



**Territory: Israel**

**Electronic Products and Services**

**Errors or Omissions and Product Liability Insurance**

**SCHEDULE**

**Policy Number:**

**Named Insured:**

**Address:**

**Scope of Business:**

**Estimated Turn over:**

**Insurance Schedule/Coverage:**

This Insurance applies only to those coverages for which a Limit of Liability is shown.

Each Schedule contains a description of the insurance and the Company's Limit of Liability for each item insured. At the top of each schedule is an Effective date, as if a Schedule has been currently insured.

Conditions concerning premium changes and adjustment for premiums on a declaration basis, if applicable, are explained under the paragraph headed "Declaration Conditions".

Self Insured Retention amounts and Self Insured Retention conditions, if any, are indicated in the Schedule.

**This is a Claims Made Insurance Schedule. It applies only to claims first made against the insured and notified to the company during the Period of Insurance.**



**Limit of Liability:** \$ \_\_\_\_\_ Each Claim including claim expense in excess of the Self-Insured Retention stated below.

\$ \_\_\_\_\_ Annual aggregate for all Claims

**Self Insured Retention:** \$ \_\_\_\_\_ each claim including expenses

**Territorial Limits:**

**Jurisdiction:**

### **INSURING AGREEMENT**

The Named Insured is insured by \_\_\_\_\_ (herein called the **Company**), in consideration of payment of the required premium, in accordance with the attached Schedule of Insurance but only for Coverages specified and subject to the terms, exclusion, limits and conditions contained herein.

**Period of Insurance:**

The terms of this Policy shall not be waived or changed, except by amendment issued to form a part of this Policy.

This Policy shall not be valid unless each Schedule or amendment attached hereto is signed by an authorised employee of the Company.

**Retroactive Date:**



## Premium Statement:

**Annual  
Premium for Period:**

\$\_\_\_\_\_

If the word "adjustable" appears after any premium such premium is subject to the Declaration Conditions of the respective insurance.

**Terms and Conditions:**

Endorsement A: USA/Canada Extension  
Endorsement B: Extended Reported Period

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**Signed for on behalf of the  
Company:**

**Date:**

## Coverage

The Company will indemnify the Insured up to the Limit of Liability for all sums for which the Insured is legally liable to pay in compensation in respect of any **Claim** first made against the Insured and notified to the Company, during the Period of Insurance arising out of:

- 1) Any negligent act, error or omission by or on behalf of the Insured:
  - a. In the performance of or failure to perform **Electronic Data Processing** for others; or
  - b. In the performance of or failure to perform **Other Computer Services**; or
  - c. Resulting in the failure of the **Insured's Software Products** to perform the function or serve the purpose intended after installation, testing and final acceptance by the user; or

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- d. In respect of the failure of the **Insured's Electronic Products** to perform the function or serve the purpose intended after installation, testing and final acceptance by the user.

And

- 2) **Bodily Injury and Property Damage** caused by the **Insured's Product** arising out of an **Occurrence**.

#### **Limit of Liability and Self Insured Retention**

The most the Company will pay in respect of all damages and **Claims Expenses** for each Claim in excess of the Self Insured Retention stated in the Schedule regardless of the number of:

- a. Insured's or
- b. Claims brought or
- c. Persons

Is not to exceed the Limit of Liability stated in the Schedule.

In addition the Insurer will indemnify the Insured in respect of reasonable legal expenses that the Insured had to incur due to his liability, even beyond the limits of liability, specified in the Schedule.

Subject to the above, the most the Company will pay during any one period of twelve (12) consecutive calendar months or portion thereof, beginning with the Effective date of this Insurance for all damages and **Claims Expenses** as a result of all Claims is stated as the annual aggregate Limit of Liability in the Schedule.

If the Company pays any part or all of the Self Insured Retention to settle any Claim or suit, when notified, the Insured agrees to promptly reimburse the Company for such Self Insured Retention paid.

All Claims arising from a single negligent act, error or omission or a series of related negligent acts, errors or omissions shall be deemed to be single Claim.



## Exclusions

This insurance does not apply to any **Claim** or **Claims Expense** arising out of any of the following:

1. Performance Delay meaning

A default by or on behalf of the Insured with respect to the delay in performance or non-completion of any contract or agreement. However, this exclusion does not apply to delay in performance due to negligent act, error or omission by the Insured unless the delay is beyond reasonable time.

2. Cost Guarantees meaning

Cost guarantees, or estimates of probable costs or cost estimates being exceeded or fines for late delivery resulting from the Insured fail to meet deadlines.

3. Assumed Liability meaning

Any liability assumed by the Insured under any contract or agreement (included any express or implied warranty or guarantee) but this exclusion does not apply to liability that the Insured would have in the absence of such Contract or Agreement.

4. Intentional Acts or Intentional Omissions meaning

Any intentional, dishonest, malicious, criminal or deliberate illegal act by the Insured or his employees including but not limited to breach of trust, theft or misappropriation.

5. Acts Errors or Omissions of a Dishonest Nature meaning

Dishonest, fraudulent, criminal or malicious acts, errors or omissions of the Insured; whether acting alone or in collusion with others.

6. Product Recall meaning

Costs, expenses and damages arising under Section 1 of this Insurance in respect of the repair, reconditioning, replacement, making good or recall of **Insured's Software Products** or the **Insured's Electronic Products** or of any inadequate or defective workmanship performed by or on behalf of the Insured.

7. Electric Power Supply Change meaning

Any change in electric power supply, including power interruption or surge, brownout (i.e. the reduction in power supply due to drop in voltage) or blackout (i.e. the total interruption of electric supply).

8. Wear and Tear meaning

Wear and tear, or gradual deterioration.

9. Security Breach meaning

Failure or lack of the **Insured's Software Products** or the **Insured's Electronics Products** to prevent unauthorised access to or use of an electronic system or program.

10. War, Terrorism, Nuclear and **Government Action** as defined in Glossary

11. Circumstances prior to the Retroactive Date meaning

Any negligent act error or omission which commenced before or damage which occurred prior to the Retroactive Date shown in the Schedule.

12. Pollution meaning

Damage, Loss or Injury arising out of the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or irritants, contaminants into or upon land, the atmosphere or any watercourse or body of water.

13. Fines, Penalties, Punitive or Exemplary Damages or any other damage resulting from the multiplication of compensatory damages.

14. Actual or alleged infringement of patent copyright, trademark, service mark, design right, registered design right, passing off, theft or misuse of confidential information or other intellectual property, computer systems or programmes of others.

15. **Personal injury** of advertising injury.

16. Directors, officers or employees of the Insured acting as directors or officers of any company or organisation.

17. Insolvency or bankruptcy of the Insured.



18. Claims arising from the Insured's economic activities, e.g. money, credit, insurance, real estate business, transaction, cash management or consulting services in connection with these activities.
19. Claims arising out of any software which with the insured's knowledge is intended for incorporation into the structure, machinery or controls of any aircraft.
20. Loss of Property, money, papers entrusted to the Insured. This exclusion however, shall not apply to loss of documents.
21. Losses due to software faults when the reason cannot be unequivocally identified being a software fault.



## Glossary

For the purpose of the insurance afforded in this Policy the following definitions are added to the policy Glossary:

1. **Bodily Injury** meaning:

Sickness or disease sustained by any person including death at any time resulting therefrom.

2. **Claim(s)** meaning:

2.1 A judgment, arbitration award or any demand for money or service resulting from actual or alleged negligence or damage.

2.2 Notice given to the Company or any specific event or circumstances that may give rise to a claim or claims, that forms the subject of indemnity by this Policy.

3. **Claims Expenses** meaning:

3.1 Reasonable fees charged by an attorney or legal adviser the Company designated and

3.2 All other reasonable fees, costs and expenses resulting from the investigation, adjustment, defence and appeal of a **Claim**. Such fees, costs and expenses must be incurred by the Company; and attorney or legal advisor the Company designate; or by the Insured with the Company's consent. However, **Claims Expense** does not include salary of the Company's regular employees and overhead expenses of the Company.

4. **Electronic Data Processing** meaning:

Those activities usual to the processing of data or records of others.

5. **Government Action** meaning:

Order of civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire provided that such fire did not originate from any cause excluded in this coverage.



- a. seizure or destruction of property under quarantine or customs regulations
- b. confiscation of property by order of any government or public authority
- c. contraband:
  - (i) illegal or prohibited traffic
  - (ii) goods or merchandise whose importation or possession is forbidden

**6. Insured meaning:**

- a) The Named Insured specified in the schedule (herein: The Named Insured);
- b) Any executive officer, director, stockholder, trustee or member of the board of governors thereof and any employee or volunteer worker of the Name Insured but only while acting within the scope of their duties as such;
- c) Any joint ventures where the Named Insured is engaged in a joint venture that has, by virtue of its share holdings in the joint venture or by any contract has the controlling interest in a joint venture;
- d) Any subsidiary of the Named Insured;
- e) Any customer or principle for whom the Insured is carrying out any work and against whom a claim is brought arising from an Occurrence for which the insured is responsible arising in connection with the carrying out of such work;

Provided that such persons or organisations shall observe, fulfill and be subject to the terms, conditions and limits of this insurance and that the conduct and control of all Claims be vested in the Company.

**7. Insured's Electronic Product(s) meaning:**

Analysis, design or development of an electronic component, system or program including software, firmware or hardware which the Insured or others trading under the Insured's name manufactured, provided, sold, handled or distributed.



**8. Insured's Software Product(s) meaning:**

Non customized computer software which the Insured or others trading under the Insured's name created, manufactured, sold, licensed, handled or distributed provided it is widely available and was sold or supplied for use without the need for specialized installation.

**9. Insured's Products(s) meaning:**

Anything sold, manufactured, supplied, repaired, installed, erected, altered, cleaned or treated by the Insured.

**10. Nuclear meaning:**

- a) Ionising radiations or contaminations by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- b) The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- c) Nuclear weapons material; or

The hazardous properties of nuclear material if such liability arises out of the furnishing by the Insured of services, material, part or equipment in connection with planning, construction, maintenance, operation or use of any Nuclear Facility.

**11. Nuclear Facility meaning:**

- a) any nuclear reactor; or
- b) any equipment or device designed or used for:
  - separating the isotopes of uranium or plutonium, or
  - processing or utilizing fuel, or
  - handling, processing or packaging waste; or
- c) any equipment or devices used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the Insured at such premises where such equipment or device is located, consists of or contains more than 25 grams of plutonium or uranium 233 or combination thereof or more than 250 grams of uranium 235; or

- d) any structure, basin, excavation, premises or place prepared for the storage or disposal of nuclear waste; or
- e) the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

**12. Occurrences(s) meaning:**

An event including continuous or repeated exposure to substantially the same harmful conditions which results in accidental Bodily Injury, Property Damage.

**13. Other Computer Services meaning:**

Computer hardware maintenance for others.

**14. Personal Injury meaning:**

Injury, other than bodily injury, arising out of one or more of the following offences committed in the course of the Insured's business, other than its advertising activities:

- a) false arrest, detention or imprisonment;
- b) malicious prosecution;
- c) wrongful entry into, or eviction of a person from a room, dwelling or premises which the person occupies;
- d) invasion of the right of privacy;
- e) oral or written publication of material which slanders or libels a person or organisation, disparages a person's or organisation's goods, products or services.

**15. Pollutants - meaning:**

Any solid, liquid gaseous or thermal irritant or contaminant including smoke, fumes, acids, alkalis, chemicals, waste, materials to be disposed of, recycled, reconditioned or reclaimed.

**16. Property Damage - meaning:**

Physical injury to or destruction of tangible property including loss of use thereof at any time resulting therefrom.



**17. Self Insured Retention – meaning:**

The amount borne by the Insured in respect of each Claim and Claims Expense before the Company shall become liable to make payment here under.

**18. Subsidiary – meaning:**

Companies in which the Insured, either directly or indirectly, through one or more of its subsidiaries:

- a) controls the composition of the board of directors; or
- b) controls 50% or more of the voting power; or
- c) holds 50% or more of the share capital.

**19. Terrorism – meaning:**

An act including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological, or ethnic purposes or reasons including the intention to influence any government and/or to put the public, or any section of the public, in fear.

**20. War meaning:**

- i. hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack by:
  - (a) any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval or air forces, or;
  - (b) military, naval or air forces, or;
  - (c) any agent of any such government, power, authority or forces;
- ii. insurrection, rebellion, revolution, civil war, usurped power, or any activity of any organisation the objects of which are or include the overthrowing or influencing of any de jure or de facto government by terrorism or by any violent means, or action taken by governmental authority in hindering, combating or defending against such an occurrence;
- iii. any weapon of war employing atomic fission, radioactive force or radioactive material, whether in time of peace or war.



## GENERAL INSURANCE CONDITIONS

### **1. Handling a Claim**

The Company may investigate and settle or defend at its discretion any Claim or suit.

The Company will not defend any suit or pay any Claim and/or Claims Expense after the exhaustion of the applicable Limit of Liability by payment of Claims or Claims Expense.

### **2. Action Against Company**

No action shall lie against the Company unless, as a condition thereto there shall have been full compliance with all of the terms of this insurance, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgement against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.

Any person or organisation or the legal representative thereof who has secured such judgement or written agreement shall thereafter be entitled to recover under this insurance to the extent of the insurance afforded. No person or organisation shall have any right under this insurance to join the Company as a party to any action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

### **3. Subrogation**

The Company shall be subrogated to all the Insured's rights of recovery against any person or organisation before or after any payment under this insurance. The Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

For the purpose of this paragraph, the word "Insured" includes any Insured.

#### **4. Cross Liability**

The company shall not cover claims filed by the Insured under this policy against each other or filed by any party which is directly or indirectly owned, controlled, operated or managed by the Insured, which owns, controls or manages the Insured and/or in which the Insured is a partner, consultant or employee or relative (including spouse).

#### **5. Other Insurance**

If at any time of any Claim there is or but for the existence of this policy would be any other policy if indemnity or insurance in favour of or effected by or on behalf of the Insured applicable to such Claim the Company shall not be liable under this Policy to indemnify the insured in respect of such claim except in so far as concerns any excess beyond the amount which would be payable under other indemnity or insurance had the Policy not been effected, unless otherwise stated by an Israeli Court of Law.

#### **6. Duties / Obligation of the Insured**

Claims will be covered only in case of the information handled by the Insured, is being a secured data, in any reasonable way which is the sufficient way of securing this data.

#### **7. Assignment**

Assignment of interest under this insurance shall not bind the Company without its written consent. If however, the Insured dies, this insurance shall apply to the Insured's legal representative while acting in the scope of his duties as such or to the person having custody of the Insured's property pending appointment and qualification of a legal representative.

#### **8. Misrepresentation and Fraud**

This insurance shall be void subject to the provision of the Insurance Contract Law 5741-1981 if the Insured has willfully concealed or misrepresented any material fact of circumstance or in case of any fraud, attempted fraud or false swearing on this part concerning this insurance or its subject matter, whether before or after loss.



## **9. Due Observance**

The due observance of the terms, provisions and amendments of this Policy by the Insured in so far as they relate to anything to be done or complied with by the Insured and the truth of the statements and answers and information supplied on or in connection with the proposal shall be a condition precedent to any liability of the Company to make any payment under this Policy.

## **10. Material Alteration**

The Insured shall advise the Company in writing, as soon as reasonably possible, of any alteration, which affects the risk insured.

## **11. Cancellation**

This insurance or any coverage included herein may be cancelled at any time by the Company by sending thirty days' notice by registered letter to the Insured at the last known address. The Insured shall be entitled to the return of a proportionate part of the premium corresponding to the unexpired Period of Insurance.

## **12. Dispute Procedure**

Any dispute concerning the interpretation of the terms, conditions, limitations and/or exclusions contained in the Policy is understood and agreed by both the Insured and the Company to be subject to Israeli Law. Each party agrees to submit to the exclusive jurisdiction of any court of competent jurisdiction within Israel and agree to comply with all requirements necessary to give such court jurisdiction.

## **13. When This Insurance Applies**

This insurance applies to Claims first made against the Insured during the Period of Insurance. The Claim must be reported to the Company during the Period of Insurance. A Claim will be deemed to have been made only when suit or brought or written notice of such Claim is received by the Insured. If, during the Period of Insurance, the Insured becomes aware of any circumstances which may later give rise to a Claim, and shall, during the Period of insurance, give the Company written notice, then such written notice will also be considered a Claim hereunder.



#### **14. Claims**

- a. The Insured shall give written notice to the Company of any Claim or proceeding as soon as reasonably practicable after such have come to the knowledge of the Insured or his representative.
- b. The Insured shall not admit liability for or negotiate the settlement of any Claim without the written consent of the Company which shall be entitled to conduct in the name of the Insured the defence or settlement of any Claim or prosecute for its own benefit any Claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim and the Insured shall give all such information and assistance as the Company may require.

#### **15. Adjustment**

If any part of the Premium is calculated on estimates the Insured shall within one month from the expiry of each Period of Insurance furnish such details as the Company may require and the Premium for such period shall be adjusted subject to any Minimum Premium.

#### **16. Batch / Series Clause**

If the defects in products or their parts which caused the damage to several claimants resulted from one batch or series of production, then all such events shall be considered as one occurrence. In this case only one deductible shall apply in respect of all such claims.



## ENDORSEMENT A

### **UNITED STATES OF AMERICA & CANADA - CONDITIONS CLAUSE**

Any Claims made or legal proceeding made within the United States of America and/or Canada and/or territories which come under the jurisdiction of the United States of America and/or Canada including the enforcement by courts of any other country or an judgment originally obtained in any court of the United States of America and/or Canada shall be subject to the following conditions and exclusions:

#### **Conditions:**

- 1) The most the Company will pay in respect of all claims made under this Policy is not to exceed the annual Limits of Liability in the Schedule.
- 2) Any costs and expenses incurred during the investigation, defence and settlements shall be included within the annual aggregate Limit of Liability and self-Insured Retention as specified in the Schedule.

#### **Exclusions:**

This policy shall not apply to:

- 1) Any punitive and/or exemplary damages awarded against the Insured.
- 2) Claims based upon the Employment Retirement Income Security Act of 1974 and any amendment thereto, or any rules or regulations promulgated thereunder.
- 3) Claims arising out of any actual or alleged violations of the Racketeer Influenced and Corrupt Organisation Act 18 USC Section 1961 et seq and any amendment thereto, or any rules and regulations promulgated thereunder.
- 4) Claims arising out of actual or alleged violations of the provisions of the Securities Act of 1933, the Securities Exchange act 1934 or any similar Federal or State law or any common law relating thereto.
- 5) The following regardless of whether or not such coverage was or would have been afforded by the above Policy:



- i. To any liability including defence costs and expenses incurred in Canada or the United States of America, their territories or possessions arising out of the actual, alleged or threatened discharge, dispersal, release or escape or pollutants.
- ii. To any loss, cost or expense incurred in Canada or the United States of America, their territories or possessions arising out of any governmental direction or request that the Insured test for monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditions or reclaimed.

It is the intent to exclude any and all coverage for any Claim, suit, liability, defence costs, expenses and settlement in Canada or the United States of America, their territories or possessions arising directly or indirectly out of pollution whether or not the pollution was sudden, accidental, gradual, intended, expected, unexpected, preventable or not preventable.

- 6) Any Production activity or other activities but sales and marketing.



## **ENDORSEMENT B**

### **Extended Reporting – Period Option**

If, for any reason other than non-payment of premium, the Company cancel or refuse to renew this insurance, the Insured may:

By giving written notice to the Company on or before the effective date of the cancellation or no later than 10 days after the effective date of non-renewal; and

Upon payment of an additional premium of 75% of the annual premium, such premium to be non refundable and paid to the Company within 30 days of the non-renewal

Secure an extended reporting period of 180 days following the effective date of such cancellation or non-renewal, to report Claims which may be made against the Insured. Such Claims shall be deemed to have been made and reported during the Period of Insurance, but only if the act or omission giving rise to the Claim occurred:

During the Period of Insurance; and

Prior to the effective date of cancellation or non-renewal

All other provisions of this insurance, including those relating to the Limit of Liability are unchanged by this provision.