

## Investment Management Insurance

In consideration of the payment of the premium, the *insurer* agrees as follows:

### 1. Insurance Cover

---

**A: PROFESSIONAL INDEMNITY**

This policy shall pay on behalf of each *insured* all *loss* resulting from any *claim* first made against the *insured* during the *policy period* for any *wrongful act* of the *insured* or of any other person for whose *wrongful act* the *insured* is legally responsible, **but solely in rendering or failing to render *investment advisory services to third parties*.**

**B: DIRECTORS AND OFFICERS LIABILITY**

The *insurer* shall pay on behalf of each *individual insured*, or the *insured entity* when it is legally required or permitted to indemnify the *individual insured*, all *loss* of the *individual insured* resulting from any *claim* first made against the *individual insured* during the *policy period* for any *wrongful act* in the *insured's* capacity as a *director, officer, partner or trustee of the insured entity*.

Subject to the terms and conditions of this policy, the *insurer* shall advance *defence costs* resulting from any *claim* before its final resolution.

### 2. Definitions

---

2.1 ***Claim*** means any suit or proceeding, including any civil or arbitration proceedings, brought by any person or entity against an *insured* for monetary damages or other relief, including non-pecuniary relief, or any written demand from any person or organisation that it is the intention of the person or entity to hold an *insured* responsible for the results of any specified *wrongful act*. Moreover, with respect to insurance cover B only, *claim* shall also mean any criminal prosecution brought against an *insured*, or any administrative or regulatory proceeding or official investigation regarding any specified *wrongful act* of an *insured*.

Any *claim* arising out of, based upon or attributable to a *single wrongful act* shall be considered to be a single *claim* for the purposes of this policy.

2.2 ***Defence costs*** means reasonable and necessary fees, costs and expenses incurred with the written consent of the *insurer* (including premiums for any appeal bond, attachment bond or similar bond, but without obligation to apply for or furnish any bond) resulting solely from the investigation, adjustment, defence and appeal of any *claim*.

- 2.3 **Director or officer** means any natural person duly appointed or elected as a director or officer of the *insured entity*.
- 2.4 **Discovery period** means the period of time specified in Extension 4.4, immediately following the termination of this policy during which written notice may be given to the *insurer* of any *claim* first made against the *insured* during such period of time for any *wrongful act* occurring prior to the end of the *policy period* and otherwise covered by this policy.
- 2.5 **Employment practice claim** means any *claim* or series of related *claims* relating to a past present or prospective employee of the *insured entity* and arising out of any actual or alleged unfair or wrongful dismissal, discharge or termination, either actual or constructive, of employment, employment-related misrepresentation, wrongful failure to employ or promote, wrongful deprivation of career opportunities, wrongful discipline; failure to furnish accurate job references; failure to grant tenure or negligent employee evaluation; or sexual or workplace or racial or disability harassment of any kind (including the alleged creation of a harassing workplace environment); or unlawful discrimination, whether direct, indirect, intentional or unintentional, or failure to provide adequate employee policies and procedures. Provided that the cause of action stipulated in the *claim* does not arise under or derive from infringement of any specific Labour Law, or any stipulation in a group agreement which the *company* is subject to.
- 2.6 **Full annual premium** means the annual premium level in effect immediately prior to the end of the *policy period*.
- 2.7 **Fund** means the fund, trust or other similar entity specifically listed in endorsement 1 of this policy as an *insured* and automatically covered funds pursuant to Extension 4.1.
- 2.8 **Insured** means the *insured entity* and the *individual insured*.  
**Insured entity** means the *policyholder* and any partnership, corporation, trust, or *fund* specified in endorsement 1 of this policy. For purposes of insurance cover B, the *insured entity* shall also include any *subsidiary* of the *policyholder*.  
**Individual insured** means a natural person who is a past, present or future *director*, *officer*, partner or trustee of the *insured entity*. Cover will automatically apply to any natural person who becomes a partner, *officer*, *director* or trustee of the *insured entity* after the inception date of this policy. *Individual insured* shall also mean any employee of the *insured entity* with respect to insurance cover A, and any employee in a managerial or supervisory capacity with respect to insurance cover B.
- 2.9 **Insurer** means AIG Israel Insurance Company Ltd.
- 2.10 **Investment advisory services** means those services of the *insured entity* permitted by law or regulation rendered by an *insured* at any time whether before, on or after the inception date of this policy, pursuant to an agreement with the customer or client as long as such service is rendered for or on behalf of a customer or client of the *insured entity*: (i) in return for a fee, commission or other compensation ("*compensation*"), or (ii) without *compensation* as long as such non-compensated services are rendered in conjunction with services rendered for *compensation*.

2.11 **Loss** means damages, judgements, settlements and *defence costs*; **however, loss shall not include civil or criminal fines or penalties imposed by law, non-compensatory damages including punitive or exemplary damages** (other than damages awarded for libel and slander), **taxes, any amount for which the insured is not legally liable or matters which may be considered uninsurable under the law pursuant to which this policy shall be construed. Loss shall not include salaries of any insured.**

Damages, judgements, settlements and *defence costs* incurred in more than one *claim* against the *insured* but resulting from a *single wrongful act* shall constitute a single *loss*.

2.12 **No liability** means:

- (i) a final judgement of no liability obtained prior to trial in favour of all *insureds* by reason of a motion to dismiss or a motion for summary judgement after the exhaustion of all appeals; or
- (ii) a final judgement of no liability obtained after trial in favour of all *insureds*, after the exhaustion of all appeals.

**In no event shall the term no liability apply to a claim made against an insured for which a settlement has occurred.**

2.13 **Policyholder** means the entity specified in Item 1 of the Schedule.

2.14 **Policy period** means the period of time from the inception date to the expiry date specified in Item 2 of the Schedule.

2.15 **Pollutants** include (but are not limited to) any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes (but is not limited to) material to be recycled, reconditioned or reclaimed.

2.16 **Security** means any note, stock, bond, debenture, evidence of indebtedness, share or other equity or debt security of the *insured entity*, and shall include any certificate of interest or participation in, receipt for, warrant or other right to subscribe to or purchase, voting trust certificate relating to, certificate of deposit for, or other interest in any of the foregoing.

2.17 **Single wrongful act** means a *wrongful act* or any related, continuous or repeated *wrongful acts*, whether committed by the *insured* individually or by more than one *insured* and whether directed to or affecting one or more than one person or legal entity.

2.18 **Subsidiary** means companies in which the *policyholder*, either directly or indirectly through one or more of its *subsidiaries*;

- (i) controls the composition of the board of directors; or
- (ii) controls more than half of the voting power; or
- (iii) holds more than half of the issued share capital.

Cover for any *claim* against any of the *directors, officers, partners, trustees* or employees of any *subsidiary* **shall apply only for wrongful act(s) committed while such company is a subsidiary of the policyholder.**

However, upon written request by the *policyholder*, the *insurer* shall consider, after assessment and evaluation of the increased exposure, granting cover for *wrongful act(s)* committed prior to the acquisition of the *subsidiary* by the *policyholder*.

2.19 **Third party** means any person or entity other than an *insured*.

2.20 **Transaction** means any one of the following events:

- (i) the *insured* and/or any entity which controls outstanding shares representing 50% or more of the voting power for the election of *directors* of the *insured*, consolidates with or merges into or sells all or substantially all of its assets to any other person or entity or group of persons and/or entities acting in concert;
- (ii) any person or entity, whether individually or together with any other person or persons, entity or entities acquires an amount of the outstanding shares representing more than 50 per cent of the voting power for the election of *directors* of any *insured*, or acquires the voting rights for such an amount of the shares;
- (iii) a receiver, liquidator or administrator is appointed for any *insured entity*;
- (iv) a change in the majority (more than 50%) of the *directors, officers, partners* and/or trustees of any *fund*; or
- (v) the liquidation, merger, consolidation or other combination of any *fund* with any other unrelated entity or if the investment advisor and/or principal underwriter / general distributor of any *fund* ceases to act as such.

2.21 **Wrongful act**, for purposes of insurance cover A, any breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission, breach of warranty of authority or other act by the *insured* in the rendering of or failure to render *investment advisory services*.

*Wrongful act*, for purposes of insurance cover B, means any breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission, breach of warranty of authority or other act by the *individual insured* in their respective capacities as *directors, officers, partners, trustees* or employees of the *insured entity* or any matter claimed against them solely by reason of their status as *directors, officers, partners* or trustees of the *insured entity*. Related, continuous or repeated *wrongful acts* shall constitute a *single wrongful act*.

### 3. Exclusions

---

The *insurer* shall not be liable to make any payment for *loss* in connection with any *claim* made against the *insured*:

3.1 arising out of, based upon or attributable to:

- (i) the gaining in fact of any personal profit or advantage to which the *insured* was not legally entitled;
- (ii) profits in fact made from the purchase or sale by the *insured* of *securities* of the *insured entity* or of a *fund* within the meaning of Section 16(b) of the Securities Exchange Act of 1934 (USA) and any amendments thereto or similar provisions of any state statutory law;
- (iii) the committing in fact of any dishonest or fraudulent act or any knowing or wilful violation of any statute by any *insured*.

For the purpose of determining the applicability of these exclusions, the *wrongful act* of any *insured* shall not be imputed to any other *insured*. These exclusions shall only apply if it is established through a judgement, or any

other final adjudication adverse to the *insured*, or any admission by an *insured* that the relevant conduct did in fact occur;

- 3.2 **arising out of, based upon or attributable to the facts alleged or to the same or related *wrongful act(s)* alleged or contained in any *claim* which has been reported or in any circumstances of which notice has been given under any policy of which this policy is a renewal or replacement or which it may succeed in time;**
- 3.3 **arising out of, based upon or attributable to any pending or prior litigation as of the pending and prior litigation *continuity date* specified in Item 6 (i) of the Schedule, or alleging or deriving from the same or essentially the same facts as alleged in the pending or prior litigation;**
- 3.4 **which are brought by or on behalf of any *insured* or any related entity thereof;** provided, however, that this exclusion shall not apply to:
- (i) any *employment practice claim* brought by any *individual insured*;
  - (ii) any *claim* brought or maintained by an *insured* for contribution or indemnity, if the *claim* directly results from another *claim* otherwise covered under this policy;
  - (iii) any shareholder derivative action brought or maintained on behalf of the *insured entity* without the solicitation, assistance or participation of any *insured*;
  - (iv) any *claim* brought or maintained by a liquidator, receiver or administrative receiver either directly or derivatively on behalf of the *insured entity* without the solicitation, assistance or participation of any *insured*;
  - (v) any *claim* brought or maintained by any former *director, officer, partner, trustee or employee* of the *insured entity*.
- 3.5 **arising out of, based upon or attributable to or in any way involving, directly or indirectly, the actual, alleged or threatened discharge, dispersal, release or escape of *pollutants*; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise *pollutants, nuclear material or nuclear waste*.**  
Provided, however, that this exclusion shall not apply to any *claim* made against the *insured* by any shareholder of the *insured entity* either directly or derivatively, alleging damage to the *insured entity* or its shareholders, **unless on or before the pollution *continuity date* specified in Item 6 (ii) of the Schedule, the *insured entity, the individual insured* or any employee of the *insured entity* with managerial responsibilities over environmental affairs, control or compliance, knew or could have reasonably foreseen that there existed any situation, circumstance or *wrongful act* which could have given rise to a *claim* against the *insured entity, or the individual insured*.**
- 3.6 **in a capacity as trustee, fiduciary under law (statutory or non-statutory including common) or administrator of any pension, profit sharing or employee benefits programme established for the benefit of the employees of any *insured entity*, including but not limited to an actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (USA) or the Pensions Act 1995 (UK) and any amendments thereto or any similar provisions of the law, common or statutory, of any state, territory, jurisdiction, or political subdivision thereof;**

- 3.7 arising out of, based upon or attributable to any act or omission in the *insured's* capacity as a director, officer, partner, trustee or employee of any entity other than the *insured entity*, or by reason of the *insured's* status as such;**
- 3.8 for bodily injury, sickness, disease, death or emotional distress of any person, or damage to or destruction of any tangible property, including loss of use thereof; provided, however, that any *claim* for emotional distress shall not be excluded with respect to an *employment practice claim*.**
- 3.9 arising out of, based upon or attributable to the bankruptcy, insolvency, receivership or liquidation of, or suspension of payment by, any broker or dealer in securities or commodities, or any buyer, seller or underwriter of securities or commodities, or any bank or banking firm other than the *insured entity*;**
- 3.10 arising out of, based upon or attributable to disputes involving fees or charges for any of the *insured's* services, including but not limited to any fees or charges pursuant to a plan of distribution adopted by a *fund*;**
- 3.11 arising out of, based upon or attributable to the actual or alleged rendering or failing to render advice or other services to clients of any *insured* in connection with any merger, acquisition, restructuring or divestiture.** With respect to insurance cover A, this exclusion shall not limit cover for the *insured's* business of managing securities portfolios, giving of financial advice or investment management services relating to or in connection with investing in securities of entities which are involved in mergers, acquisitions, restructuring or divestitures, as long as the *insured* does not act as an adviser in connection with such transactions;
- 3.12 arising out of, based upon or attributable to any *insured's* involvement in buying, selling or underwriting securities as principal or for their own account or their activities as a securities underwriter whether or not as principal or for their own account;**
- 3.13 arising out of, based upon or attributable to any use or procurement by an *insured* of, or actual or alleged aiding or abetting by an *insured* in the procurement and/or use of, or actual or alleged participation after the fact by any *insured* in the procurement and/or use of, non-public information in a manner prohibited by law or any rules or regulations promulgated under any law;**
- 3.14 arising out of, based upon or attributable to any liability of third parties assumed by the *insured* under any contract or agreement, either orally or in writing, except liability which would have attached to the insured in the absence of such contract or agreement;**
- 3.15 arising out of, based upon or attributable to war, invasion, any act of a foreign enemy, hostilities (whether war has been declared or not), military or usurped power, martial law, or any other similar act of a lawfully constituted authority, revolution, rebellion, insurrection, civil commotion or other like disturbance.**
- 3.16 arising out of, based upon or attributable to the depreciation (or failure to appreciate) in value of any investment, including securities,**

commodities, currencies, options and future transactions, or as the result of any actual or alleged representation, advice, guarantee or warranty provided by or on behalf of the *insured* as to the performance of any such investments, or the loss of value or cancellation of value of any product, property or any other item of value; provided, however, that this exclusion shall not apply in respect of any *claim* made against the *insured* solely due to a *wrongful act* of the *insured* in failing to effect specific prior instructions of a client of the *insured*.

- 3.17 arising out of, based upon or attributable to any mechanical or electronic failure, breakdown or malfunction of any machine or system of machines.

## 4. EXTENSION OF COVER

---

Subject to all of the terms and conditions of this policy, cover is extended as follows:

### 4.1 *Automatic New Fund Cover*

The insurance afforded hereunder shall automatically extend to any newly established *fund* sponsored by a *insured entity* for a period of (60) days from the date on which the *securities* are first sold to the public or the date on which the fund is created, whichever is earlier. **This extension shall expire sixty (60) days from the date the securities are first sold to the public** unless the *insurer* in its absolute discretion agrees to endorse the newly established *fund* as an additional *insured entity* under this policy. The *insured entity* shall provide the *insurer* with whatever underwriting information is requested, and pay whatever additional premium is required by the *insurer*.

**Nothing contained herein shall operate to extend the length of the policy period.**

### 4.2 *New Subsidiaries*

Cover under this policy is extended to any *subsidiary* which the *policyholder* acquires or creates after the inception date of this policy **provided that the subsidiary:**

- (i) **has total gross assets under management which are less than the amount specified in Item 7 of the Schedule either in the United States of America or Canada;**  
**and**
- (ii) **does not have a listing of any of its securities on any exchange in the United States of America or Canada.**

If a newly acquired or created *subsidiary* fails to meet conditions (i) and (ii) above the *policyholder* may request an extension of this policy for such *subsidiary* provided that the *policyholder* shall give the *insurer* sufficient details to permit the *insurer* to assess and evaluate the *insurer's* potential increase in exposure. The *insurer* shall be entitled to amend the policy terms and conditions, during the *policy period*, including by the charging of a reasonable additional premium.

Unless otherwise agreed, cover as is afforded to the *directors, officers, partners, trustees or employees* of any *subsidiary* by virtue of this extension shall **only apply for wrongful act(s) committed while such company is or was a subsidiary of the policyholder.**

- 4.3 ***Representation at Investigations and Examinations***  
This policy shall provide cover for any reasonable and necessary fees, costs and expenses incurred with the prior written consent of the *insurer* resulting from any legally required attendance by any *individual insured* of the *insured entity* at any official investigation, examination, inquiry or other similar proceeding in relation to the affairs of the *insured entity*.  
If the *individual insured* believes that as a result of such official investigation, examination, inquiry or other similar proceeding, circumstances exist which may reasonably be expected to give rise to a *claim*, notice must be given to the *insurer* of the circumstances and the reasons for anticipating a *claim*, with full particulars as to dates and persons involved in accordance with General provision 5.5.
- 4.4 ***Discovery Period***  
If the *insurer* refuses to offer any terms or conditions to renew this policy, then the *policyholder* shall have the right, upon payment of an additional premium of 75 per cent of the *full annual premium* to a *discovery period* of 12 months following the effective date of non-renewal.  
The *insured* shall be entitled to a 30 day *discovery period* at no additional premium if this policy is not renewed by the *insurer*. If the *policyholder* elects to purchase the *discovery period*, this 30-day *discovery period* shall be part of and not in addition to the purchased *discovery period*.  
To purchase the *discovery period*, the *policyholder* must request its purchase in writing within 15 days of the termination date of the policy and must tender the additional premium within 30 days of the termination date. The additional premium is not refundable and the *discovery period* is not cancelable.  
**If a transaction takes place, then the *policyholder* shall not have the right to purchase a *discovery period* as set out above.** However, the *policyholder* shall have the right within 30 days of the end of the *policy period* to request an offer from the *insurer* of a *discovery period* for up to 72 months. The *insurer* shall offer a *discovery period* with terms, conditions and premium as the *insurer* may reasonably decide.
- 4.5 ***Heirs, Estates and Legal Representatives***  
If an *individual insured* dies, becomes incompetent, insolvent or bankrupt, this policy shall cover *loss* arising from any *claim* made against the estate, heirs, or legal representatives of the *individual insured* for any *wrongful act* of such *individual insured*.
- 4.6 ***Joint Property Liability***  
This policy shall cover *loss* arising from any *claim* made against the lawful spouse (whether that status is derived by reason of the statutory law, common law or otherwise of any applicable jurisdiction in the world) of an *individual insured* for any *claim* arising out of his or her status as the spouse of an *individual insured* including any *claim* that seeks damages recoverable from marital community property or property jointly held by the *individual insured* and the spouse; **provided, however, that this extension shall not afford cover for any *claim* for any *wrongful act* of the spouse and that this policy shall apply only to *wrongful act(s)* of an *individual insured*.**

## 5. General provisions

---

### 5.1 *Representation and Severability*

In granting cover to any one *insured*, the *insurer* has relied upon the material statements and particulars in the proposal together with its attachments and other information supplied. These statements, attachments and information are the basis of cover and shall be considered incorporated and constituting part of this policy.

The proposal shall be construed as a separate proposal by each of the *individual insureds*. With respect to statements and particulars in the proposal, no statements made or knowledge possessed by any *individual insured* shall be imputed to any other *individual insured* to determine whether cover is available for any *claim* made against such other *insured*.

### 5.2 *Changes in Risk During Policy Period*

- (i) If during the *policy period* a *transaction* takes place with respect to any *insured entity* then the cover provided under this policy with respect to such *insured* and any *subsidiary* thereof and all of their activities, is amended **to apply only to wrongful act(s) committed prior to the effective date of the transaction.**
- (ii) If during the *policy period*, the *insured entity* decides to make an initial offering of its *securities* in any jurisdiction, whether its *securities* are already traded or not, by any means, public or private, then as soon as the information is publicly available, the *insured entity* shall provide the *insurer* with any prospectus or offering statement for the *insurer's* evaluation and assessment of the increased exposure of the *insured* and **the insurer shall be entitled to amend the terms and conditions of this policy and/or charge a reasonable additional premium reflecting the increase in exposure.**

At the *policyholder's* request, prior to the public announcement of such *securities* offering, the *insurer* shall evaluate and assess the increased exposure and advise of all necessary amendments to the terms and conditions of this policy and additional premium. In this event and at the request of the *policyholder*, the *insurer* will enter into a confidentiality agreement with the *policyholder* relating to any information provided regarding the proposed *securities* offering.

The *policyholder* shall give the *insurer* written notice of the *transaction* as soon as practicable, but not later than 30 days after the effective date of the *transaction*.

### 5.3 *Limit of Liability*

The limit of liability specified in Item 3 of the Schedule is the total aggregate limit of the *insurer's* liability for all *loss*, arising out of all *claims* made against all *insureds* under all insurance covers under this policy combined.

**The limit of liability for the discovery period shall be part of and not in addition to the total aggregate limit of liability for the policy period. Loss arising from any claim which is made subsequent to the policy period or discovery period which pursuant to General provision 5.5 is considered made during the policy period or discovery period shall also be subject to the same total aggregate limit of liability. Defence costs are not payable by the insurer in addition to the total aggregate limit of liability. Defence costs are part of loss and are subject to the total aggregate limit of liability for loss.**

Only for Claims brought against the *insured* in Israel, in case that *damages* resulting from a claim under this policy, including *defence costs*, will exceed the applicable limit of liability, the *insurer* will indemnify the *insured* for reasonable *defence costs* up to 10% of the applicable limit of liability. It is understood and agreed that this amount represents “reasonable legal costs” for the purpose of Clause 66 to the Insurance Contract Law, 1981-5741”.

#### 5.4 **Retention**

**The insurer shall only be liable for the amount of loss arising from a claim which is in excess of the retention amount specified in Item 4 of the Schedule.** For purposes of insurance cover A, such retention amount shall be borne by the *insured* and shall remain uninsured, with regard to all *loss* for which the *insured* shall be liable. For purposes of insurance cover B, such retention amount shall be borne by the *insured entity* and shall remain uninsured, with regard to all *loss* for which the *insured entity* has indemnified or is permitted or required to indemnify the *insured*. A single retention amount shall apply to *loss* arising from all *claims* alleging a *single wrongful act*.

Provided, however, that no retention shall apply and the *insurer* shall thereupon reimburse any *defence costs* paid by the *insured entity*, in the event of:

- (i) a determination of *no liability* of all *insureds*, or
- (ii) a dismissal or a stipulation to dismiss the *claim* without prejudice and without the payment of any consideration by any *insured*.

**Provided, however, that in the case of (ii) above, such reimbursement shall occur 90 days after the date of dismissal or stipulation as long as the claim is not re-brought (or any other claim which is subject to the same single retention by virtue of this General provision 5.4 is not brought) within that time, and further subject to an undertaking by the insured entity in a form acceptable to the insurer that such reimbursement shall be paid back by the insured entity to the insurer in the event the claim (or any other claim which is subject to the same single retention by virtue of this General provision 5.4) is brought after such 90 day period.**

#### 5.5 **How to Give Notice and Report a Claim**

- (i) Notice of a *claim* or of circumstances, which may result in a *claim* shall be given in writing to Commercial Lines Claims, AIG Israel Insurance Company Ltd., 25 Hasivim St. Kiryat Matalon P.O.B 10126, Petah Tikva 49001 Israel. If posted the date of posting shall constitute the date that notice was given, and proof of posting shall be sufficient proof of notice.
- (ii) **The insured entity or the insured shall, as a condition precedent to the obligations of the insurer under this policy, give written notice to the insurer of any claim made against an insured as soon as practicable and either:**
  - (a) any time during the *policy period* or during the *discovery period*;
  - or
  - (b) within 30 days after the end of the *policy period* or the *discovery period*, as long as such *claim(s)* is reported no later than 30 days after the date such *claim* was first made against an *insured*.
- (iii) If, during the *policy period* or during the *discovery period* written notice of a *claim* against an *insured* has been given to the *insurer* pursuant to

the terms and conditions of this policy, then any *claim* arising out of, based upon or attributable to the facts alleged in the *claim* previously notified to the *insurer* or alleging a *single wrongful act* which is the same as or related to any *wrongful act* alleged in the previously notified *claim*, shall be considered made against the *insured* and reported to the *insurer* at the time the first notice was given.

- (iv) If during the *policy period* or during the *discovery period*, the *insured entity* or the *insured* shall become aware of any circumstances which may reasonably be expected to give rise to a *claim* being made against an *insured* and shall give written notice to the *insurer* of the circumstances and the reasons for anticipating a *claim*, with full particulars as to dates and persons involved, then any *claim* which is subsequently made against an *insured* and reported to the *insurer* arising out of, based upon or attributable to the circumstances or alleging any *wrongful act* which is the same as or related to any *wrongful act* alleged or contained in those circumstances, shall be considered made against the *insured* and reported to the *insurer* at the time the notice of the circumstances was first given.

#### 5.6 **Advancement of Costs**

The *insurer* shall advance to the *insured* defence costs under all insurance covers under this policy before the final disposition of the *claim*.

**The advance payments by the *insurer* shall be repaid to the *insurer* by the *insured*, severally according to their respective interests, in the event and to the extent that the *insured* shall not be entitled to payment of loss under the terms and conditions of this policy.**

In the event and to the extent that the *insured entity* is permitted or required to indemnify the *individual insured* but for whatever reason fails to do so, the *insurer* will advance all defence costs to the *individual insured* on behalf of the *insured entity*. In this case, however, the retention amount specified in Item 4 of the Schedule shall be repaid by the *insured entity* to the *insurer*, unless the *insured entity* is insolvent.

#### 5.7 **How Defence Will Be Conducted**

The *insured* shall have the right and duty to defend and contest any *claim*.

The *insured* shall have the right to select its own legal defence counsel, subject to the approval of the *insurer*, which approval shall not be unreasonably withheld.

The *insurer* shall have the right to effectively associate with the *insured* in the defence and settlement of any *claim* that appears reasonably likely to involve the *insurer*, including but not limited to effectively associating in the negotiation of any settlement.

**The *insured* shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgement or incur any defence costs without the prior written consent of the *insurer* as a condition precedent to the *insurer's* liability for loss arising out of the *claim*. Only those settlements, stipulated judgements and defence costs which have been consented to by the *insurer* shall be recoverable as loss under the terms of this policy.** The *insurer's* consent shall not be unreasonably withheld, provided that the *insurer* shall be entitled to effectively associate in the defence and the negotiation of any settlement of any *claim* in order to reach a decision as to reasonableness.

**The *insured* shall give the *insurer* full cooperation and all information as it may reasonably require as a condition precedent to the *insurer's* liability for loss arising out of the *claim*.** In the event that a dispute arises

between the *insurer* and the *insured* regarding whether or not to contest any legal proceedings, neither the *insured* nor the *insured entity* shall be required to contest any legal proceedings unless a an attorney or equivalent (to be mutually agreed by the *policyholder* and the *insurer*) shall advise that the proceedings should be contested. The cost of the attorney shall be borne by the *insurer*.

#### 5.8 **Cancellation Clause**

This policy may be cancelled by the *policyholder* at any time only by mailing written prior notice to the *insurer* or by surrender of this policy to the *insurer* or to its authorised agent. This policy may also be cancelled by or on behalf of the *insurer* by delivering to the *policyholder*, or by mailing to the *policyholder*, by registered, certified, or other first class mail, at the *policyholder's* address as shown in Item 1 of the Schedule, written notice stating when, not less than sixty (60) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice. The *policy period* terminates at the date and hour specified in such notice, or at the date and time of surrender.

If this policy shall be cancelled by the *policyholder*, the *insurer* shall retain the customary short rate proportion of the premium hereon.

If this policy shall be cancelled by the *insurer*, the *insurer* shall retain the pro rata proportion of the premium hereon.

Payment or tender of any unearned premium by the *insurer* shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.

#### 5.9. **Allocation**

- (i) **With respect to Insurance Cover B, the *insurer* has no obligation under this policy for *defence costs* incurred by the *insured entity*, or any judgements rendered against or settlements by the *insured entity*, or any obligation to pay *loss* arising out of any legal liability that the *insured entity* has to the third party claimant.** Accordingly, with respect to:

- (a) *defence* costs jointly incurred by;
- (b) any joint settlement made by; and/or
- (c) any adjudicated judgement of joint and several liability rendered against

the *insured entity* and any *individual insured*, the *insured entity* and the *individual insured* and the *insurer* agree to use their best efforts to determine a fair and proper allocation of the amounts as between the *insured entity* and the *individual insured* and the *insurer*, taking into account the relative legal and financial exposures of and the relative benefits obtained by the *individual insured* and the *insured entity*.

- (ii) In the event that any *claim* involves both covered matters and matters not covered under this policy, a fair and proper allocation of any *defence costs*, judgements and/or settlements shall be made between the *insured* and the *insurer* taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this policy.
- (iii) In the event that a determination as to the amount of *defence costs* to be advanced to the *insured* under this policy cannot be agreed to, then the *insurer* shall advance *defence costs* which the *insurer* states to be fair and proper until a different amount shall be agreed upon or determined pursuant to the provisions of this policy and applicable law.

- 5.10 ***Subrogation***  
In the event of any payment under this policy, the *insurer* shall be subrogated to the extent of such payment to all of the *insured's* rights of recovery in respect of the payment, and the *insured* shall execute all papers required and shall do everything that may be necessary to secure any rights including the execution of any documents necessary to enable the *insurer* effectively to bring suit in the name of the *insured*.
- 5.11 ***Other Insurance***  
Unless otherwise required by law, any insurance as is provided under this policy shall apply only as excess over any other valid and collectible insurance.
- 5.12 ***Notice and Authority***  
It is agreed that the *policyholder* shall act on behalf of its *subsidiaries* and all *insureds* with respect to the giving and receiving of notice under this policy, including the giving of notice of *claim*, the payment of premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy and the exercising or declining to exercise any right to a *discovery period*.
- 5.13 ***Assignment***  
**This policy and any rights hereunder cannot be assigned without written consent of the *insurer*.**
- 5.14 ***Jurisdiction and Governing Law***  
Any interpretation of this policy relating to its construction, validity or operation shall be made in accordance with the laws of the State of Israel. The parties agree to submit to the exclusive jurisdiction of the Courts of Israel.
- 5.15 ***Plurals and Titles***  
The titles of these paragraphs are for convenience only and do not lend any meaning to this contract. In this policy words in italics have special meaning and are defined.