall not be a **Subsidiary**, and no **Insured** shall have coverage under this Policy for any **Claim** or **Loss** that arises out of any act, error omission, incident or

event whether committed before or after such acquisition:

1. by or on behalf of the acquired entity or any person employed by the acquired entity;
2. involving or relating to the assets, liabilities, media activities or policies or procedures of the acquired entity or to data, information, computers, or networks, security systems, of or under the care, custody or control of the acquired entity, a Business Associate of the acquired entity, or a third party on behalf of the acquired entity; or
3. by any person or entity holding, processing, managing or transferring information or operating **Computer Systems** on behalf of the acquired entity,

unless the **Named Insured** gives the Underwriters written notice prior to the acquisition, obtains the Underwriters' written consent to extend coverage to such additional entities, assets, exposures, or **Computer Systems**, and agrees to pay any additional premium required by the Underwriters.

If during the **Policy Period** the **Named Insured** or any **Subsidiary** acquires an entity whose annual revenues are more than fifteen per cent (15%) of the **Named Insured's** total annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, then, subject to the **Policy Period** and all other terms and conditions of this Policy, coverage under this Policy shall be afforded for a period of sixty (60) days, but only for any **Claim** that arises out of any act, error or omission first committed or incident or event first occurring after the entity becomes so owned. Coverage beyond such sixty (60) day period shall only be available if the **Named Insured** gives the Underwriters written notice of the acquisition, obtains the written consent of the Underwriters to extend coverage beyond such sixty (60) day period to the entity and agrees to pay any additional premium required by the Underwriters.

Mergers or Consolidations

If during the **Policy Period** the **Named Insured** consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to any other entity, then this Policy shall remain in full force and effect, but only with respect to a **Security Breach**, or other act or incidents that occur prior to the date of the consolidation, merger or acquisition. There shall be no coverage provided by this Policy for any other **Claim** or **Loss** unless the **Named Insured** provides written notice to the Underwriters prior to such consolidation, merger or acquisition, the **Named Insured** has agreed to any additional premium and terms of coverage required by the Underwriters and the Underwriters have issued an endorsement extending coverage under this Policy.

Assignment

The interest hereunder of any **Insured** is not assignable. If the **Insured** dies or is adjudged incompetent, such insurance will cover the **Insured's** legal representative as if such representative were the **Insured**, in accordance with the terms and conditions of this Policy.

Cancellation

This Policy may be cancelled by the **Named Insured** by giving written notice to the Underwriters through the entity listed for Administrative Notice in the Declarations stating when the cancellation will be effective.

If the premium due under this policy has not been paid to the Underwriters within 60 days of the inception of the **Policy Period**, then this policy will be cancelled with effect from the end of the 60 day period by notifying the **Named Insured** in writing direct or via the insurance broker.

The Underwriters will give not less than 30 days prior notice of such cancellation. If the premium due is paid in full to the Underwriters before the notice period expires, notice of cancellation will automatically be revoked.

If any additional premium due under the terms of this policy or in respect of any amendment to the terms of this policy is not paid within 30 days of the date on which it is due to be paid, the Underwriters will not have any liability in respect of the additional rights which were to have been purchased by the **Named Insured** by payment of the additional premium.

Singular Form of a Word

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

Headings

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

Named Insured as Agent

The **Named Insured** will be considered the agent of all **Insureds**, and will act on behalf of all **Insureds** with respect to the giving of or receipt of all notices pertaining to this Policy, and the acceptance of any endorsements to this Policy. The **Named Insured** is responsible for the payment of all premiums and Retentions and for receiving any return premiums.

Duty of Disclosure

The Underwriters expect the **Named Insured** to comply with their duty of disclosure. In the event that there has been a breach of the duty of disclosure, the Underwriters will not exercise any available remedies for any breach that was free of any fraudulent conduct or intent to deceive.

Choice of law

Unless agreed otherwise, any disputes involving this Policy shall be resolved by applying the laws of Hong Kong.

Arbitration

All disputes and differences between the **Named Insured** and the Underwriters which arise under or in connection with this policy will be referred to arbitration under Hong Kong International Arbitration Centre (HKIAC) Rules (Hong Kong).

The arbitration tribunal will consist of three arbitrators, one to be appointed by the **Named Insured**, one to be appointed by the **insurer** and the third to be appointed by the two appointed arbitrators.

The third member of the tribunal will be appointed as soon as practicable (and no later than 28 days) after the appointment of the two party-appointed arbitrators. The tribunal will be constituted upon the appointment of the third arbitrator. The arbitrators will be persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance within the industry or as lawyers or other professional advisers serving the industry.

Where the **Named Insured** or the fail to appoint an arbitrator within 14 days of being called upon to do so or where the two party-appointed arbitrators fail to appoint a third within 28 days of their appointment, then HKIAC will appoint an arbitrator to fill the vacancy. At any time prior to the appointment by HKIAC the party or arbitrators in default may make such appointment.

The tribunal may in its sole discretion make such orders and directions as it considers to be necessary for the final determination of the matters in dispute. The tribunal will have the widest discretion permitted under the laws of Hong Kong when making such orders or directions and the decision of the tribunal will be final. The arbitration will be held in Hong Kong.

Complaints

Every effort is made to ensure that a high standard of service is provided. However, if the **Insured** is not satisfied with the service it has received or it has any questions or concerns about this policy the **Insured** should, in the first instance, contact:

Beazley Complaints
Beazley Pte. Limited
138 Market Street,
#03-04, CapitaGreen,
Singapore 048946

All correspondence should be addressed to Beazley Complaints

Or by telephone – (65) 6576 6288
Or by e-mail – beazley.complaints@beazley.com

In the event that the **Insured** remains dissatisfied, the complaint can be escalated to the Lloyd's Complaint Department with the assistance of Lloyd's of London (Asia) Pte. Ltd. who can be contacted at:

Lloyd's of London (Asia) Pte Ltd
138 Market Street
CapitaGreen
#05-01
Singapore 048946

Or by telephone – (65) 6499 9330
OR BY E-MAIL – LLOYDSASIAHELPDESK@LLOYDS.COM