

Migdal CorporateGuard for Directors & Officers 2008

POLICY NUMBER:

CorporateGuard for Directors & Officers 2008

Schedule

Policy Number:

Item 1. Policyholder:

Address:

Item 2. Policy Period From:
To:

Item 3. Limit Of Liability Total aggregate for all *loss*, arising out of all *claims* made against all *insureds* under all insurance covers combined (including *defence costs* as provided in 5.3 Limit of Liability):

Item 4. Retention Insurance cover A : NIL
Insurance cover B and indemnifiable *loss* : (including in respect of expenses)
As specified in 5.4 Retention, only one retention shall be applied for *loss* arising from any *claim* or *claims* alleging a *single wrongful act*.

Item 5. Premium Net Premium payable:
Total premium payable:

Item 6. Continuity Dates (i) Pending & prior litigation:
(ii) Pollution *claims*:

Item 7. New Subsidiary

Item 8. Major Shareholder Exclusion

Item 9. Jurisdiction

Item 10. Retroactive Date

Item 11. Additional conditions

SIGNED FOR AND ON BEHALF OF THE INSURER _____

DATE: _____

Migdal CorporateGuard for Directors & Officers 2008

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* committed after 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*.

In addition, the *insurer* shall indemnify the *insured* for reasonable defense costs due to the *insured* liability, in addition to the limits of liability in respect of any one occurrence and/or in the aggregate for the *policy period*.

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* 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*.

In addition, the *insurer* shall indemnify the *insured* for reasonable defense costs due to the *insured* liability, in addition to the limits of liability in respect of any one occurrence and/or in the aggregate for the *policy period*.

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

2. Definitions

2.1 *Associated Company* means any company:

- (i) of which the *policyholder* owns at the inception of the *policy period* more than 20 per cent but less than 50 per cent of the issued and outstanding voting shares either directly or indirectly through one or more of its *subsidiaries*; and
- (ii) does not have a listing of any of its *securities* on any exchange in the United States of America or Canada; and
- (iii) is not incorporated in the United States of America or Canada.

2.2 *Claim* means:

- (i) any suit or proceeding brought by any person or organisation against an *insured* for monetary damages or other relief, including non-pecuniary relief; except as stated in exclusion 3.3 hereinafter
- (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 prosecution brought against an *insured*;
- (iv) any administrative or regulatory proceeding or official investigation regarding any specified *wrongful act* of an *insured*;

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*, 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 6 of the Schedule. The pending and prior litigation *continuity date* shall be the date from which the *policyholder* has maintained uninterrupted cover with the *insurer*, or with any other insurer if the initial proposal form submitted to such insurer is provided to and accepted by the *insurer* at the inception of this policy, or such other date(s) as agreed with the *insurer*.
- 2.5** *Defence costs* means reasonable and necessary fees, costs and expenses incurred (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 all natural persons who were, now are or shall be duly appointed or elected as a director, president, general manager, chief executive officer, managing director, deputy general manager, vice general manager, internal legal advisor, comptroller, internal auditor or company secretary of the *company*, and any other manager who is directly subject to the authority of 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 mean all natural persons who were, now are, or shall be construed to be directors and/or officers of the *company* within the meaning of the 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*.

- 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 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; or sexual harassment, provided that this policy shall not cover any *insured* against a *claim* for sexual harassment in case such *claim* was settled or in case it is 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 in case the *insured* failed to take all the measures stipulated in the Law of Prevention of Sexual Harassment - 1998;

- 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 Migdal 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, financial sanction, ransom, 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 as per matters which may be considered uninsurable in accordance with the companies law 1999 . 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*.
- 2.13** *Not-for-profit entity* means an entity registered in the Not For Profit Registrar according to the Israeli Not For Profit Entity Law, 1980, 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.
- 2.17** *Pollutants* include (but are not limited to) any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, 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 prior to the policy period specified in Item 10 of the schedule
- 2.18** *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.
- 2.19** *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.

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

1. controls the composition of the board of directors; or
2. controls 50% or more of the voting power; or
3. Holds 50% or more of the issued share capital.

Cover for any *claim* against any of the *directors and 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*.

2.21 *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 more than 50 per cent of the rights to vote at general meetings of the *company* or control the appointment of *directors* who are able to exercise a majority of the votes at Board meetings of the *company*; or
- (iii) the *policyholder* becomes a subsidiary of another entity or becomes controlled by another entity; or
- (iv) the insolvency, receivership, bankruptcy or liquidation of the *policyholder*.

2.22 *Wrongful act* means any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission, breach of warranty of authority 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:

1. the gaining in fact of any personal profit or advantage to which the *Insured* was not legally entitled;
2. profits in fact made from the purchase or sale by the *insured* of *securities* of the *company* 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;
3. 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 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 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 shareholder 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 or administrative receiver 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*.
- 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*.
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 pollution *continuity date* specified in Item 6 (ii) of the Schedule, 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 program, 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 of any entity other than the *company*, or by reason of the *insured's* status as a director or officer of 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 shall not be excluded with respect to an *employment practice claim*.

- 3.9 which is brought by or on behalf of, whether directly or derivatively, any individual or entity that owns or controls (whether beneficially, directly or indirectly), issued and outstanding voting share capital of the *company* at the rate specified in Item 8 of the Schedule or more.
- 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 based upon or attributable to the actual or intended private placement or public offering of any *securities* of the *company*.
However, in the event of any private placement or public offering the *insurer* may consider in its sole discretion the removal of this exclusion, but consideration of such removal is subject to receipt from the *company* and written acceptance by the *insurer* of:
- (i) a written declaration signed and dated by the Chairman or Chief Executive Officer stating that the offering is not in contravention of the Articles of Association, Constitution, laws or bye-laws of the *company* and that after enquiry to the best of his knowledge and belief he is not aware of any circumstance which could give rise to a *claim* against any *insured* or the *company*; and
 - (ii) a copy of all filings and/or documents which have been or are presented to any relevant authority and/or the existing and/or prospective shareholders or stockholders of the *company*; and
 - (iii) such additional premium together with agreement to any revised terms, conditions and/or exclusions as may be required by the *insurer*.
- 3.12 arising out of, based upon, attributable to or in any way involving, directly or indirectly;
- (i) asbestos or any asbestos related injury or damage; or
 - (ii) any alleged act, error, omission or duty involving asbestos, including its use, exposure, presence, existence, detection, removal, elimination or avoidance; or
 - (iii) the use, exposure, presence, existence, detection, removal, elimination or avoidance of asbestos in any environment, building or structure.
- 3.13 arising out of, based upon, attributable to or in any way involving, directly or indirectly, war, invasion, act of foreign enemy, hostilities or warlike operations (whether war has been declared or not), civil war, mutiny, rebellion, revolution, insurrection, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power, martial law, riot, act of *terrorism* or the act of any lawfully constituted authority, confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
Terrorism shall mean the use of violence for political ends and shall include any use of violence for the purpose of putting the public or any section of the public in fear. The exclusion of *terrorism* shall only apply in case of issuance of a certificate of the Israeli Police or the Director of the Property Tax and Compensation Fund or the Ministry of Defence, confirming that an act of terrorism occurred.
- 3.14 arising out of, based upon or attributable to nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled or resulting from any act or condition incidental to any of the foregoing, directly or indirectly.

4. Extensions

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

4.1 *Expenses due to Investigations and Examinations*

This policy shall provide cover for any reasonable and necessary fees, costs and expenses resulting from any legally required attendance by any *director* or *officer* of the *company* at any official investigation, examination, inquiry or other similar proceeding in relation to the affairs of the *company*.

If the *director* or *officer* of the *company* 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.

4.2 *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) is not incorporated in the United States of America or Canada; and
- (iii) Does not have a listing of any of its *securities* on any exchange or market in the United States of America or Canada.

If a newly acquired or created *subsidiary* fails to meet any one of the conditions (i), (ii) and (iii) 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 to reflect the increase in exposure.

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, officer, trustee, governor or equivalent position, in any *outside entity* for any *wrongful act* in such *insured's* capacity as a director, officer, 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*. If the other insurance is provided by the *insurer* (or would be provided except for the application of the retention amount or the exhaustion of the limit of liability), then the total aggregate limit of liability for all *loss* covered by virtue of this extension shall be reduced by the limit of liability specified in the schedule of the other insurance provided to 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 shareholder 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*;
- (iv) any *claim* brought or maintained by a liquidator, receiver or administrative receiver derivatively 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*.

4.4 *Discovery Period*

If the *insurer* refuses 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 100% of the *full annual premium*.

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 a *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 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 due to the non payment of premium.

4.5 *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*.

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 *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*.

5. General provisions

5.1 Representation

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.

5.2 Changes 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 5.4 is considered made during the *policy period* or *discovery period* shall also be subject to the same total aggregate limit of liability.

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 provisions 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.

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 Financial Lines Claims, Migdal Insurance Company Ltd., 3 Hayezira st.

Petach-Tikva, 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, 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 *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 *How defence will be conducted*

5.6.1 The **insured** and/or anyone acting on behalf of the **insured** are prohibited from making any admission, offer, promise, guarantee or compensation of any type in connection with liability or damage covered under this policy, without receiving the prior written agreement of the **insurer**.

The provisions of this clause do not apply to providing the facts of the **insured** event to the police or to any other legally authorised entity on demand as well as to the provision of testimony in a criminal trial.

5.6.2 If the **insurer** accepts liability under the policy, it is entitled, and at the demand of the third party is liable to pay indemnity to the third party that the **insurer** is liable to pay to the **insured**, provided that notice to this effect is sent to the **insured** 30 days in advance and provided that the **insured** does not raise any objection during this period. However any allegation that the **insurer** may invoke against the **insured** will also be invoked against the third party.

5.6.3 If the **insurer** accepts liability under the policy, it is entitled at its discretion to take over and conduct in the name of the **insured** the defence of any claim or the settlement of any claim as well as to sue and obtain in the name of the **insured** any indemnity, compensation, contribution or damages.

It is agreed that the **insurer** will make its best efforts to cooperate within the **insured** and the company in the framework of conducting the defence, in order

to avoid harming the reputation of the **insured** or causing them damage.

The **insured** must submit to the **insurer** all of the information in their possession and provide any assistance required of them in connection with conducting the defence as stated in this clause.

- 5.6.4 If any dispute arises between the **insurer** and the **insured** regarding the question of whether to defend or oppose any legal proceedings, The **insured** allowed to apply to a senior lawyer (whose identity will be mutually agreed upon by the **policyholder** and **the insurer**, and in the absence of agreement – to a lawyer who will be appointed by the head of the Israel Bar Association) who will express his opinion whether to oppose the proceedings. The **insurer** will bear the payment for the said senior lawyer.
- 5.6.5 If the total amount of the claim exceeds the limits of liability of the **insurer**, the **insurer**, the **insured** and the **company** will act in mutual cooperation, and without derogating from the generality of the aforementioned, the **insured** will be given the right to participate in conducting the defence.
- 5.6.6 If the **insured** refuses unreasonably and/or in bad faith to settle the claim including in the framework of a compromise settlement agreed upon by the **insurer**, the liability of the **insurer** will be limited to the amount that the **insurer** would have paid were it not for the refusal of the **insured** to the said compromise settlement, plus the legal expenses up to the date on which it would have been possible to settle the claim, provided that the **insurer** notifies the **insured** of the proposed settlement 30 days in advance and the **insured** refuses to approve the settlement.

5.6.7 Hindering clarification of the liability

5.6.7.1 If a duty in accordance with clause 5 above has not been complied with timeously, and its compliance would have enabled the **insurer** to mitigate its liability, the **insurer** is only liable for the indemnity payments it would have been liable to pay if the duty would have been fulfilled; the provisions of this clause will not apply in any of the following cases:

5.6.7.1.1 The duty was not complied with or was delayed for justified reasons;

5.6.7.1.2 The failure to comply or delay did not preclude the **insurer** from clarifying its liability and did not hinder the clarification;

5.6.7.1.3 If the **insured** or the beneficiary acted intentionally to prevent the insurer from clarifying its liability or hindered it, the **insurer** is only liable for the indemnity payments it would have been liable to pay if nothing had been done.

5.7 Advancement of Costs

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

The advance payments by the *insurer* shall be subject to receipt of appropriate guarantees.

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.

5.8 Allocation

(i) The *insurer* will not pay *defence costs* incurred by the *company*, or any judgments rendered against or settlements by the *company*, or any *loss* arising out of any legal liability that the *company* has to the third party claimant. with respect to:

(a) *defence costs* jointly incurred by; the *company* and the *insured*

(b) Any joint settlement made by; the *company* and the *insured* and/or

(c) Any adjudicated judgment of joint and several liabilities rendered against

The *company* and any *insured*,

But only as agreed hereinafter:

the *company* and 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*, judgments 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.

If this *policy* shall be cancelled by the *policyholder*, the *insurer* shall retain the part of the premium for the *policy period* until the cancellation date, at a rate of 10% of the annual premium per month or part of it plus 10%.

If the *insurer* shall cancel this *policy*, 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. However, in case of cancellation of this policy by the *Insurer* due to non-payment of premium, then the policy will be cancelled by the *Insurer* in accordance with the provisions of Section 15 of the Insurance Contract Law – 1981.

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*.

The provisions of this clause will not apply if the *insured* event was caused unintentionally by someone who a reasonable *insured* would not claim compensation or indemnity from, due to family or employment relations between them.

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 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 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.