



## Policy

# Professional Indemnity Policy

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Please refer to PIDM's TIPS Brochure or contact Berjaya Sompo Insurance Berhad or PIDM (visit [www.pidm.gov.my](http://www.pidm.gov.my)).

**Berjaya Sompo Insurance Berhad**  
Registration No. 198001008821 (62605-U)  
Level 36, Menara Bangkok Bank,  
105, Jalan Ampang, 50450 Kuala Lumpur.  
Toll Free: 1-800-889-933  
Tel.: 03-2170 7300  
E-mail: [customer@bsompo.com.my](mailto:customer@bsompo.com.my)  
Website: [www.berjayasompo.com.my](http://www.berjayasompo.com.my)

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LNP0725

## IMPORTANT NOTICE

This is your **Professional Indemnity Policy** Insurance Policy. You should satisfy yourself that this Policy will best serve your needs. You should read and understand the Policy terms, conditions and warranties and discuss with your insurance advisor, agent, broker and/or with us directly for more information and/or to clarify any doubts you may have when you purchase this Policy. If there is any error or misdescription, or if the cover is not in accordance with your wishes, please return the Policy to us immediately for amendment.

You must fully observe and fulfill this Policy's terms, conditions and warranties to enjoy the coverage provided. If you have any questions after reading these documents, please contact us for further clarification. If there is any change in your declarations that may affect the insurance provided, please notify us immediately, otherwise you may not receive the benefits of this Policy.

To help preserve the environment, we will send a printed copy of this Policy Wording once only. Please keep this Policy Wording safely. In case of renewal and/or amendment of your Policy, we will send you the Policy Schedule and/or Endorsement only. If at any time you require a copy of the Policy Wording, please download a copy from [www.berjaysompo.com.my](http://www.berjaysompo.com.my) based on the jacket code provided.

If you have any complaints relating to this Policy, please contact

### COMPLAINTS UNIT – CUSTOMER SERVICE CENTRE

Berjaya Sompo Insurance Berhad  
Registration No. 198001008821 (62605-U)  
Level 36, Menara Bangkok Bank  
105 Jalan Ampang  
50450 Kuala Lumpur  
Tel. : 03-2170 7300  
Toll Free : 1-800-889-933  
Fax : 03-2170 4800  
E-mail : [customer@bsompo.com.my](mailto:customer@bsompo.com.my)

If you are not happy with our response, you may opt to contact either:

### FINANCIAL MARKETS OMBUDSMAN SERVICE

Level 14, Main Block  
Menara Takaful Malaysia  
4, Jalan Sultan Sulaiman  
50000 Kuala Lumpur  
Tel. : 03-2272 2811  
Website : [www.fmos.org.my](http://www.fmos.org.my)

### BNMLINK,

4th Floor, Podium Bangunan AICB,  
No.10, Jalan Dato' Onn,  
50480 Kuala Lumpur

Tel : 1-300-88-5465  
Overseas : 03-2174 1717  
BNMLink : [bnm.gov.my/BNMLINK](http://bnm.gov.my/BNMLINK)  
Webpage

## INTRODUCTION

This **Policy** is a "Claims Made Policy" and provides cover only for **Claims** first made against an **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy**.

This **Policy** is a legal contract between the **Policyholder** and the **Insurers**. It is important that the **Policyholder** reads it carefully and confirms that it meets its requirements. If it does not, or if the **Policyholder** has any questions about it, the **Policyholder** should inform the **Insurers** or its broker immediately.

In consideration of the payment of the premium shown in the **Schedule** and in reliance on the particulars and statements contained in the **Proposal Form**, the **Insurers** agree to indemnify the **Insured** subject to the terms, conditions, limitations and exclusions of this **Policy** as set out below.

### 1. Policy Guide

This document, together with the **Schedule** and any applicable **Endorsements** should be read as one document and constitute the **Policy** which sets out the legal contract of insurance.

All headings and sub headings in this **Policy** are included in bold. Other than in the headings, words in bold carry specific meanings which are set out in the 'Definitions'.

All references to 'a person' will be construed to include any individual, company, partnership or other legal entity.

A position or title or legal status or legal concept shall include the equivalent in any other jurisdiction.

Any reference to legislation or regulations in the **Policy** extends to apply to any subsequent, amending or replacement legislation or regulations and to any other legislation or regulation of similar intent or jurisdictional equivalent.

### 2. Policy Structure

The Insuring Clause and any applicable Extensions of the **Policy** sets out the extent of cover, subject to any applicable Exclusions which limit the **Insurers'** liability to the **Insured**. The various Conditions set out how the cover applies and the rights and obligations of both the **Insured** and the **Insurer**.

The **Limit of Indemnity** is set out in the **Schedule** and operates in accordance with the relevant provisions in the 'General Conditions'.

### 3. Notification of Claims

The **Insurers** place effective claims management and claims handling at the centre of their business. The claims teams have the necessary expertise and skills to ensure that all claims are processed effectively and in a timely manner.

Full claim notification procedures are set out in the Section D (Claims Conditions). The dedicated claims team can be contacted at the email address specified at Claims Conditions 2 (Procedure for Notification).

### 4. Premium Payment

If the period of insurance is 60 days or more, any premium due must be paid and actually received in full by the **Insurers** (or the intermediary through whom this **Policy** was effected) within 60 days of the inception date of the coverage under the **Policy**, Renewal Certificate or Cover Note.

In the event that any premium due is not paid and actually received in full by the **Insurers** (or the intermediary through whom this **Policy** was effected) within the 60-day period referred to above, and subject to Condition 6 under Section E of the Policy, then: (a) the cover under the Policy, Renewal Certificate or Cover Note is automatically terminated immediately after the expiry of the said 60- day period; (b) the automatic termination of the cover shall be without prejudice to any liability incurred within the said 60-day period; and (c) the **Insurers** shall be entitled to a pro-rata time on risk premium subject to a minimum of RM150.00.

If the Policy Period is less than 60 days, any premium due must be paid and actually received in full by the **Insurers** (or the intermediary through whom this **Policy** was effected) within the Policy Period.

### 5. Privacy Notice

#### Who we are

Berjaya Sampo Insurance Berhad [Registration No. 198001008821 (62605-U)]

## **The basics**

We collect and use relevant information about you to provide you with your insurance cover or the insurance cover that benefits you and to meet our legal obligations.

This information includes details such as your name, address and contact details and any other information that we collect about you in connection with the insurance cover from which you benefit. This information may include more sensitive details such as information about your health and any criminal convictions you may have.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately. You do not have to give your consent and you may withdraw your consent at any time. However, if you do not give your consent, or you withdraw your consent, this may affect our ability to provide the insurance cover from which you benefit and may prevent us from providing cover for you or handling your claims.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases. We will only disclose your personal information in connection with the insurance cover that we provide and to the extent required or permitted by law.

## **Other people's details you provide to us**

Where you provide us or your agent or broker with details about other people, you must provide this notice to them.

## **Want more details?**

For more information about how we use your personal information please see our full privacy notice(s), which is/are available online on our website(s) at [www.berjayasompo.com.my](http://www.berjayasompo.com.my) or in other formats on request.

## **Contacting us and your rights**

You have rights in relation to the information we hold about you, including the right to access your information. If you wish to exercise your rights, discuss how we use your information or request a copy of our full privacy notice(s), please contact the agent or broker that arranged your insurance who will provide you with our contact details.

## SECTION A - Insuring Clause

### 1. Insuring Clause - Civil Liability

The **Insurers** will pay on behalf or will indemnify any **Insured** for **Loss** and **Defence Costs** resulting from any **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy** for:

- a) negligence or breach of professional duty;
- b) negligent misstatement or negligent misrepresentation;
- c) defamation, libel or slander;
- d) infringement of any third party **Intellectual Property Rights**,
- e) dishonest or fraudulent acts or omissions of any present or former **Employee**, provided that:
  - i) the **Insurers** shall not provide indemnity to any principal, director, officer, partner or member of any **Insured** committing or condoning such dishonest or fraudulent act or omission; and
  - ii) the **Insured** shall use all reasonable means to obtain reimbursement from any person responsible for the **Loss** caused by any such act or omission; and
  - iii) the **Insured** had in place, at the time of the relevant act or omission, appropriate controls for the prevention of any such act or omission;
- f) breach of any contractual or common law obligation of confidentiality (not including trade secrets), including invasion of privacy, save where excluded under Exclusion 5 (Cyber) under Section C of the **Policy**;
- g) any other civil liability (not otherwise excluded), in the conduct of the **Professional Business**.

## SECTION B – Extensions

Unless otherwise stated on the **Schedule**, cover under any Extension in this **Section** forms part of and erodes the **Limit of Indemnity** and where a **Sub Limit** applies, it will form part of, and not be in addition to, any such **Limit of Indemnity**.

The indemnity provided by the Insuring Clause 1 under Section A of this **Policy** is extended to include the following:

### 1. Vicarious Liability

The **Insurers** will pay on behalf or will indemnify on behalf of any **Insured** for **Loss** and **Defence Costs** resulting from any **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy** for negligence or breach of professional duty in the conduct of **Professional Business** and arising out of, based upon or attributable to the work done by a consultant, contractor or vendor for the **Insured** or on the **Insured's** behalf pursuant to a contract between **Insured** and the consultant, contractor or vendor. However, this does not extend to cover any such consultant, contractor or vendor for their own **Loss and Defence Costs**.

The **Insurers'** maximum liability under this Extension is limited for all **Insureds** and shall not exceed the **Sub-Limit** set out on the **Schedule**. The **Excess** shall apply to this Extension.

### 2. Attendance at Court

If any principal, director, officer, partner, member or **Employee** of an **Insured** is required by the **Insurers** to attend any court, arbitration, adjudication or similar hearing as a witness in connection with a **Claim** covered under Insuring Clause 1 (Section A) of the **Policy**, **Insurers** will pay to that **Insured** at the following rates for each day or part of a day on which attendance is required:

- a) any principal, director, officer, partner or member of the **Insured** RM250
- b) any **Employee** RM150

The **Insurers'** maximum liability under this Extension is limited for all **Insureds** and shall not exceed the **Sub-Limit** set out on the **Schedule**. The **Excess** does not apply to this Extension.

### 3. Legal Representation Expenses

The **Insurers** will pay on behalf or will indemnify any **Insured** in respect of any reasonable and necessary costs and expenses incurred by the **Insured** with the prior written consent of the **Insurers** for representation at any inquiry or other proceeding in connection with **Professional Business** and arising out of any **Claim** covered under Insuring Clause 1 under Section A of the **Policy**, first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy**, and which are not indemnified as **Defence Costs**.

The **Insurers'** maximum liability under this Extension is limited for all **Insureds** and shall not exceed the **Sub-Limit** set out on the **Schedule**. The **Excess** does not apply to this Extension.

#### 4. Loss of Documents

The **Insurers** will pay on behalf or will indemnify any **Insured** for any reasonable and necessary costs and expenses incurred in order to restore or replace any **Documents** destroyed, damaged, lost or mislaid in the conduct of the **Professional Business** which the **Insured** is legally liable to pay as a result of any **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy**, save where excluded by Exclusion 5 (Cyber) under Section C of the **Policy**.

The **Insurers'** maximum liability under this Extension is limited for all **Insureds** and shall not exceed the **Sub-Limit** set out on the **Schedule**. The **Excess** does not apply to this Extension.

#### 5. Unpaid Fees

The **Insurers** will pay on behalf or will indemnify any **Insured** for any fees owed to the **Insured**, including amounts legally owed by the **Insured** to sub-contractors, which the **Insured's** client has refused to pay for work done by the **Insured** in the conduct of the **Professional Business** provided that:

- a) the **Insurers** consider that such client has reasonable grounds for being dissatisfied with the work done by the **Insured**;
- b) a **Claim** for more than the fees owed is first made or threatened by such client against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy**;
- c) a **Claim** covered by this **Policy** against the **Insured** by such client for more than the fees owed may be settled or avoided if the **Insured** agrees not to pursue the fees owed;
- d) if a **Claim** is nonetheless pursued by such client, any amounts paid by the **Insurers** in respect of this Extension shall form part of any indemnity payable to the **Insured** for **Loss** resulting from such **Claim** pursuant to the Insuring Clause 1 under Section A of this **Policy**;
- e) if the **Insured** recovers the fees owed from such client, then the amounts paid by the **Insurers** must be repaid less the **Insured's** reasonable expenses of recovering the fees owed.

The **Insurers'** maximum liability under this Extension is limited for all **Insureds** and shall not exceed the **Sub-Limit** set out on the **Schedule**. The **Excess** does not apply to this Extension.

#### 6. Continuous Cover

Subject to Exclusion 17 under Section C of the Policy, the **Insurers** shall extend the same cover as this **Policy** to any **Claim**, provided always that:

- a) the **Insured** has maintained, without interruption, a professional indemnity policy covering the same **Professional Business**;
- b) the **Claim** would have been covered under the policy that was in force at the time the **Insured** first became aware of the **Claim**;
- c) there has been no fraudulent non-disclosure or misrepresentation to the **Insurers** in respect of the **Claim**;
- d) cover provided under this Extension will be in accordance with the terms, conditions, Exclusions and limitations (including the Insuring Agreement, **Schedule**, **Limit of Indemnity** and retention) of the policy in force at the time the **Insured** first becomes aware of the **Claim**, but in no circumstances shall the cover granted by this Extension be broader than the provisions of this **Policy**; and
- e) the **Insured** agrees to claim on this **Policy** only and not to make any claim on any earlier policy issued by the **Insurers**.

#### 7. Newly created Subsidiary

The **Insurers** will automatically cover any newly created **Subsidiary** during the **Policy Period**, provided that such newly created **Subsidiary**:

- a) Has annual revenue that does not exceed 20% of the consolidated revenue as declared in the **proposal form**
- b) Is not domiciled within the United States of America (including its territories and/or possessions) and Canada
- c) Provides the same **Professional Business**

If the newly created **Subsidiary** fails to meet condition a) above, the **Insurers** agree to automatically cover for 30 days commencing immediately following the newly created **Subsidiary's** incorporation. This cover will cease automatically after the expiry of the 30 days period or the expiry of the **Policy Period**, whichever is the earlier. To extend the cover to such newly created **Subsidiary** or beyond 30 days period, The **Policyholder** has to provide the **Insurers** any further information that the **Insurers** may require and has to agree to any additional premium and any amendment of the provision of this **Policy**, subject to the review and acceptance by the **Insurers** of full and complete underwriting information.

For any newly created **Subsidiary** hereof, this **Policy** shall only apply for any insuring act covered under Insuring Clause 1 (Section A) of the **Policy** committed while such entity is a **Subsidiary** of the **Policyholder**.

## 8. Previous Business

The **Insurers** will cover for **Claims** first made during the **Policy Period** arising from a principal, director, officer, partner's previous business provided that the services provided by such previous business are the same **Professional Business**

The **Insurers'** maximum liability under this Extension is limited for all **Insureds** and shall not exceed the **Sub-Limit** set out on the **Schedule**. The **Excess** shall apply to this Extension.

## SECTION C – Exclusions

The following Exclusions apply to all Sections of the **Policy** unless otherwise stated.

The **Insurers** are not liable to cover any **Loss, Defence Costs**, cost, fees and expenses or make any payment under this **Policy** arising directly or indirectly out of, based upon or attributable to:

### 1. Asbestos

- a) the presence or release or possible release of asbestos or asbestos containing materials in whatever form or quantity; or
- b) **Asbestos Inspections** or asbestos surveys,

### 2. Bodily Injury

**Bodily Injury** sustained by any person (including any principal, director, officer, partner, member or **Employee**). This Exclusion shall not apply to any **Claim** for which an indemnity is provided by Insuring Clause 1. c) (defamation, libel or slander) under Section A of the **Policy**.

### 3. Contractual Liability

any liability assumed by any **Insured** under contract or other agreement:

- a) by which a particular outcome is guaranteed or warranted (including but not limited to any performance warranty or express guarantee), beyond the scope of any duty that would otherwise be implied by common law or statute;
- b) to pay a contractual penalty or liquidated damages or any additional damages of any kind in the event of breach;
- c) that provides for a level of service or produces a wider liability beyond the scope of duty that would otherwise be implied by common law or statute; or
- d) that imposes any other liability wider than that assumed by any **Insured** in the absence of such contract or other agreement.

### 4. Controlling Interest

any **Claim** brought by, in the right of, or on behalf of:

- a) any **Insured**, or successors or assigns of any **Insured**;
- b) any entity that is owned, operated, managed or controlled by any **Insured**;
- c) any parent company or any associated company of any **Insured**;

unless such **Claim** emanates from an independent third party and arises directly out of the performance of **Professional Business** for which an indemnity is provided under Insuring Clause 1 of Section A of the **Policy**.

### 5. Cyber

- a) any:
  - i) **Cyber Act**; or
  - ii) partial or total unavailability or failure of any **Computer System**;

provided the **Computer System** is owned or controlled by the **Insured** or any other party acting on behalf of the **Insured** in either case; or

- iii) the receipt or transmission of malware, malicious code or similar by the **Insured** or any other party acting on behalf of the **Insured**.

- b) any failure or interruption of service provided:

- i) to the **Insured** or any other party acting on behalf of the **Insured** by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by the **Insured**;

- ii) by any utility provider, but only where such failure or interruption of service impacts a **Computer System** owned or controlled by the **Insured** or any other party acting on behalf of the **Insured**.
- c) any actual or alleged breach of **Data Protection Law** by the **Insured** or any other party acting on behalf of the **Insured**.
- d) any cover for costs of reconstituting or recovering lost, inaccessible or damaged documents owned or controlled by the **Insured** or any other party acting on behalf of the **Insured** in this **Policy** shall not apply to **Data**.

Exclusion 5d) shall not apply to any indemnity provided by Extension 4 (Loss of Documents) under Section B of the **Policy**.

Save as expressly provided in this Exclusion or by other restriction of cover in the **Policy** specifically relating to the use of, or inability to use, a **Computer System**, no cover otherwise provided under this **Policy** shall be restricted solely due to the use of, or inability to use, a **Computer System**.

## 6. Deliberate or Dishonest Acts

- a) any dishonest, fraudulent, criminal or malicious act or omission; or
  - b) any deliberate, intentional or reckless breach of any statute, regulation, contract or duty.
- This Exclusion shall not apply to any **Claim** for which an indemnity is provided by Insuring Clause 1 e) (dishonest or fraudulent acts or omissions) under Section A of the **Policy**.

## 7. Directors and Officers

any act, error or omission by any **Insured** in their capacity as a principal, director, officer, partner, member, trustee and/or officer of any trust and in respect of the performance or non-performance of their duties in any such capacity.

## 8. Employer's Liability

any breach of any obligation owed by any **Insured** as an employer to any actual, former or prospective principal, director, officer, partner, member or **Employee**, including but not limited to employment related defamation, libel or slander, humiliation, harassment or discrimination, wrongful, unfair or constructive dismissal or breach, repudiation or termination of any contact of employment or apprenticeship or similar conduct.

## 9. Financial Advice and Services

any legal, financial services work or investment advice.

## 10. Insolvency

the insolvency, administration, receivership, liquidation, failure or bankruptcy of any **Insured**.

## 11. Joint Ventures

the operation or existence of any consortium or joint venture, except that this Exclusion shall not apply to the liability of an **Insured** in respect of such **Insured**'s own acts, errors or omissions whilst acting in a consortium or joint venture provided that prior written agreement of the **Insurers** to the **Insured**'s participation in such consortium or joint venture has been obtained.

## 12. Nuclear

any actual, potential or threatened ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

## 13. Official Action or Investigation

any official action or investigation by or decision or order of any public, local, regulatory or government body or authority, except that this Exclusion shall not apply affect any indemnity provided by Extension 2 (Attendance at Court) under Section B of the **Policy**.

## 14. Patents and Trade Secrets

any actual or alleged infringement, use, misappropriation or disclosure of a patent or secret.

## 15. Pensions and Employee Benefit Schemes

any liability in respect of the operation or administration of any pension fund, profit-sharing or employee benefit scheme or trust fund.

## 16. Pollution

any actual, potential or threatened pollution, seepage, discharge or contamination of any kind or any costs or expenses incurred in testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralising any **Pollutants**.

## 17. Pre-Existing Claim or Circumstance

any **Claim** or **Circumstance**:

- a) which any **Insured** was, or ought reasonably to have been, aware prior to inception of this **Policy**; or
- b) of which notice has been given, or ought to have been given, under any policy (whether issued by the **Insurers** or not) of which this **Policy** is a renewal or replacement or which it may succeed in time.

## 18. Products

any:

- a) goods or products sold, supplied, repaired, altered, manufactured, installed, treated or maintained by or on behalf of any **Insured**;
- b) costs and expense incurred by the **Insured** or any third party in the recall, repair or replacement of any product.

## 19. Property Damage

any **Property Damage**.

This Exclusion shall not apply to any indemnity provided by Extension 4 (Loss of Documents) under Section B of the **Policy**.

## 20. Property Liability

the ownership, possession, occupation or use by or on behalf of any **Insured** of any:

- a) land, building, structure, premises or property;
- b) motor vehicle, aircraft, watercraft, hovercraft, vessel or other mechanically propelled vehicle.

## 21. Retroactive Date

any actual or alleged act, error, omission or event committed or occurring prior to the **Retroactive Date**.

## 22. Stocks and Shares

any liability in respect of the sale or purchase of or dealing in any stocks, shares or securities or the misuse of any information relating to them, or any breach of any legislation or regulation relating to them.

## 23. Taxation, Competition, Restraint of Trade

the breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation.

## 24. Third Party Default

any defect in any product or service supplied by a third party or any failure by a third party to supply a product or service on time or at all, unless and then only to the extent that the **Insured** shall be entitled to recover damages for breach of contract from such third party.

## 25. Trading Losses

any:

- a) trading debt, trading loss or trading liability of any **Insured** or any business managed by or carried on by any **Insured**;
- b) guarantee or undertaking given by any **Insured** for any debt or performance of any other obligation by a third party;
- c) actual or alleged overcharging or improper receipt of fees by any **Insured**;

This Exclusion shall not apply to any indemnity provided by Extension 6 (Unpaid Fees) under Section B of the **Policy**.

## 26. United States of America and Canada

any:

- a) conduct of **Professional Business**;
- b) **Claim** made or pending;
- c) judgment, award or settlement made,

within the United States of America (including its territories and/or possessions) and Canada, or any order or judgment made elsewhere to enforce any judgment, award, settlement in c) above, in whole or in part.

## 27. War, Riot and Terrorism

- a) war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, or the confiscation or nationalisation, requisition or destruction of or damage to property by or under the order of any government or public or local authority;
- b) riot or civil unrest; or
- c) act of terrorism, including but not limited to the use of force or violence for political, religious or other ends directed towards overthrowing or influencing of any government or for the purpose of putting the public in fear by any means or persons acting alone or on behalf or in connection with any organisation.

## 28. Infrastructure

- a) Mechanical failure;
- b) Electrical failure, including any electrical power interruption, surge, brown out or black out;
- c) Telecommunications or satellite system failure,

unless such failures arise from a breach of duty in the conduct of **Professional Business** by an **Insured**.

## SECTION D - Claims Conditions

This Section of the **Policy** details conditions that the **Insured** is required to comply with in the event a claim for indemnity is made under the **Policy**.

It is important that the **Insurers** provide the **Insured** with the best available service in the event of a **Claim** and that the **Insurers** are able to collaborate with the **Insured** to resolve **Claims** in a cost effective and timely way with the minimum of disruption to the **Professional Business**. To achieve this and protect the best interests of the **Insureds** and the **Insurers** it is important that the following conditions are followed in the event of a **Claim** or **Circumstance**.

### 1. The Insured's obligation to notify

- a) The **Insured** must give written notice to the **Insurers** of any **Claim** or **Circumstance** as soon as reasonably practicable and in any event within thirty (30) days after the end of the **Policy Period**.
- b) If during the **Policy Period** the **Insured** becomes aware of any **Circumstance** and during the **Policy Period** gives written notice to the **Insurers** as soon as reasonably practicable of such **Circumstance** any subsequent **Claim** arising out of such **Circumstance** shall be deemed to have been first made during the **Policy Period** and notified at the time such **Circumstance** was notified, if accepted by the **Insurers**.
- c) Any notification pursuant to Clauses 1. a) or 1 b) above shall include full details of the **Claim** or **Circumstance** including (in so far as possible) the dates, nature and consequences of all relevant acts, errors or omissions, the names of the individuals alleged to be responsible, the names of the claimants, the nature and amount of the actual or potential damage and the circumstances in which the **Insured** first became aware of the **Claim** or **Circumstance**.
- d) The **Insurers** will not cover any claim if the **Insured** fails to comply with its obligation pursuant to Clause 1. a) - c) above, unless the **Insured** can prove that the **Insured's** failure to comply could not have increased the risk of a **Claim** happening in the circumstance in which it did.

### 2. Notice of Claims

All notifications of a **Claim** shall be made in writing as soon as reasonably practicable after the **Insured** has become aware of such **Claim** but in any event no later than thirty (30) days after the expiry of the **Policy Period**. All notifications shall be sent to the **Insurers** at the email address specified at Item 9 of the Schedule.

### 3. Conduct of Claims – Obligations of the Insured

Unless otherwise advised by the **Insurers** in writing, the **Insured** shall have the obligation to defend and contest any **Claim** or **Circumstance** made against them.

The **Insured** must:

- a) not admit liability or responsibility for, negotiate, settle or otherwise prejudice the proper conduct of any **Claim** or **Circumstance** without the prior written consent of the **Insurers**;
- b) not incur any costs or expenses in connection with any **Claim** or **Circumstance** without the prior written consent of the **Insurers**;

- c) take all reasonable steps to avoid or diminish any **Loss**, damage or liability that may result in a **Claim** or **Circumstance** and do nothing which could prejudice the position of the **Insurers** in respect of any **Claim** or **Circumstance**;
- d) co-operate with and provide the **Insurers** with all such information, assistance and documentation as the **Insurers** may reasonably require concerning any **Claim** or **Circumstance**; and
- e) keep the **Insurers** fully informed regarding any **Claim** or **Circumstance**, including any development or change in any **Claim** or **Circumstance**, and shall forward unanswered every letter of claim, claim form, writ, summons, arbitration notice and all other written notifications or communications in respect of any such **Claim** or **Circumstance** to the **Insurers** as soon as reasonably practicable.

Where the **Insured** makes a request of the **Insurers** for written consent pursuant to this Claims Condition 3 (Conduct of Claims – Obligations of the Insured), such consent shall not be unreasonably withheld or delayed.

#### 4. Conduct of Claims - Rights of the Insurers

- a) The **Insurers** shall have the right but not the obligation to defend, investigate or settle any **Claim** or **Circumstance** brought against any **Insured**.
- b) The **Insurers** shall be entitled to participate fully in the defence, investigation or settlement of any **Claim** or **Circumstance**, and in the negotiation of any settlement that involves or appears reasonably likely to involve the **Insurers**.

#### 5. Contested Defence

- a) The **Insured** shall have no obligation to contest any legal proceedings unless a Senior Counsel (whose appointment is mutually agreed upon by the **Insured** and the **Insurers**) advised that such proceedings should be defended or contested.
- b) The **Insurer** may settle any **Claim** it deems appropriate in respect of any **Insured**. Where an **Insured** withholds consent to such settlement, the **Insurer's** liability for all **Loss** arising from that **Claim** shall not exceed the amount for which the **Claim** could have been settled, together with **Defence Costs** and related expenses incurred up to the date the **Insurer** made the written settlement proposal, less any applicable **Excess**.

#### 6. Allocation

If any claim under this **Policy** involves both covered matters and matters not covered under this **Policy**, a fair and proper allocation of amounts covered and amounts not covered under this **Policy** shall be made between the **Insured** and the **Insurers**.

#### 7. Subrogation

- a) The **Insurers** shall be subrogated to all of the **Insured's** rights of recovery against any third party after any payment or indemnity under this **Policy**.
- b) The **Insurers** shall be entitled to pursue and enforce such rights of subrogation in the name of the **Insured** and the **Insured** will give the **Insurers** all reasonable information, documentation, co-operation and assistance to allow the **Insurers** to do so.
- c) The **Insured** will not do anything to prejudice such rights of subrogation and will not waive or compromise any actual or potential rights without the prior written consent of the **Insurers**.
- d) The **Insurers** shall not exercise any rights of subrogation against any **Employee**, unless the **Insurers** have made a payment under this **Policy** brought about or contributed to by the dishonest, fraudulent, malicious or criminal conduct of that **Employee** and/or the **Employee** had knowledge of the dishonest, fraudulent, malicious or criminal conduct of another party which caused or contributed to such payment.

## SECTION E – General Conditions

### 1. Application of Limit of Indemnity and Excess

- a) For the purposes of the **Limit of Indemnity** and the **Excess**, all **Claims, Circumstances** or other insured losses, arising out of:
- one act or omission;
  - the same originating cause;
  - the same act, error or omission;
  - a series of similar, related, continued or repeated acts, errors or omissions; or
  - one matter or transaction;
- shall be deemed to be one **Claim**, irrespective of the number of claimants or causes of action involved.
- b) Unless otherwise expressly provided for in the **Schedule**:
- the **Insurers** will indemnify the **Insured** for the amount of insured loss in respect of any one **Claim** up to the **Limit of Indemnity**;
  - where a **Claim** is made against more than one **Insured** under this **Policy**, this shall not operate to increase the **Limit of Indemnity** or any applicable **Sub-Limit**;
  - Defence Costs** will be indemnified by the **Insurers** in addition to the **Limit of Indemnity** provided that if a payment in excess of the **Limit of Indemnity** has to be made to dispose of any **Claim**, the **Insurers'** liability for **Defence Costs** shall only be in the same proportion that the **Limit of Indemnity** bears to the amount of such settlement or other payment;
  - each **Sub-Limit** is part of and not payable in addition to the **Limit of Indemnity**, and is the maximum amount for which the **Insurers** will indemnify the **Insured** in respect of the cover to which the **Sub-Limit** applies.
- c) In relation to the **Excess**:
- the **Excess** will apply to all amounts payable in respect of any one **Claim, Defence Costs** and related expenses.
  - the **Insurers** will only indemnify the **Insured** for any amount remaining upon deduction of the applicable **Excess**.

### 2. Administration

- a) The **Policyholder** shall act on behalf of all **Insureds** for all purposes in respect of this **Policy**, including the negotiation of the terms of this **Policy**, the giving and receiving of all notices under this **Policy**, the payment or return of the premium, the receipt and acceptance of any endorsements to this **Policy**, dispute resolution and the receipt of all amounts payable to an **Insured** by the **Insurers** under this **Policy**.
- b) All notices from the **Insurers** to the **Insured** shall be sent to the address of the **Policyholder** specified in the **Schedule**.
- c) The **Insurers** shall be entitled, at any time and at their own expense, to take over and conduct in the name of the **Insured**, the defence, investigation or settlement of any **Claim** or **Circumstances** and shall have full discretion in the conduct of any proceedings and in the settlement of any **Claim** or **Circumstances**.

### 3. Alteration in Risk

If during the **Policy Period** the **Insured** becomes aware of any matter which materially changes the nature of the risk underwritten by the **Insurers**, the **Insured** must inform the **Insurers** as soon as reasonably practicable.

### 4. Assignment

This **Policy** and the rights of any **Insured** under this **Policy** may not be assigned by the **Insured** without the prior written consent of the **Insurers**.

### 5. Territorial Limits, Choice of Law and Jurisdiction

Where legally permissible and subject to all terms and conditions of this **Policy**, this **Policy** shall apply to any **Claim** made against any **Insured** anywhere within the **Territorial Limits**.

Subject to the dispute resolution procedure in General Condition 8 (Dispute Resolution), this **Policy**, any dispute or **Claim** arising out of or in connection with it or its subject matter or formation, including non-contractual disputes or **Claims**, shall be governed by the laws of Malaysia and subject to the jurisdiction of the Malaysia courts.

### 6. Cancellation

- The **Insurers** may cancel this **Policy** for non-payment of premium, by providing notice of cancellation to the **Insured** at least ten (10) days before the effective time of cancellation.
- Either the **Insurers** or the **Insured** may cancel this **Policy** for any reason permitted under applicable law other than non-payment of premium by giving prior written notice at least sixty (60) days before the effective time of cancellation.
- The notice of cancellation shall state the effective date of cancellation.

- d) In the event of cancellation by the **Insurers**, the **Insurer** shall refund any unearned premium computed on a pro rata basis but only if there has been no notification of a **Claim or Circumstance**, that may give rise to a **Claim** and no **Loss** or **Defence Costs** has been paid by the **Insurers** under the **Policy**. The return or tender of a return premium is not a requirement for the cancellation becoming effective at the time specified in the cancellation notice.

## 7. Dispute Resolution

If any dispute between the **Insurers** and the **Insured** should arise out of or in connection with the **Policy**, including its subject matter, existence, formation, validity, construction and termination, then the **Insurers** and the **Insured** shall use their best endeavours to resolve their differences amicably and by informal means.

If any dispute is not resolved by informal means, the dispute shall be referred to and finally resolved by arbitration administered by the Asian International Arbitration Centre (AIAC) in accordance with the Arbitration Rules of the Asian International Arbitration Centre (AIAC) for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Malaysia.

The Tribunal shall consist of 3 arbitrators unless the parties agree otherwise. The language of the arbitration shall be English.

## 8. Fair Presentation

### a) The Insured's duty

Before the start of the **Policy**, the **Insured** must provide a fair presentation of the risk. This is a presentation that discloses in a reasonably clear and accessible manner all material facts which the **Insured**, including the **Insured's** senior management know, or ought to know after having made a reasonable search.

### b) Deliberate or reckless failure to make a fair presentation

If the **Insured** deliberately or recklessly fails to give the **Insurers** a fair presentation, the **Insurers** can avoid the **Policy**. This means the **Policy** will be treated as if it never existed. If this happens:

- i) the **Insured** must repay all amounts paid by **Insurers** under the **Policy**; and
- ii) the **Insurers** will keep the **Policy's** Premium.

### c) Non deliberate or reckless failure to make a fair presentation

If the **Insured** fails to give the **Insurers** a fair presentation, but where the **Insured** is neither deliberate nor reckless, what **Insurers** will do will depend on what **Insurers** would have done if the **Insured** had given the **Insured** a fair presentation. Those options are:

- i) if the **Insurers** would not have entered into the **Policy** at all, the **Insurers** can avoid the **Policy**. This means the **Policy** will be treated as if it never existed. If this happens, the **Insured** must repay all amounts paid by the **Insurers** under the **Policy**. The **Insurers** will return the **Policy's** premium to the **Insured**.
- ii) if the **Insurers** would have entered into the **Policy**, but on different terms (other than as to the premium), the **Policy** will continue in force as if the term the **Insurers** would have applied had been in place from the start of the **Policy Period**.
- iii) if the **Insurers** would have entered into the **Policy**, but charged a higher premium, the amount the **Insurers** pay for any claim under the **Policy** will be limited to the percentage of the claim that the premium charged bears to the premium the **Insurers** would have charged. For example, if the premium the **Insurers** actually charged is eighty per cent (80%) of the premium the **Insurers** would have charged, the **Insurers** will only pay eighty per cent (80%) of the claim.

Please note that Clauses 9. c ii) and iii) can apply at the same time.

In respect of fair presentation:

No statement made or omitted to be made by or on behalf of any **Insured** (including by an agent to the **Insured**), nor any information or knowledge possessed by any **Insured** shall be imputed to any other **Insured** for the purpose of determining whether any other **Insured** has made a fair presentation.

The statements made by, and the knowledge (including knowledge of any misrepresentation or non-disclosure), possessed by the CEO, CFO, in-house general counsel, risk manager, or the functional equivalent of any of such positions in an organization of the **Policyholder** and its **Subsidiaries** shall be imputed to the **Policyholder** and its **Subsidiaries**.

## 9. Fraudulent Claims

If any **Insured** shall make a fraudulent claim under this **Policy**, the **Insurers**:

- a) are not liable to pay any part of the claim;
- b) may recover from that **Insured** any sums already paid to or on behalf of that **Insured** in respect of the claim; and
- c) will, by notice to the **Insured**, treat this **Policy** as having been terminated with effect from the date of the fraudulent act, in which case the **Insured** are not liable for any relevant event occurring after that date and is entitled to receive and retain the full Premium.

## 10. Other Insurance

This **Policy** shall apply only as excess over:

- a) any other insurance, unless such other insurance is written only as specific excess insurance over the **Limit of Indemnity**,  
or
- b) indemnification available from any other source.

## 11. Sanctions Suspension

It is a condition of this insurance, and the **Insured** agrees, that the provision of any cover, the payment of any claim and the provision of any benefit hereunder shall be suspended, to the extent that the provision of such cover, payment of such claim or provision of such benefit by the **Insurers** would expose that **Insurers** to any sanction, prohibition or restriction under any:

- a) United Nations' resolution(s); or
- b) the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America or Singapore.

Such suspension shall continue until such time as the **Insurers** would no longer be exposed to any such sanction, prohibition or restriction.

## 12. Severability

If any provision in this **Policy** is found to be invalid and/or unenforceable that will not affect the other provisions in this **Policy** which shall remain in full force and effect.

## 13. Change in Control

If during the **Policy Period**:

- a) the **Insured** becomes bankrupt or insolvent;
- b) the **Insured** merges or consolidates with another organisation such that the **Insured** is not the surviving entity; or
- c) another organisation, person, or group of organisations or persons acting together, acquires:
  - i. Management control of the **Insured**; or
  - ii. all or substantially all of the assets of the **Insured**,

then cover under this **Policy** will continue until termination of the **Policy Period**, but only with respect to civil liability incurred before such merger, consolidation, acquisition, bankruptcy or insolvency. With the exception of non-payment of premium (as detailed at Section E- General Condition- point no 6 Cancellation), this **Policy** may not be cancelled after the effective time of such merger, consolidation, acquisition, bankrupt or insolvent, and the entire premium for this **Policy** shall be deemed earned on or after the effective time.

## SECTION F – Definitions

The definitions set out below apply wherever the following words or phrases appear in this **Policy** in bold type:

- Asbestos Inspections** means: type 1, 2 or 3 inspections as set out in MDHS 100 published by the Health and Safety Executive in connection with regulation 4 of the Control of Asbestos at Work Regulations 2002, or any other comparable inspection.
- Bodily Injury** means: physical injury, sickness, disease or death of a natural person; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.
- Circumstance(s)** means: any circumstance, fact, matter or state of affairs which may reasonably be expected to give rise to a **Claim**.
- Claim(s)** means: any
- a) written or oral demand for monetary or non-monetary damages or compensation;
  - b) written or oral notice of intention to invoke pre-action protocols or to commence a civil proceeding;
  - c) civil proceeding, including arbitration, adjudication, regulatory or administrative proceedings and any counterclaim, third party proceeding, and made by or on behalf of a third party against an **Insured**.
- Computer System** means: any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.
- Cyber Act** means: an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof, involving access to, processing of, use of or operation of any **Computer System**.
- Data** means: information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer System**.
- Data Protection Law** means: any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or authority from time to time.
- Defence Costs** means: the reasonable and necessary fees, costs and expenses incurred by or on behalf of an **Insured** with the prior written consent of the **Insurers** in the investigation, defence, adjustment, settlement or appeal of any **Claim** or **Circumstance**.  
**Defence Costs** shall not include any salaries, wages, benefits, overheads or other costs and expenses of any **Insured**.
- Documents** means: any physical documents and electronic machine-readable data excluding bearer bonds, coupons, stamps, physical or electronic currency, share certificates, stamps and any other negotiable instruments.
- Employee** means: any individual:
- a) employed by the **Policyholder** under a contract of service or apprenticeship;
  - b) supplied to, hired or borrowed by the **Policyholder**; or
  - c) under any work experience or similar scheme,
- whilst employed or engaged by the and under the control, direction and supervision of the **Policyholder** in connection with the conduct of the **Professional Business**.  
**Employee** shall not include any principal, director, officer, partner or member of the **Policyholder**.
- Excess** means: the excess specified at item 13 in the **Schedule**.
- Insured** means:
- a) the **Policyholder** and any subsidiaries disclosed in the **Proposal Form** and which the **Insurers** have agreed to insure;
  - b) any individual who is, has been or becomes:
    - i) a principal, director, officer, partner or member of the **Policyholder** in relation to **Professional Business** undertaken by them whilst receiving salary or financial benefit from the **Policyholder**;
    - ii) an **Employee**.
    - iii) The estates, heirs, legal representatives or assigns in the event of the death or incapacity of any person described in the clause(i) and (ii) provided that such

persons observe and are subject to all terms of this **Policy** in so far as they can apply.

<b>Insurers</b> means:	Berjaya Sompo Insurance Berhad [Registration No. 198001008821 (62605-U)]
<b>Intellectual Property Rights</b> means:	any copyright, domain name, trademark (registered or unregistered). <b>Intellectual Property Rights</b> does not include any other contractual or common law obligation of confidentiality, or patents or trade secrets.
<b>Limit of Indemnity</b> means:	the limit of indemnity specified at item 10 in the <b>Schedule</b> .
<b>Loss</b> means:	any amounts which an <b>Insured</b> is legally liable to pay to a third party on account of a <b>Claim</b> , including awards of damages, interest and claimant's costs, whether by judgment, arbitration award or otherwise or by way of any settlement entered into with the prior written consent of the <b>Insurers</b> ; <b>Loss</b> shall not include: a) non-compensatory damages, including, punitive, exemplary or aggravated damages, or the multiplied portion of any multiplied damages award; b) fines or penalties; c) non-monetary relief and the cost of complying with any judgment, award or agreement to provide injunctive or other non-monetary relief; d) taxes; e) salaries, wages, benefits, remuneration, overheads, charges or expenses of any <b>Insured</b> ; f) any amounts which are deemed uninsurable under the law of the jurisdiction where any payment is to be made.
<b>Policy</b> means:	this document, the <b>Schedule</b> and any endorsements to this document issued by the <b>Insurers</b> from time to time.
<b>Policyholder</b> means:	the entity or individual specified at item 2 of the <b>Schedule</b> .
<b>Policy Period</b> means:	the period as specified at item 5 of the <b>Schedule</b> .
<b>Pollutants</b> mean:	any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including but not limited to, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. Such waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
<b>Professional Business</b> means:	the professional services specified at item 3 of the <b>Schedule</b> (or as declared to <b>Insurers</b> in <b>Proposal Form</b> ) undertaken by or on behalf of the <b>Policyholder</b> in the course of its business.
<b>Property Damage</b> means:	damage to or loss of or destruction of tangible property or loss of use thereof.
<b>Proposal Form</b> means:	the proposal or renewal form or declaration together with all other information and documentation submitted to the <b>Insurers</b> for the purposes of the underwriting of this <b>Policy</b> .
<b>Retroactive Date</b> means:	the retroactive date as specified at item 6 of the <b>Schedule</b> .
<b>Schedule</b> means:	the schedule issued to the <b>Policyholder</b> , which together with this policy wording and any applicable endorsements constitute the <b>Policy</b> .
<b>Sub-Limit</b> means:	the maximum liability of the <b>Insurers</b> under a specified clause or other part of this <b>Policy</b> and is the amount stated in the <b>Schedule</b> .
<b>Subsidiary</b> means	any entity of which the <b>Policyholder</b> , either directly or indirectly through one or more entities: a) controls the composition of the board of directors; b) controls more than half of the voting powers; c) holds more than half of the issued shared capital.
<b>Territorial Limit</b> means	the list of countries stated at item 15 in the <b>Schedule</b>