



CorporateGuard 6.2016 - Directors & Officers Liability

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

1. Insurance Cover

A: DIRECTORS AND OFFICERS LIABILITY

The *insurer* shall pay the *loss* of each *insured* resulting from any *claim* first made against the *insured* during the *policy period* and notified to the *insurer* during the *policy period* for any *wrongful act* taking place following the *retroactive date*, in the *insured's* capacity as a *director* or *officer* of the *company*, **except for and to the extent that the *company* has indemnified the *insured*.**

B: CORPORATE REIMBURSEMENT

The *insurer* shall pay the *loss* of the *company* resulting from any *claim* first made against the *insured* during the *policy period* and notified to the *insurer* during the *policy period* for any *wrongful act* taking place following the *retroactive date*, in the *insured's* capacity as a *director* or *officer* of the *company*, **but only when and to the extent that the *company* is permitted or required by the law, to indemnify the *insured* for the *loss*.**

Subject to the terms and conditions of this policy, the *insurer* shall advance *defence costs* resulting from any *claim* before its final resolution, in accordance with General Provision 5.6 of this policy.

2. Definitions

2.1 ***Associated Company*** means any organization of which the policyholder owns at the inception of the *policy period*, and maintains during the *policy period* less than a 50% ownership interest of the organization's issued and outstanding voting shares either directly or indirectly through one or more of its *subsidiaries*; provided that such organization:

- (i) does not have a listing of any of its *securities* on any exchange or in the United States of America or
- (ii) is not a *subsidiary* as defined in the policy, or a "new subsidiary" as described in the Extensions Section of the policy (whether or not such "new subsidiary" exceeds the total gross assets listed in such new subsidiary extension).

2.2 ***Claim*** means:

- (i) any suit or civil proceeding, including any third party proceeding, counter claim or arbitration or mediation proceeding brought by any person or organisation against an *insured* for monetary damages or other relief, including non-pecuniary relief;
- (ii) any written demand from any person or organisation that it is the intention of the person or organisation to hold an *insured* responsible for the results of any specified *wrongful act*;



- (iii) any criminal proceedings or criminal prosecution brought against an *insured*;
- (iv) any administrative or regulatory proceeding regarding any specified *wrongful act* of *such insured*;
- (v) a civil, criminal, administrative or regulatory investigation of a natural person *insured*, once such natural person *insured* is identified by such investigating authority, including but not limited to the Israeli Securities Authority or similar state or foreign government authority, as a person against whom a proceeding described in sections (iii) or (iv) above may be commenced

Any *claim* or *claims* 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.

- 2.3 **Company** means the *policyholder* specified in Item 1 of the Schedule and any *subsidiary*, or *subsidiary* of *subsidiary*, division, sector, region, product group or other internal company structure or segment detailed in an organisation chart or similar document and which has been granted this status by the *policyholder* or any *subsidiary* before the date of the *wrongful act*.
- 2.4 **Continuity date(s)** means the date(s) specified in Item 6A of the Schedule. *Continuity date* shall be the date from which the *policyholder* has maintained uninterrupted directors and officers liability cover with the *insurer*, or such other date(s) as agreed with the *insurer*.
- 2.5 **Defence costs** means reasonable and necessary fees, costs and expenses incurred with the written consent of the *insurer* which shall not be unreasonably withheld or unduly delayed (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* **but shall not include the salary of any insured**.
- 2.6 **Director or officer** means any natural person who was, now is, or shall be duly appointed or elected as a director and/or officer of the *company* or construed to be one, within the meaning of any applicable statutes, bylaws, memorandum and articles of association or other law or regulation governing such matters within the jurisdiction of the domicile of the *company*, including president, vice president, general manager, managing director, deputy general manager, vice general manager, chief executive officer, chief financial officer, director of finance, observer, internal legal adviser, internal auditor, comptroller, treasurer, secretary of the *company*, and any other manager who is directly subordinate to the president, general manager or chief executive officer, and any other natural person who fulfils a function mentioned above, even if his title differs therefrom.

Director or *officer* shall also include any natural person in his capacity as a non salaried *director* and/or *officer* of the *company* in accordance with management agreement between the *company* and the entity on behalf of the natural person that receives the payment for the services of the natural person under an invoice.

Director or *officer* shall also mean any employee of the *company*, but only for a *claim(s)* alleging *wrongful act(s)* committed by the employee in a managerial capacity or supervisory role.

Only with respect to an *employment practice claim*, *director* or *officer* shall also include any past, present or future employee of the *company*.



Director or officer shall not mean any external auditor or liquidator, receiver, administrative receiver, trustee, special manager or similar equivalent official appointed to the company.

- 2.7 ***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.
- 2.8 ***Employment practice claim*** means any *claim* or series of related *claims* relating to a past, present or prospective employee of the *company*, 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 or indirect or failure to provide adequate employee policies and procedures, **However, a *claim* for sexual harassment, including *defence costs*, shall not be covered:**
- (i) **in respect of the allegedly harassing *insured*, in any of the following cases: the *claim* for sexual harassment was settled, or it was established through a judgment, or any other final adjudication adverse to the *insured*, or any admission by an *insured* that the *insured* in fact committed sexual harassment; or –**
 - (ii) **in case the *insured* failed to take all the measures stipulated in the Law of Prevention of Sexual Harassment – 1998;**

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.

- 2.9 ***Full annual premium*** means the annual premium level in effect immediately prior to the end of the *policy period*.
- 2.10 ***Insured*** means any natural person who was, is, or shall become a *director* or *officer* of the *company*. Cover will automatically apply to any natural person who becomes a *director* or *officer* after the inception date of this policy.
- 2.11 ***Insurer*** means the AIG Israel Insurance Company Ltd..
- 2.12 ***Loss*** means damages, judgments, 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 are uninsurable under the law pursuant to which this policy shall be construed.** Damages, judgments, 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*.



Without derogating from the above, *loss* shall also include payment to a third party imposed on the *insured* pursuant to the Law of Efficiency of Enforcement Procedures in the Securities Authority (legislation amendments) - 2011, the Law of Enhancement of Enforcement Procedures in the Capital Market (Legislation Amendments) – 2011 and similar administrative enforcement laws, **as long as the said payments are insurable by law.**

- 2.13 ***Not-for-profit entity*** means an entity duly registered as a Not For Profit Entity, or any similar entity organised under the laws of any other jurisdiction, or a trade association which for the purposes of this policy shall mean a body of persons, whether incorporated or not, which is formed for the purpose of furthering the trade interests of its members, or of persons represented by its members.
- 2.14 ***Outside entity*** means any *associated company*, any *not-for-profit entity* or any other corporation, partnership, joint venture or other organisation which has been listed by endorsement to this policy.
- 2.15 ***Policyholder*** means the organisation specified in Item 1 of the Schedule.
- 2.16 ***Policy period*** means the period of time from the inception date to the expiry date specified in Item 2 of the Schedule, unless the policy is cancelled in which event the *Policy Period* will end on the effective date of the cancellation.
- 2.17 ***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.
- 2.18 ***Retroactive Date*** means the date(s) specified in Item 6B of the Schedule.
- 2.19 ***Security*** means any note, stock, bond, debenture, evidence of indebtedness, share or other equity or debt security of the *company*, 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.
- 2.20 ***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.
- 2.21 ***Subsidiary*** means companies in which the *policyholder*, either directly or indirectly through one or more of its *subsidiaries*;
- (i) is entitled to nominate 50% or more of its directors; or
 - (ii) controls 50% or more of the voting power; or
 - (iii) holds 50% or more of the issued share capital.
- Subsidiary* shall also include *Subsidiary of Subsidiary*
Cover for any *claim* against any of the *directors or officers* 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*.



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

- (i) the *policyholder* 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; or
- (ii) any person or entity, whether individually or together with any other person or persons, entity or entities becomes entitled to exercise 50% or more of the rights to vote at general meetings of the *policyholder* or control the appointment of *directors* who are able to exercise a majority of votes at board of directors' meetings of the *policyholder*; or
- (iii) the *policyholder* becomes a subsidiary of another entity or becomes controlled by another entity; or
- (iv) The temporary or permanent appointment to the *policyholder* of a liquidator, receiver, administrative receiver, trustee, special manager or similar equivalent official as a result of the insolvency, receivership, bankruptcy or liquidation of the *policyholder* or stay of proceedings against the *policyholder*, as a result of the above.

2.23 **Wrongful act** means any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, misleading statement, misrepresentation, omission, breach of warranty of authority, misuse of authority, libel, slander, defamation or other act by the *insured* in their respective capacities as a *director* or *officer* of the *company* or as a director or officer of any *outside entity*, or any matter claimed against them solely because of their status as a *director* or *officer* of the *company*.

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 *company* in connection with inside trading, within the meaning of Chapter H(1) of the Securities Law – 1968 (Israel) or 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.

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 judgment, 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 could have been reported under any policy which preceded this policy, or in any circumstances of which notice has been given or could have been given under any policy which preceded this policy;



- 3.3 arising out of, based upon or attributable to any pending or prior litigation as of the *continuity date*, 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 the *company*; provided, however, that this exclusion shall not apply to:
- (i) any *employment practice claim* brought by any *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 *security holder derivative action* brought or maintained on behalf of the *company* without the solicitation, assistance or participation of any *insured* or the *company*;
 - (iv) any *claim* brought or maintained by a liquidator, receiver, administrative receiver, trustee or special manager or similar equivalent official appointed to the *company*, either directly or derivatively on behalf of the *company*, without the solicitation, assistance or participation of any *insured* or the *company*;
 - (v) any *claim* brought or maintained by any former *director* or *officer* of the *company*;
 - (vi) any *claim* that is initiated as a result of orders of public authorities or public supervisory bodies.
 - (vii) any *claim* filed either directly or indirectly under any law affording 'whistleblower' protection; including but not limited to the Protection of Employees (Exposure of Offences of Unethical Conduct and Improper Administration) Law - 1997 and the Public Interest Disclosure Act (UK), False Claims Act (USA), or Sarbanes Oxley or equivalent laws or regulations;
- 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 *company* either directly or derivatively, alleging damage to the *company* or its shareholders, unless on or before the *continuity date*, the *company*, the *insured* or any employee of the *company* 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 *company*, or the *insured*.
- 3.6 in a capacity as trustee or fiduciary under law (statutory or non-statutory including common) or administrator of any pension, profit sharing or employee benefits programme, 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 or officer or in another capacity at any entity other than the *company*, or by reason of the *insured's* status as a director or officer or in any other capacity at the other entity, other than as provided in Extension 4.3;



- 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 with respect to an *employment practice claim* and with respect to a *claim* for libel, defamation or slander, shall not be excluded
- 3.9 alleging, arising out of, based upon or attributable to the ownership, maintenance, operation or control of or investment in, or any plan or program to finance, invest, construct, put into operation, operate or terminate, any nuclear power plant or any facility for the generation of electricity by nuclear power, or any plan or program to purchase, sell, store, transport or dispose of the nuclear material or waste or fuel used or to be used in any such facility or plant, whether done by the *company*, its subsidiaries, or affiliates for their own account or wholly or partially under contract to, or on behalf of, any other persons or entities.
- 3.10 alleging, arising out of, based upon or attributable to the company's or an insured's performance of or failure to perform professional services for others for a fee, or any act, error, or omission relating thereto.
- 3.11 alleging arising out of, based upon or attributable to any actual or alleged plagiarism or infringement of copyright or patent.
- 3.12 *loss* caused or claim arising out of, in whole or in part, directly or indirectly or resulting from or by:
1. *war*, any act of *war*, civil *war*, invasion, insurrection, revolution, use of military power or usurpation of government of military power, act of foreign enemy, hostilities, permanent or temporary dispossession resulting from confiscation, commandeering or requisition by any lawfully constituted authority, military rising, rebellion, military or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or state of siege; or
 2. the intentional use of military force to intercept, prevent, or mitigate any known or suspected *terrorist act*; or
 3. any *terrorist acts*.

It is further agreed that the terms *war* and *terrorist acts* are respectively defined as follows:

- a) *War* shall mean war, whether declared or not, or any warlike activities including use of military force by any sovereign nation to achieve economic, geographic, nationalistic, political, racial, religious or other ends;
- b) *Terrorist Act(s)* shall mean any actual or threatened use of force or violence directed at or causing damage, injury, harm or disruption, or commission of an act dangerous to human life or property, against any individual, property or government, with the stated or unstated objective of pursuing economic, ethnic, nationalistic, political, racial or religious interests, whether such interests are declared or not. Robberies or other criminal acts, primarily committed for personal gain and acts arising primarily from prior personal relationships between perpetrator(s) and victim(s) shall not be considered *terrorist acts*.



A terrorist act shall also include any act which is verified or recognized as such by the Israeli or the United States Governments or any other country where the *claim* was made or where the act took place.

4. Extensions

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

4.1 *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 *insured* for any *claim* arising out of his or her status as the spouse of an *insured* including any *claim* that seeks damages recoverable from marital community property or property jointly held by the *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 *insured*.**

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 which are less than the amount specified in Item 7 of the Schedule; and
- (ii) does not have any listing of any of its *securities* on any exchange or market; and
- (iii) is not incorporated in the United States of America or Canada.

If a newly acquired or created *subsidiary* fails to meet conditions (i), (ii) and (iii) above, cover under this extension shall apply automatically for a period of 60 days from the date the *policyholder* gains control or holding of such entity, provided the *policyholder* shall submit in writing to the *insurer* the particulars of such entity, in any case, prior to the end of the *policy period*. At the *policyholder's* request, cover may be extended for a longer period of time, provided that the *policyholder* provides the *insurer* with sufficient details during such 60 days period to permit the *insurer* to assess and evaluate its exposure with respect to such entity and the *policyholder* accepts any consequent amendments to the policy terms and conditions, including payment of any reasonable additional premium required by the *insurer*.

Unless otherwise agreed, cover as is afforded to the *directors* or *officers* 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 *Outside Directorships*

Cover includes *loss* arising from any *claim* made against any *insured* who was, is or may become, at the specific written request of the *company*, a director, trustee, governor or equivalent position, in any *outside entity* for any *wrongful act* in such *insured's* capacity as a director, trustee, governor or equivalent position, in the *outside entity*.

This cover shall be specifically excess of any insurance in force in respect of the *outside entity* as well as any indemnification provided by the *outside entity*.

The cover provided by this clause shall not apply in connection with any *claim* made against any *insured* by the *outside entity*, any of its directors, officers, trustees, governors or equivalent or any shareholder of the *outside entity* holding more than



20% of the issued and outstanding voting share capital of the *outside entity*; provided, however, that the restrictions of cover contained in this paragraph shall not apply to:

- (i) any *employment practice claim* brought by any director, officer, trustee, governor or equivalent, of the *outside entity*;
- (ii) any *claim* for contribution or indemnity, if the *claim* directly results from another *claim* otherwise covered by this extension;
- (iii) any *security holder derivative action* brought or maintained on behalf of the *outside entity* without the solicitation or participation of any *insured* or any director, officer, trustee, governor or equivalent, of the *outside entity*.

Cover under this extension shall not apply in connection with any *claim* made against an *insured* arising out of a *wrongful act* committed by the *insured* prior to the *continuity date* (as defined in this extension hereunder), if on or before that date the *insured* knew or ought reasonably to have foreseen that such *wrongful act* would or could lead to a *claim* being made against them.

Solely for the purposes of this extension the term “*continuity date*” for each *insured* shall be that date on which such *insured* first served as a director, trustee, governor or equivalent position of the *Outside Entity* at the specific written request or direction of the *company*.

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 to a *discovery period* of 12 months following the effective date of non-renewal:

- (i) provided the *policyholder* cannot renew or replace this policy with or cannot purchase, effect or otherwise acquire, any other policy affording directors and officers liability or similar liability cover; and
- (ii) upon payment of an additional premium of 75% of the *full annual premium*.

The *insured* shall be entitled to a 60-day *discovery period* at no additional premium if this policy is not renewed by the *insurer* and the *policyholder* cannot renew or replace this policy with or cannot purchase any other policy affording *directors* and *officers* liability. If the *policyholder* elects to purchase a *discovery period*, this 60-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 30 days of the termination date of the policy and must tender the additional premium within 60 days of the termination date. The additional premium is not refundable and the *discovery period* is not cancellable.

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 60 days of the end of the *policy period* to request an offer from the *insurer* of a *discovery period* of up to 84 months. The *insurer* shall have the right but not the duty to offer a *discovery period* with terms, conditions and premium as the *insurer* may reasonably decide.

No *discovery period* of any length is available in the event of this policy being cancelled by the *insurer* due to the non payment of premium or pursuant to articles 6(c), 7(a), or 18(a) of the Insurance Contract law 5741-1981.



4.5 **Retired Directors or Officers**

If the *policyholder* cannot renew or replace this policy with any other policy affording directors and officers liability or similar liability cover and a *discovery period* is not elected under Extension 4.4 above, a *discovery period* of 12 months after the date of such non-renewal will be provided under this policy during which time written notice may be given to the *insurer* of any *claim* first made against any *director or officer* of the *company* who retired before the date of non-renewal and which *claim* is otherwise covered by this policy. This extension is not available in the event of a *transaction*.

4.6 **Heirs, Estates and Legal Representatives**

If an *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 *insured* for any *wrongful act* of such *insured*.

5. General provisions

5.1 **Representation and severability**

In granting cover to any one *insured*, the *insurer* has relied upon the proposal form, and all statements and particulars therein or incorporated therein, together with any attachments, the company's financial statements and other information supplied or requested (if, this policy is a renewal of a previous policy(ies) issued by the *insurer*, then, regarding this policy, the *insurer* is also relying upon all applications, attachments, etc. for such previous policy(ies) issued by the *insurer*). These statements, particulars, attachments and information are the basis of cover and shall be considered incorporated into and constituting part of this policy.

With respect to statements and particulars in the proposal, no statements made or knowledge possessed by any *director or officer* of the *company*) (other than knowledge or information possessed by the person(s) executing the application) shall be imputed to any other *director or officer* to determine whether cover is available for any *claim* made against such other *director or officer*. For the avoidance of doubt, statements made or knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer or general counsel (or equivalent position) of the *company* shall be imputed to the *company*.

5.2 **Changes in Risk During Policy Period**

- (i) If during the *policy period* a *transaction* takes place, then the cover provided under this policy 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 *company* 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 *company* 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.

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 part of *loss* and are subject to the total aggregate limit of liability for *loss*.

Notwithstanding the above, it is agreed that in the event of a *loss*, including *defence costs*, exceeding the total aggregate limit of liability for *loss*, then this policy shall cover reasonable *defence costs* exceeding the total aggregate limit of liability for *loss*, in accordance with article 66 of the Insurance Contract Law, 5741-1981.

In case where the policy specifically applies to jurisdictions other than the State of Israel, then with respect to *claims* filed against the *insured* outside the jurisdiction of the State of Israel, the reasonability of the *defence costs* exceeding the total aggregate limit of liability will be measured based on reasonable *defence costs* in Israel in accordance with Israeli standards.

To avoid any doubt, coverage under the Extensions detailed in this Policy is subject to the limit of liability, and shall not apply in excess thereto, unless specifically stated otherwise. In respect of each Extension which covers the *insured's* legal liability, and which is subject to a sub-limit of liability, the *insurer* shall indemnify the *insured's defence costs* even in excess of the sub-limit of liability under the Extension.

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 with regard to all *loss* under all insurance covers under this policy for which the *company* has indemnified or is permitted or required to indemnify the *insured*.

It is agreed that the *company* will be conclusively deemed to have indemnified the *insured* to the maximum extent that the *company* is permitted or required to grant such indemnification pursuant to law, common or statutory, or contract, or by the charter or by-laws or the Articles of Association of the *company*, which are hereby deemed to incorporate, for the purposes of this policy, the broadest of the law which determines or defines such rights of indemnity.

The retention amount is to be borne by the *company* and shall remain uninsured. A single retention amount shall apply to *loss* arising from all *claims* alleging a *single wrongful act*.

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 535, Petach Tikva 4910001 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 *company* or the *insured* shall 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*.

In case of violation of the notification duty by the *company* or the *insured* to timely notify the insurer of any *claim* in accordance with Section 22 of the Insurance Contract Law – 1981, the remedies available to the *insurer* shall in accordance with the provisions of Sections 24-25 of the Insurance Contract Law – 1981.

- (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 *company* 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* or the *company* defence costs, which have been approved in advance by the *insurer*, under all insurance covers under this policy before the final disposition of the *claim*. In case such approval has not been obtained in advance, the *insurer* will be liable only for reasonable defence costs. Payments of defence costs shall not be unreasonably withheld or unduly delayed.

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

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

5.7 **How Defence Will Be Conducted**

The *insured* shall have the right and duty to defend and contest any *claim*. The *insurer* shall have the right to effectively associate with the *insured* and the *company* 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 *insurer* will act in coordination and cooperation with the *insured* and take reasonable measures not to prejudice the *insured's* reputation or cause him any damage.

The *insured* shall not admit or assume any liability, enter into any settlement agreement or stipulate to any judgement without the prior written consent of the *insurer*.

Only those settlements and stipulated judgements, 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 *company* and the *insured* shall give the *insurer* full co-operation and all information as it may reasonably require. 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 *company* shall be required to contest any legal proceedings unless a senior lawyer with relevant expertise (to be mutually agreed by the *policyholder* and the *insurer*) shall advise that the proceedings should be contested. The cost of the said senior lawyer shall be borne by the *insurer*.

5.8 Allocation

(i) **The *insurer* has no obligation under this policy for *defence costs* incurred by the *company*, or any judgments rendered against or settlements by the *company*, or any obligation to pay *loss* arising out of any legal liability that the *company* 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 *company* and any *insured*,

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

(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 *company*, 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.

5.9 Cancellation Clause

This policy may be cancelled by the *policyholder* at any time only by mailing written prior notice to the *insurer*. 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.



However, in case of cancellation by the *insurer* due to non-payment of premium, if the *policyholder* does not pay the outstanding premium within 15 days following receipt of the *insurer's* written notice, the *insurer* may notify the *policyholder* in writing that the policy will be cancelled after 21 additional days, unless payment is made within such period.

In case of cancellation by the *insurer* or by the *policyholder*, 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 to the effectiveness of cancellation but such payment shall be made as soon as practicable.

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 *company's* and the *insured's* rights of recovery in respect of the payment, and the *company* 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 *company* and/or the *insured*.

5.11 *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*.

5.12 *Assignment*

This policy and any rights hereunder cannot be assigned without written consent of the *insurer*.

5.13 *Jurisdiction, Scope and Governing Law*

Unless otherwise stated in the schedule and where legally permissible, this policy shall apply to any *claim* made against any *insured* anywhere in the world.

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 and in accordance with the English text as it appears in this policy.

The parties agree to submit to the exclusive jurisdiction of the courts in the State of Israel.

5.14 *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.