

**Beazley Limited**  
on behalf of  
**Various Syndicates at Lloyd's**

**PROFESSIONAL INDEMNITY POLICY**

**PREAMBLE**

In consideration of the Assured having made a Proposal to Beazley Limited (hereinafter referred to as the Underwriters) containing particulars and statements which are to be considered as incorporated in this Policy, and having paid the premium stated in the Schedule, Underwriters will indemnify the Assured in accordance with and subject to the limitations, terms and conditions and endorsements of this Policy.

**INDEMNITY CLAUSE**

Underwriters will, subject to the following limitations, terms and conditions and endorsements:

indemnify the Assured against any Claim which may be made against the Assured and notified to Underwriters during the Period of Insurance for actual or alleged breach of professional duty in the profession stated in the Schedule by reason of any negligent act, error or omission committed or allegedly committed by or on behalf of the Assured after the retroactive date stated in the Schedule.

**COSTS AND EXPENSES**

Underwriters also agree to pay all costs and expenses incurred in the investigation, defence or settlement of any Claim which falls to be dealt with under this Policy.

**LIMIT OF UNDERWRITERS' LIABILITY**

(i) Underwriter's Limit of Indemnity under this Policy shall not exceed that specified in the Schedule in respect of all Claims (which for the purpose of this clause shall be deemed to include all costs and expenses incurred in the investigation, defence or settlement of all Claims) made against the Assured during any one Period of Insurance.

(ii) Underwriters' total aggregate liability under this Policy shall not exceed that specified in the Schedule in respect of all Claims (which for the purpose of this clause shall be deemed to include all costs and expenses incurred in the investigation, defence or settlement of all Claims) made against the Assured during any one Period of Insurance.

**EXCESS CLAUSE**

provided further that Underwriters shall only be liable for that part of each and every Claim (which for the purpose of this clause shall be deemed to include all costs and expenses incurred in the investigation, defence or settlement of any Claim) which exceeds the amount of the Excess stated in the Schedule.

For the purpose of this clause "Claim" shall also mean all Claims attributable to or arising out of the same cause or event.

For the purposes of the application of the maximum excess amount specified in the Schedule where a single Claim involves two or more individual claimants the Assured shall be liable to pay a separate excess amount in respect of each individual claimant as specified in the Schedule up to the maximum excess further specified in the Schedule.

If any expenditure is incurred by Underwriters which by virtue of this clause is the responsibility of the Assured then such amount shall be reimbursed to Underwriters by the Assured forthwith.

## **CLAIMS**

All Claims made against the Assured which are attributable to or arise out of the same cause or event shall be regarded as one aggregated Claim and the Underwriter's total liability under this Policy for the aggregated Claim shall not exceed the Limit of Indemnity.

## **LEGAL PERSONAL REPRESENTATIVES**

In the event of the death of any Assured Underwriters will, in respect of the liability incurred by the Assured, indemnify the Assured's legal personal representatives in the terms of this Policy provided that such legal personal representatives shall, as though they were the Assured, observe, fulfil and be subject to the terms, conditions and exclusions of this Policy insofar as they can apply.

## **EXCLUSIONS**

This Policy will not indemnify the Assured against any Claim:

### **1. CONTRACTUAL LIABILITY**

in respect of liability imposed upon the Assured pursuant to any contract if such liability would not have been imposed upon the Assured in the absence of any such contract; or for fines, penalties or exemplary damages of any description, or

### **2. LEGAL JURISDICTION**

where action for damages is brought in a court of law outside the territories specified in the Schedule, or where action is brought in a court of law within those territories to enforce a foreign judgement whether by way of Reciprocal Agreement or otherwise, or

### **3. EMPLOYERS LIABILITY**

arising directly or indirectly from bodily injury, sickness, disease or death sustained by

any person arising out of and in the course of his/her employment by the Assured under any contract of service or apprenticeship, or for any breach of any obligation owed by the Assured as an employer to any employee, or

#### 4. **PRIOR CIRCUMSTANCES**

made against the Assured prior to the commencement of the Period of Insurance nor in respect of any claim(s) or circumstance(s) notified under any previous policy nor in respect of any claim(s) or circumstance(s) which might give rise to a Claim which was known to the Assured prior to the commencement of the Period of Insurance or which is stated on the proposal form, declaration or underwriting information being the basis of this insurance.

(This exclusion relates to the negligent act, error or omission from which the claim(s) or circumstance(s) known to the Assured arises, irrespective of how, or whether, that claim(s) or circumstance(s) is declared to Underwriters.), or

#### 5. **WAR AND TERRORISM**

for loss, damage or liability directly or indirectly occasioned by or, in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

(i) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or

(ii) any act of terrorism.

For the purpose of this exclusion an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This exclusion includes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (i) and/or (ii) above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

#### 6. **NUCLEAR ASSEMBLIES**

for loss, damage or liability directly or indirectly occasioned by or

caused by or arising from or in consequence of or contributed to by nuclear weapons materials, or arising from or in consequence of or contributed to by ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. Combustion shall include any self sustaining process of nuclear fission, or

7. **ASSURED DUTIES**

made against them which relates to any duty or obligation assumed by the Assured which is not assumed in the normal conduct of the Assured's profession as stated in the Schedule, or

8. **DISHONESTY**

arising directly or indirectly from any dishonest, fraudulent, malicious or illegal act or omission of the Assured, or

9. **DEFAMATION**

alleging libel or slander, or

10. **INFRINGEMENT**

alleging Infringement of Copyright, Patents, Registered Designs, Trade Marks or Passing-off, or

11. **PRODUCTS**

arising out of or relating to goods or products, sold, supplied, repaired, altered, manufactured, installed or maintained by the Assured or any related Company or by sub-contractors of the Assured, or

12. **INSOLVENCY/BANKRUPTCY OF ASSURED**

arising out of or relating directly or indirectly from the insolvency or bankruptcy of the Assured, or

13. **SEEPAGE AND POLLUTION**

based upon, arising out of or relating directly or indirectly from or in consequence of or in any way involving, seepage, pollution or contamination of any kind, or

14. **MOULD AND ASBESTOS**

arising directly or indirectly out of or resulting from or in consequence of, or in any way involving:

- (i) asbestos, or any materials containing asbestos in whatever form or quantity, or
- (ii) the actual, potential, alleged or threatened formation, growth, presence, release or

dispersal of any fungi, molds, spores or mycotoxins of any kind, or

- (iii) any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins, or
- (iv) any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins, or

**15. FINES/PENALTIES**

for fines, penalties, punitive, multiple or exemplary damages, or

**16. RETROACTIVE DATE**

first made against the Assured by reason of any negligent act, error or omission committed or alleged to have been committed prior to the retroactive date stated in the Schedule.

**DEFENCE AND SETTLEMENT**

1. Underwriters will be entitled to take over and conduct, in the name of the Assured, the defence or settlement of any Claim.
2. The Assured will, when instructed by Underwriters pay promptly (or within the terms of any proposed settlement) any Excess amount payable by them under this Policy. Any failure or refusal by the Assured to make such payment will entitle Underwriters to deduct such amount from any amount(s) required to settle any Claim, judgement, order or any other payment to be made by Underwriters under this Policy.
3. The Assured will not be required to contest any legal proceedings unless a Queen's Counsel or Senior Counsel (to be mutually agreed upon by the Assured and Underwriters) advises that such proceedings should be contested.
4. In the event that Underwriters elect to settle any Claim, Underwriters may discharge its total liability under this Policy by paying the then available Limit of Indemnity to the Assured.
5. In the event that the Assured wishes to continue to contest any Claim which, in the opinion of Underwriters should be settled, then, with the consent of Underwriters the Assured may so elect, provided that Underwriter's liability in respect of any such Claim shall not exceed the amount for which, but for such election, the Claim could have been settled, together with costs and expenses payable in accordance with this Policy and incurred up to the date of such election.

6. Underwriters may, if it believes that any Claim will not exceed the Excess, instruct the Assured to conduct the defence of the Claim, keeping Underwriters advised of developments as they occur. In these circumstances Underwriters will reimburse the Assured for all reasonable defence costs in the event that any payment made to dispose of the Claim by way of damages exceeds the Excess.

## **CONDITIONS**

1. The Assured will not admit liability for or settle any Claim or incur any costs or expenses in connection with any Claim without the written consent of Underwriters.
2. The Assured will, as a condition precedent to their right to be indemnified under this Policy, give to Underwriters immediate notice in writing of any Claim whether oral or in writing and will, on request, give to Underwriters any information they may reasonably require to investigate the matter notified.

Such notice having been given as required above, any subsequent Claim against the Assured shall be deemed to have been made during the Period of Insurance.

3. Underwriters will be entitled to claim indemnity or contribution at any time in the name of the Assured from any party against whom the Assured may have such rights.
4. The construction, interpretation and meaning of this Policy shall be determined according to the law(s) of Hong Kong and in accordance with the English text as it appears in this Policy.
5. If there are any material changes to the Proposal during the Period of Insurance then the Assured shall promptly inform the Underwriters.
6. This Policy shall terminate thirty days after receipt by the Assured of notice in writing from the Underwriters of their decision to terminate this Policy. Such notice shall be deemed to be duly received in the course of post if sent by prepaid registered post properly addressed to the Head Office of the Assured.
7. The subscribing underwriters' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing underwriters are not responsible for the subscription of any co-subscribing underwriter who for any reason does not satisfy all or part of its obligations.

## **DEFINITIONS**

1. **"Claim" or "Claims"** means:
  - (a) any writ, statement of claim, summons, application or other originating legal or arbitral process, cross claim, counter-claim or third or similar party notice issued against or served on the Assured; or
  - (b) the receipt by the Assured of any written or verbal notice of demand for compensation made against the Assured; or

- (c) circumstances which are or should, after enquiry, be known to the Assured, and which might give rise to a Claim.
2. **“Limit of Indemnity”** means the sum stated as the limit of indemnity in the Schedule.  
**“Aggregate Liability”** means the sum stated as the aggregate liability in the Schedule.
  3. **“Assured”** means each individual member scheduled under this policy.
  4. **“Period of Insurance”** means the period stated in the Schedule.
  5. **“Excess”** means the excess applicable stated in the Schedule.
  6. **“Proposal”** means all information, whether oral or in writing, supplied by the Assured or on the Assured's behalf.

**ENDORSEMENTS ATTACHING TO AND FORMING PART OF POLICY NO. 05TP300973**

**Insurance Brokers/Agents Endorsement**

This policy will not indemnify the Assured against any claim:

- a) by any insurer arising out of any alleged negligent act, error or omission by the Assured in their capacity as insurance agents or general insurance agents of that insurer, unless that insurer has obtained a judgement against the Assured in any court in respect of that claim,
- b) arising out of the commingling of monies or accounts, or loss of monies received by the Assured or credited to the Assured's account,
- c) arising out of, due to or involving directly or indirectly the insolvency, receivership, bankruptcy, liquidation or financial inability to pay, by any insurance company, agent, broker or intermediary with which the Assured has placed or obtained coverage for a client or an account,
- d) arising out of the Assured's activities as a managing agent or managing general agent unless otherwise endorsed herein,
- e) arising out of the Assured's activities by signing any insurance proposal on behalf of others.

**Financial Instruments Clause**

It is hereby noted and agreed that Underwriters will not indemnify the Assured against any Claim:

- (a) based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving, any actual or alleged dealings of any nature whatsoever by which it is sought to affect the price of, or market in, any shares and/or debentures of any company, or of any food-stuff or raw material or commodity or currency, or of any negotiable instrument, other than dealings carried out in accordance with all laws, rules and regulations applicable to such dealings.
- (b) based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving, any allegation that the Assured improperly benefited from securities transactions as result of information that was not available to other sellers or purchasers of such securities.
- (c) Brought by or on behalf of any client or customer of the Assured resulting from the investment in, management of, or advice concerning any estate, trust or property.
- (d) Arising solely out of the depreciation or loss of investments when such depreciation or loss is a result of any fluctuation in any financial stock or commodity or other markets when such fluctuation is outside the influence or control of the Assured.
- (e) Arising solely out of any stock or commodity or investment failing to perform as represented or as expected to perform.

## FINANCIAL CONSULTANTS INVESTMENT AND PORTFOLIO MANAGERS

Underwriters shall not be liable to indemnify the Assured against any claim or claims brought about by or contributed to by or consequent upon

- (1) failure of the Assured to keep clients' funds in properly designated clients' accounts completely separate from the Assured's own funds.
- (2) the investment of clients' funds in shares, units or loans or otherwise in any affiliate of the Assured unless the Assured discloses to the client in writing before the investment is made the existence of the affiliation and its precise nature.

'Affiliate' for the purpose of this clause shall mean either

- (i) a company which is
  - (a) a holding, subsidiary or fellow subsidiary company of the Assured as defined in the Companies Act, 1948, and/or
  - (b) a company in the equity share capital of which the Assured, any partner or 20% shareholder in the Assured and any director or affiliate (as defined herein) of the manager have aggregate interests amounting to 5% or more and/or
  - (c) managed by the Assured or by any partner or 20% shareholder in the Assured or any director or affiliate (as defined herein) of the Assured or
- (ii) a unit trust managed by the Assured or by an affiliate (as defined herein) of the Assured or
- (iii) an individual who is a director of or a partner of the Assured or is a wife, husband, child, parent or other close relative of the Assured or director or partner of the Assured.