



## CONTENTS

1. Insuring Agreements	1
2. Definitions	5
3. Exclusions	8
4. Claims Conditions	10
5. General Conditions	13

In consideration of the premium once paid in full, the **Underwriters** and the **Named Insured**, on behalf of all **Insureds**, agree as follows:

## SECTION 1: INSURING AGREEMENTS

### 1.1 Insuring Agreement

The **Underwriters** will pay on behalf of the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** for **Civil Liability** arising from:

- a a **Wrongful Act**; or
- b the failure of any **Technology Product** to perform the function or serve the purpose intended after installation or after testing by the **Insured** and arising out of a **Wrongful Act** by the **Insured**.

### 1.2 Automatic Extensions

The following Coverage Extensions are included automatically, provided always that each extension is to be read in conjunction with Section 1.1, and is subject to the **Conditions**, unless otherwise stated.

#### 1.2.1 Contractual Liability

Notwithstanding part (b) of Exclusion 3.5 (Contractual Liability), the **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** for any contractual liability or obligation arising from the following warranties or guarantees made by the **Insured** in writing that:

- a the **Insured** will use reasonable care and skill in the performance of **Technology Products** or **Technology Services**; or
- b the **Technology Products** or **Technology Services** will not infringe upon any **Intellectual Property Rights** insofar as the **Insured** is able to reasonably determine; or

- c the **Technology Products** or **Technology Services** will substantially conform to all material, written specifications.

#### 1.2.2 Compensation for Attendance

The **Underwriters** will indemnify the **Insured** for the reasonable cost of attendance by any **Employee**, director, principal, partner or member of the **Company** at a formal court hearing or formal interview conducted in connection with a **Claim** or **Circumstance** notified to the **Underwriters** in accordance with the **Conditions**, where such attendance is considered by the **Underwriters** to be necessary or beneficial to reduce liability which may result in a payment under this **Policy**, provided that:

- a the **Underwriters** have given prior written consent for such attendance, such consent to be obtained from the **Underwriters** as a condition precedent to any entitlement to indemnity; and
- b at **Underwriters'** option, **Underwriters** may nominate legal advisers to represent the **Insured** instead; and
- c this coverage is subject to a Sublimit of Liability of SGD500,000 in the aggregate unless otherwise specified in Item 5 of the Schedule. This Sublimit is part of and not in addition to the **Limit of Liability**.

This Automatic Extension is not subject to the Excess as set forth in Section 5.2.

#### 1.2.3 Claims Preparation Costs

The **Underwriters** will indemnify the **Insured** for all reasonable and necessary out-of-pocket costs incurred by the **Insured** (however, such costs shall not include any wages, salaries, commissions, fees, charges or other form of remuneration or profit to be repaid, lost or forgone by the **Insured**) at the **Underwriters'** request in the preparation of a defence to a **Claim**.

This coverage is subject to a Sublimit of Liability of SGD25,000 unless otherwise specified in Item 5 of the Schedule.

This Automatic Extension is not subject to the Excess as set forth in Section 5.2.

#### 1.2.4 Continuous Cover

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** arising out of, based upon or attributable to a **Circumstance** which could have been, but was not, notified by the **Insured** under any **Prior Policy** and which is first notified to the **Underwriters** during the **Policy Period**, provided that:

- a the failure by the **Insured** to notify such **Circumstance** under any **Prior Policy** was not fraudulent; and
- b the **Underwriters** have the discretion to apply either the **Conditions** or the terms and conditions of the **Prior Policy** in effect when the **Circumstance** first arose; and
- c the **Insured's** entitlement to indemnity under this **Policy** will be reduced by the extent of any prejudice to the **Underwriters** as a result of the **Insured's** failure to notify such **Circumstance** under any **Prior Policy**;

If the **Prior Policy** is not issued by the **Underwriters**, coverage under this Automatic Extension 1.2.4 is subject to the following conditions:

- i the total annual gross revenue of the **Company** for the immediate prior year is not more than SGD10,000,000; and
- ii the maximum amount payable will be the lesser amount of SGD5,000,000 or the Sublimit of Liability as specified in Item 5 of the Schedule.

#### 1.2.5 Cyber Liability

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** for any **Privacy Wrongful Act** or **Network Security Wrongful Act**.

This coverage is subject to a Sublimit of Liability as specified in Item 5 of the Schedule.

#### 1.2.6 Defamation

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** for any libel, slander or defamation by the **Insured** committed in the conduct of the **Insured's Business**.

#### 1.2.7 Dishonest or Fraudulent Employees

Notwithstanding Exclusion 3.10 (Fraud and Dishonesty), the **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs**

resulting from any **Claim** for any dishonest or fraudulent act or omission committed by any **Employee**, provided that:

- a such conduct has not been knowingly permitted or condoned by any other **Insured** who is un-connected with such **Claim**; and
- b there is no such indemnity for the person(s) who carried out, or was alleged to have carried out, the conduct or condoned the conduct.

#### 1.2.8 Emergency Defence Costs

If it is not reasonably possible for the **Insured** to obtain the **Underwriters'** written consent prior to incurring **Defence Costs** in relation to a covered **Claim**, then the **Underwriters** will waive their requirement for consent, provided that such consent is obtained by the **Insured** within thirty (30) days of the first of such **Defence Costs** being incurred.

This coverage is subject to a Sublimit of Liability of SGD25,000 unless otherwise specified in Item 5 of the Schedule.

#### 1.2.9 Estate Extension

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** made against the:

- a estates, heirs, legal representatives or assigns of a natural person **Insured** who is deceased; or
- b the legal representatives or assigns of a natural person **Insured** who is incompetent, insolvent or bankrupt.

Such indemnity is afforded only to the extent such **Claim**, if made against such **Insured**, would have been covered by this **Policy** in the absence of such **Insured's** death, incompetence, insolvency or bankruptcy.

#### 1.2.10 Extended Reporting Period

If this **Policy** is non-renewed by the **Underwriters** or the **Insured**, the **Insured** shall have the right to:

- a an automatic Extended Reporting Period of sixty (60) days, commencing on the Expiry Date set forth in Item 2B of the Schedule; and
- b purchase an Extended Reporting Period of twelve (12) months, commencing upon the expiration of the automatic Extended Reporting Period.

The **Insured's** right to purchase an Extended

Reporting Period as described in part (b) above shall lapse unless written notice of election to purchase such Extended Reporting Period and the applicable additional premium is received by the **Underwriters** within sixty (60) days after the Expiry Date set forth in Item 2B of the Schedule. The **Insured** shall not have any right to purchase an Extended Reporting Period as described in part (b) above in the event of a Change in Control as described in Section 5.13.

The additional premium for an Extended Reporting Period as described in part (b) above shall be seventy-five percent (75%) of the last annual premium paid to the **Underwriters** for this **Policy**. Such premium shall be fully earned at the inception of such Extended Reporting Period.

During any Extended Reporting Period, the **Insured** may provide the **Underwriters** with notice of any **Claim** first made against an **Insured** during the Extended Reporting Period.

Any Extended Reporting Period provided under this Policy: (a) shall not increase or reinstate any **Limit of Liability**, (b) is non-cancellable; and (c) shall not apply if this **Policy** or its cover has been replaced.

#### 1.2.11 Fair Trading Act

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** under the terms of the Consumer Protection (Fair Trading) Act 2009 (Singapore).

#### 1.2.12 Fee Refund / Contractual Fees

Notwithstanding Exclusion 3.8 (Fees), the **Underwriters** will indemnify the **Insured** for **Unpaid Fees**, provided:

- a the **Insured** satisfies the **Underwriters** that ceasing to pursue recovery of **Unpaid Fees** from the **Insured's** client will prevent a **Claim** by such client, which if made would likely result in covered **Damages** greater than the amount of **Unpaid Fees**; and
- b the **Insured** provides the **Underwriters** a written release from the client who is refusing to pay the **Unpaid Fees**, subject to the **Insured** agreeing not to pursue its claim against the client for the **Unpaid Fees**.

If a **Claim** is subsequently made against the **Insured** following payment by the **Underwriters** of outstanding fees, then any **Damages** and **Defence Costs** resulting from such **Claim** will be

reduced by the amount previously paid by the **Underwriters**.

This coverage is subject to a Sublimit of Liability of SGD100,000 unless otherwise specified in Item 5 of the Schedule.

#### 1.2.13 Intellectual Property

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** for the infringement of **Intellectual Property Rights** by the **Insured**.

#### 1.2.14 Joint Ventures and Partnerships

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** in connection with a Joint Venture or Partnership in which the **Insured** has an economic interest; provided, however, that the **Underwriters** will only be liable for the proportion of any **Damages** and **Defence Costs** corresponding to the **Insured's** economic interest in such Joint Venture or Partnership. No cover is provided to any of the **Insured's** Joint Venture partners or other partners in any Partnership.

For the purposes of this Automatic Extension: (a) "Joint Venture" means a contractual business undertaking between two or more parties for the purpose of co-operating on a single business transaction or economic activity that is subject to joint control; and (b) "Partnership" has the meaning ascribed to it in the Partnership Act 1994 (Singapore).

#### 1.2.15 Licensee Intellectual Property Rights

Notwithstanding Exclusion 3.5 (Contractual Liability), the **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** by a licensee under any warranty of indemnity given by the **Insured** in respect of the **Insured's** ownership or ability to license any **Intellectual Property Rights**.

#### 1.2.16 Loss of Information

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** arising as a consequence of **Information** having been lost, damaged, destroyed, mislaid, distorted or erased by the **Insured**, provided that:

- a the **Information** was entrusted to or deposited with the **Insured** in the ordinary course of the **Insured's Business**; and

- b where **Information** is damaged, destroyed, distorted or erased, the **Insured** shall have made all reasonable attempts to rectify or recreate the **Information**.

#### 1.2.17 Loss Mitigation

- a If the **Named Insured** reasonably determines during the **Policy Period** or any applicable Extended Reporting Period, that urgent action is needed in order to avoid or minimise the risk of a **Claim** for which coverage under this **Policy** would apply, the **Insured** shall be entitled to retain a loss mitigation advisor to provide services in connection with avoiding or minimising such risk.
- b The **Underwriters** shall pay the **Insured** for the reasonable fees, costs and expenses incurred by or on behalf of the **Insured**, with the **Underwriters'** prior written consent (such consent not to be unreasonably withheld or delayed), for such loss mitigation services. This Automatic Extension 1.2.17 shall not cover the **Insured's** own time spent in mitigating any such risk.
- c This coverage is subject to a Sublimit of Liability of SGD250,000 unless otherwise specified in Item 5 of the Schedule.

#### 1.2.18 Marital and Domestic Partner

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** made against any natural person **Insured's** lawful spouse or domestic partner (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) solely by reason of such person's status as the lawful spouse or domestic partner of such **Insured**, or such person's ownership interest in property of such **Insured** which the claimant seeks as recovery under any **Claim**. Accordingly, any amount which a natural person **Insured's** lawful spouse or domestic partner becomes legally obligated to pay by reason of such **Claim** shall be treated as **Damages** and **Defence Costs** which such **Insured** is legally obligated to pay.

#### 1.2.19 Patent Extension

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** for compensation from infringement of a third-party registered patent, provided that this coverage is subject to a Sublimit of Liability

of SGD1,000,000 unless otherwise specified in Item 5 of the Schedule.

#### 1.2.20 Project Delay

Notwithstanding part (d) of Exclusion 3.5 (Contractual Liability), the **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** arising from the delay in the provision of **Technology Products** or **Technology Services**, but only if such delay or failure arises directly from a **Wrongful Act** by the **Insured**.

#### 1.2.21 Public Relations Expenses

The **Underwriters** will reimburse the **Insured** the **Public Relations Expenses** incurred by the **Insured** in connection with a **Public Relations Event**, which first takes place, or is reasonably anticipated to take place, during the **Policy Period** and is reported to the **Underwriters** in accordance with the **Conditions**.

This coverage is subject to a Sublimit of Liability of SGD50,000 unless otherwise specified in Item 5 of the Schedule.

#### 1.2.22 Quasi-Judicial

The **Underwriters** will indemnify the **Insured** for:

- a all orders or determinations of compensation against the **Insured**; and
- b any **Defence Costs**,

in relation to any complaint or investigation against the **Insured**, regarding the **Insured's Business**, by a professional or statutory body which has jurisdiction to investigate and adjudicate in such a situation.

This coverage is subject to a Sublimit of Liability of SGD100,000 unless otherwise specified in Item 5 of the Schedule.

In addition to the applicable Sublimit of Liability, **Defence Costs** are payable under this Automatic Extension in an amount up to SGD100,000 unless otherwise specified in Item 5 of the Schedule.

#### 1.2.23 Technology Product Recall Costs

Notwithstanding Exclusion 3.15 (Recall of Products), the **Underwriters** will indemnify the **Insured** for the costs reasonably incurred in the withdrawal or recalling from use in Singapore any **Technology Products** that have the same defect as a product that has already given rise to a **Claim** or **Circumstance** in respect of which

the **Insured** is entitled to indemnity under this **Policy**.

Provided that:

- a indemnity for such costs shall not exceed SGD500,000 any one **Policy Period** unless otherwise specified in Item 5 of the Schedule; and
- b an Excess of SGD2,500 shall apply to each such withdrawal or recall unless otherwise specified in Item 5 of the Schedule.

#### 1.2.24 Vicarious Liability for Contractors

The **Underwriters** will indemnify the **Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** arising from any act, error or omission committed or omitted by a **Contractor** in providing **Technology Products** or **Technology Services** to others for the purpose of the **Insured's Business**. Cover under this Extension is not available to **Contractors** in respect of their own liability.

#### 1.2.25 Additional Insured

The **Underwriters** will pay on behalf of the **Additional Insured** for the **Damages** and **Defence Costs** resulting from any **Claim** against the **Additional Insured** arising from any act, error or omission committed or alleged to have been committed by the **Insured** in providing the **Technology Products** or **Technology Services** that the **Insured** is contractually obligated to perform for the **Additional Insured**.

## SECTION 2: DEFINITIONS

- 2.1 **"Additional Insured"** means any entity set forth in Item 5 of the Schedule and agreed prior to the **Policy** inception.
- 2.2 **"Aircraft"** means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
- 2.3 **"Circumstance"** means an incident, occurrence, fact, matter, act, error or omission which may give rise to a **Claim** against the **Insured**.
- 2.4 **"Civil Liability"** means a legally enforceable obligation to a third party.
- 2.5 **"Claim"** means any:
  - a written or oral demand for monetary or non-monetary relief made against the **Insured**; or

- b civil, administrative, arbitration or any other adjudicative proceeding, including any cross-claim or counter claim, made against the **Insured** for compensation;

and notified to **Underwriters** in the **Policy Period** or any applicable Extended Reporting Period.

#### 2.6 **"Company"** means:

- a the **Named Insured**; and
- b any **Subsidiary**.

#### 2.7 **"Conditions"** means the terms and conditions of this **Policy**.

#### 2.8 **"Contractor"** means any consultant, sub-contractor, agent or person acting for and on behalf of the **Insured** and in accordance with a written contract.

#### 2.9 **"Damages"** means:

- a damages, settlements, judgments or arbitration awards;
- b pre-judgment or post-judgment interest; and
- c cost or fees awarded in favour of the claimant, which an **Insured** is legally liable to pay to a third-party.

**"Damages"** does not mean wages, salaries, commissions, fees, charges or other form of remuneration or profit to be repaid, lost or forgone by the **Insured** as a result of a **Claim**.

#### 2.10 **"Data Privacy Law"** means the *Personal Data Protection Act 2012* (Singapore) and any other law or regulation governing the collection, use, disclosure, processing, storage or handling of personal data or personal information.

#### 2.11 **"Defence Costs"** means:

the reasonable fees, costs and expense incurred by or on behalf of the **Insured**, with the **Underwriters'** prior written consent, in the investigation, defence, adjustment, settlement or appeal of any **Claim** or **Circumstance** for which the **Insured** is legally liable to pay to a third-party.

**"Defence Costs"** shall not include internal or overhead expenses of the **Insured** or the cost of any **Insured's** time.

#### 2.12 **"Employee"** means any person who was or presently is:

- a under a contract of service or apprenticeship with the **Insured**;

- b** supplied to, hired by or borrowed by the **Insured**; or
  - c** under any work experience or similar scheme with the **Insured**, while employed or engaged by, and under the control of, the **Insured**.
- and shall not include any director, principal, partner or member.
- 2.13** **“Identity Theft”** means the misappropriation of **Personal Information** or any other confidential information under the care, custody or control of the **Insured** which has resulted in the wrongful or fraudulent use of such **Personal Information** or any other confidential information, including, but not limited to, fraudulently emulating the identity of an individual or entity.
- 2.14** **“Information”** means any documents, digitised data, micro-code or information stored in written, machine-readable or any other form but shall not include bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.
- 2.15** **“Insured”** means:
  - a** the **Company**;
  - b** any past, present or future director, executive officer, **Employee**, principal, member or partner of the **Company** but only whilst acting in the conduct of the **Insured’s Business**;
- 2.16** **“Insured’s Business”** means the business and undertakings of the **Insured**, as stated in Item 1C of the Schedule, including any change in the activities undertaken by the **Insured**, provided that the **Insured** has given prior written notice of such activities and has received confirmation of cover from the **Underwriters**.
- 2.17** **“Insured’s Products”** means:
  - a** anything (after it has ceased to be in the possession of or under the control of the **Insured**) manufactured, constructed, erected, assembled, installed, repaired, serviced, grown, treated, sold, supplied or distributed by the **Insured** (including any container other than a vehicle); and
  - b** including, for the avoidance or doubt, buildings constructed or whose construction is supervised or managed by the **Insured**.
- 2.18** **“Intellectual Property Rights”** means any intellectual property right of a third-party and trade secret, except any patents, under the Trade Marks Act 2005, Patents Act 2005, Copyright Act 2006 and/or the Registered Designs Act 2005 (all Singapore).
- 2.19** **“Limit of Liability”** means the amount specified in Item 3A of the Schedule.
- 2.20** **“Malicious Code”** means any unauthorised and either corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, worms, logic bombs, spyware or spiderware.
- 2.21** **“Management Control”** means:
  - a** controlling the composition of the board of directors of an entity;
  - b** controlling more than half of the shareholder or equity voting power of an entity; or
  - c** holding more than half of the issued share or equity capital of an entity.
- 2.22** **“Named Insured”** means the person or entity named in Item 1A of the Schedule.
- 2.23** **“Network”** means any computer hardware, software, firmware, and components thereof, including software and electronic data stored on or within the **Insured’s** network, which are connected through computers, including such networks accessible through the Internet, intranets, extranets or virtual private networks.
- 2.24** **“Network Security”** means the use of hardware, software and firmware, including, without limitation, firewalls, filters, routers, intrusion detection software, antivirus software, automated password management applications and other authentication mechanisms, which are designed to control or restrict the access to a **Network**, or any portion thereof. **“Network Security”** shall also include the use of third-party service providers which provide, or assist in the provisioning, of such hardware, software and firmware.
- 2.25** **“Network Security Wrongful Act”** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by an **Insured**, which results in a breach of the **Insured’s Network Security**, the consequences of which are any of the following:
  - a** unauthorised access to, use of or tampering with a third-party’s **Network**;

- b** the inability of an authorised third-party to gain access to the **Insured's** services;
  - c** denial or disruption of Internet service to a third-party;
  - d** **Identity Theft**;
  - e** the transmission of **Malicious Code**;
  - f** the unauthorised release of a third-party's confidential and proprietary business information; or
  - g** the physical theft of the **Insured's** hardware by a third-party.
- 2.26 "Personal Information"** means:
  - a** information, whether true or not, about a natural person who can be identified: (i) from that information; or (ii) from that information and other information to which the person who holds that information has or is likely to have access; or
  - b** personal information also includes any data or information defined as "personal data" or "personal information" under any **Data Privacy Law**.
- 2.27 "Policy"** means this policy wording, schedule, **Proposal Form** and any endorsements.
- 2.28 "Policy Period"** means the period from the Inception Date shown in Item 2A of the Schedule to the Expiry Date shown in Item 2B of the Schedule, or to any earlier cancellation date.
- 2.29 "Prior Policy"** means any technology liability or professional indemnity insurance policy issued prior to the commencement of the **Policy Period**.
- 2.30 "Privacy Wrongful Act"** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by any **Insured**, which results in:
  - a** the misappropriation, mishandling, loss or disclosure of **Personal Information**;
  - b** a breach or contravention of any **Data Privacy Law**;
  - c** **Identity Theft**; or
  - d** the unauthorised release of a third-party's confidential and proprietary business information.
- 2.31 "Proposal Form"** means the proposal form the **Insured** has completed, and any other underwriting information the **Insured** has provided to the **Underwriters** for this **Policy**.
- 2.32 "Public Relations Event"** means the publication of unfavourable information relating to **Wrongful Acts** which can be reasonably considered to lessen public confidence in the competence, integrity or viability of the **Insured** to conduct the **Insured's Business**.
- 2.33 "Public Relations Expenses"** means the following amounts, when incurred during the pendency of, and in anticipation of, a **Public Relations Event**:
  - a** reasonable amounts for which the **Insured** incurs for those services performed by a public relations firm, crisis management firm or law firm selected by the **Insured** and approved in advance in writing by the **Underwriters**, to minimise potential harm to the **Insured** arising from a **Public Relations Event**, including, without limitation, maintaining and restoring public confidence in the **Insured**, and providing advice to the **Company** or any of its directors, executive officers, partners, members or **Employees**; and
  - b** reasonable amounts for which the **Insured** becomes legally liable for the reasonable and necessary printing, advertising, mailing of materials, or travel by the **Company's** directors, officers, partners or **Employees** in connection with a **Public Relations Event** or the firm rendering services as referenced in (a) above.

**"Public Relations Expenses"** shall not include compensation, fees, benefits or overhead of any **Insured**.
- 2.34 "Retroactive Date"** means the date set forth in Item 6 of the Schedule. If no date is set forth in Item 6 then the Retroactive Date shall be the Inception Date of this Policy.
- 2.35 "Subsidiary"** means any entity of which, prior to the Inception Date set forth in Item 2A of the Schedule, the **Company** has **Management Control**.
- 2.36 "Technology"** means the use of technologies from computing, electronics, telecommunications or any other reasonable platform to process and distribute information in digital and other forms.
- 2.37 "Technology Products"** means **Technology**-related products supplied to others in the ordinary course of the **Insured's Business**, including, but not limited to: electronic equipment or computer hardware, firmware or software developed,

manufactured, distributed, marketed or sold by or for the **Insured**.

**2.38 “Technology Services”** means any **Technology**-related services, advice or work provided by the **Insured** in connection with the **Insured’s Business** and includes, but not limited to: the provision of consulting, training, data processing and data storage, programming, software or firmware development, distribution, outsourcing, telecommunication and data communication services, maintenance or repair or systems analysis or design programmed or provided by the **Insured** in the ordinary course of the **Insured’s Business**.

**2.39 “Underwriters”** means the Underwriter(s) named in Item 13 of the Schedule.

**2.40 “Unpaid Fees”** means any fee that a third-party client is contractually obliged to pay to an **Insured** in return for **Technology Services**, including **Technology Products**, but which the third-party client refuses to pay because it is reasonably dissatisfied with the service provided. **“Unpaid Fees”** does not include any element of profit, mark-up or liability for taxes.

**2.41 “Wrongful Act”** means any act, error or omission committed or omitted by the **Insured** in providing **Technology Products** or **Technology Services** to others for the purpose of the **Insured’s Business**.

## SECTION 3: EXCLUSIONS

The **Underwriters** shall not be liable to make any payment under this **Policy** in respect of any **Claim** or **Circumstance** alleging, arising out of, based upon or attributable to, or in any way involving, directly or indirectly:

### 3.1 Aircraft Products

**Technology Products** or **Technology Services** relating to any **Aircraft** including missiles or spacecraft and any ground support or control equipment used in association with them, and the **Insured’s Technology Products** or **Technology Services** which to the **Insured’s** knowledge are installed in **Aircraft** or used in connection with **Aircraft** or for spare parts for **Aircraft** or tooling used for manufacturing them, including ground handling tools and equipment, training aids, instruction manuals, blueprints, engineering or other data engineering or other advice and **Technology Services** and labour relating to such **Aircraft**.

### 3.2 Asbestos

- a the actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of asbestos; or
- b any direction, request or effort to: (i) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise asbestos; or (ii) respond to or assess the effects of asbestos.

### 3.3 Associates

any **Claim** made by or on behalf of:

- a the **Insured**; or
- b any firm, partnership or entity in which any **Insured** (except an **Employee**) has a financial or executive interest.

provided, however, that this Exclusion shall not apply to any **Claim**:

- i brought by an independent third party; or
- ii brought by any party in the capacity as a client for such **Insured’s Business** and such **Claim** arises solely and directly from an internal client relationship between the **Named Insured** and its **Subsidiary**, joint ventures, associates and any natural person and provided that such a relationship:
  - 1 has been effected and maintained on a commercial arms-length basis; and
  - 2 is evidenced by a formal written agreement setting out the scope **Insured’s Business** to be performed by the **Named Insured** and the relevant fees costs and charges payable for such **Insured’s Business** to be provided to the **Named Insured’s Subsidiary**, joint ventures, associated and any natural person

### 3.4 Bodily Injury and Property Damage

any **Claim** for bodily injury or property damage, with carve-back to cover **Claims** arising from a **Wrongful Act**.

### 3.5 Contractual Liability

any:

- a contractual liability or other obligation assumed by the **Insured**, that goes beyond the duty to use such reasonable skill and care as is ordinarily applied in providing **Technology Products** or **Technology Services**; or

- b** performance warranty (including but not limited to a fitness for purpose warranty) or guarantee; or
- c** penalty clause or liquidated damages clause; or
- d** delay in performing, failing to perform or failing to complete any **Technology Products** or **Technology Services**, unless such delay or failure arises from a breach of professional duty by an **Insured**,

however, this Exclusion shall not apply to the extent that liability would have attached to the **Insured** in the absence of any contract or clause thereof.

Part (b) of this Exclusion shall not apply to Automatic Extension 1.2.1.

Part (d) of this Exclusion shall not apply to Automatic Extension 1.2.20.

This Exclusion shall not apply to Automatic Extension 1.2.15.

### 3.6 Directors and Officers Liability

the **Insured's** duties in acting as a director or officer of any company.

### 3.7 Estimation

the failure by the **Insured** to make an accurate pre-assessment of the costs of the **Insured's Technology Products** or **Technology Service**.

### 3.8 Fees

the refund of professional fees.

This Exclusion shall not apply to Automatic Extension 1.2.12.

### 3.9 Fines and Penalties

- a** taxes, fines or penalties unless insurable by law;
- b** liquidated, punitive, aggravated, multiple, exemplary or other non-compensatory damages unless insurable by law;
- c** the consequences of non-payment; or
- d** any amounts resulting from any **Claim** deemed uninsurable by law;

however, part (a) of this Exclusion shall not apply to any taxes payable under Section 5.14.

### 3.10 Fraud and Dishonesty

- a** any actual or alleged dishonest, fraudulent, criminal or malicious act or omission of any **Insured** or any consultant, sub-contractor, agent or person acting on the **Insured's** behalf; or
- b** any actual or alleged act, error or omission of any **Insured** or any consultant, sub-contractor, agent or person acting on the **Insured's** behalf, committed or alleged to have been committed intentionally or with reckless disregard for the consequences.

Exclusion 3.10 shall apply to Automatic Extension 1.2.7 but only to dishonest or fraudulent acts or omissions occurring after discovery by the **Insured** of reasonable cause for suspicion of any such act or omission.

Exclusion 3.10 shall not apply to any **Insured** who is innocent of committing or condoning any such dishonest or fraudulent act or omission.

### 3.11 Infrastructure

- a** mechanical failure;
- b** electrical failure, including any electrical power interruption, surge, brown out or black out; or
- c** telecommunications or satellite systems failure;

however, this Exclusion shall not apply if such failure arises solely from an act, error or omission committed in the performance of **Technology Services**.

### 3.12 Insolvency / Financial Condition

the insolvency, voluntary administration, receivership, statutory management, liquidation or bankruptcy of any **Insured**.

### 3.13 Prior Claims, Knowledge and Notice

- a** any **Claim** first made, threatened or intimated against the **Insured**;
- b** any **Circumstance** of which the **Insured** is aware, or ought reasonably to have been aware; or
- c** any **Claim, Circumstance** or other matter, referred to in the **Proposal Form** or otherwise, which has been notified, or ought reasonably to have been notified, to any insurance policy,

prior to the Inception Date set forth in Item 2A of the Schedule; provided, however, that this Exclusion shall not apply to Automatic Extension 1.2.4.

### 3.14 Radioactive Contamination

- a loss or destruction of, or damage to, any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss; or
- b any legal liability of whatsoever nature, directly or indirectly caused by or contributed to by or arising from:
  - i ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
  - ii the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

### 3.15 Recall of Products

damages, costs or refunds claimed for the recall, withdrawal, removal, inspection, repair, modification, replacement or loss of use of the **Insured's Products** including **Technology Products**, or of any property of which such products form a part, or work undertaken by or for the **Insured**, if such **Insured's Products** or **Technology Products** property are withdrawn from the market or from use, or such work is required because of any defect or deficiency therein or because of any government or statutory ban, order or notice.

This Exclusion shall not apply to Automatic Extension 1.2.23.

### 3.16 Retroactive Date

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

### 3.17 Terrorism

any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss or any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism; provided, however, that:

- a this Exclusion shall not apply to cyber terrorism;
- b if the **Underwriters** allege that by reason of this Exclusion, any loss, damage, cost or expense is not covered by this **Policy**, the burden of proving the contrary shall be upon the **Insured**; and
- c in the event any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

For the purposes of this Exclusion, an "act of terrorism" means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, committed for political, religious, ideological or similar purposes, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

### 3.18 Trade and Economic Sanctions

any coverage, payment or benefit hereunder to the extent that the providing of such coverage, payment or benefit would expose the **Underwriters** to any sanction, prohibition or restriction under the trade or economic sanctions, laws or regulations of Singapore, the United Kingdom, the European Union or the United States of America or under any United Nations resolutions.

### 3.19 War and Civil War

occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

## SECTION 4: CLAIMS CONDITIONS

### 4.1 Notification

- 4.1.1 As a condition precedent to the right to be indemnified, the **Insured** shall provide the **Underwriters** with written notice as soon as practicable, but no later than the end of the **Policy Period** or any applicable Extended Reporting Period, of any:

- a **Claim** first made against an **Insured** during the **Policy Period** or any applicable Extended Reporting Period;
- b **Circumstance** occurring during the **Policy Period**; or
- c any other matter for which coverage is provided under this **Policy**;

however, in the event the **Insured** first becomes aware of any **Claim** or **Circumstance** or other matter within the last seven (7) days of the **Policy Period**, notice shall be provided as soon as practicable, but in no event later than seven (7) days after the Expiry Date set forth in Item 2B of the Schedule.

- 4.1.2 The notification of such **Claim** or **Circumstance** must include as many particulars as are reasonably available to the **Insured**, including the identity of the claimant or potential claimant, details of the allegations and potential allegations against an **Insured**, identification of the project and services giving rise to the **Claim** or **Circumstance**, the potential quantum involved in the **Claim** and, in the case of a **Circumstance**, the notification must also include the reasons for believing that a **Claim** is likely to be made.
- 4.1.3 If notification of any **Circumstance** is provided to the **Underwriters** in accordance with Sections 4.1.1 and 4.1.2 above, any **Claim** that is subsequently made against an **Insured** alleging, arising out of, based upon or attributable to such **Circumstance**, shall be considered made at the time notice of such **Circumstance** was provided.
- 4.1.4 Any notice to be provided to the **Underwriters** shall be given to the **Underwriters** by recorded delivery to the physical posting address or sent to the e-mail address set forth in the Schedule. Any written notice will be considered effective from the date such notice is first received by the **Underwriters**. All other notices to the **Underwriters** under this Policy shall be given to the postal or e-mail address indicated in the Schedule.

## 4.2 Legal Defence, Settlement and Allocation

- 4.2.1 As a condition precedent to the right to be indemnified under this **Policy**, the **Insured** (and any person, firm, or company acting for or on the **Insured's** behalf) must not incur any **Defence Costs**, admit liability for, compromise, settle or make any offer or payment in respect of any **Claim**, **Circumstance** or other matter for which coverage is provided under this **Policy**

without the **Underwriters'** prior written consent, such consent not to be unreasonably withheld or delayed. However, the **Underwriters'** consent is not required for the **Insured** to settle such **Claim**, **Circumstance** or other matter if the total settlement amount (including **Defence Costs**) is within the applicable Excess, provided that such settlement fully resolves such **Claim**, **Circumstance** or other matter with respect to all **Insureds** and the **Underwriters**.

- 4.2.2 The **Insured** shall defend any **Claim**, or other matter for which coverage is provided under this **Policy**, that is brought against the **Insured**; however, the **Underwriters** shall have the right but not the duty to take over the investigation, defence and settlement of any **Claim** or other matter for which coverage may be provided under this **Policy**, and the **Underwriters** shall have full discretion in the handling thereof (notwithstanding that a dispute may have arisen between the **Insured** and **Underwriters**).
- 4.2.3 The **Insured** shall not be required by the **Underwriters** to contest any legal proceedings unless a Senior Counsel (to be mutually agreed upon by the **Underwriters** and **Insured** and in the absence of such agreement to be determined by the President of the Law Society of Singapore), shall advise that such proceedings can be contested with a reasonable prospect of success. The cost of such advice shall be regarded as part of the **Defence Costs**.
- 4.2.4 If the **Insured** does not agree with a decision by the **Underwriters** to settle a **Claim** or any other matter for which coverage is provided under this **Policy**, the **Insured** can elect to contest the **Claim** or other such matter at its own expense but the liability of the **Underwriters** will not exceed the amount for which the **Claim** or other such matter could have been settled in the opinion of a Senior Counsel (to be mutually agreed upon by the **Insured** and the **Underwriters** and in the absence of such agreement to be determined by the President of the Law Society of Singapore). The **Underwriters** shall pay all **Defence Costs** incurred up to the date the **Insured** notifies the **Underwriters** in writing of its election under this Section 4.2.4, and shall pay the **Insured** (subject to the Excess) the amount for which the **Claim** or other such matter could have been so settled. The **Insured** expressly agrees that the **Underwriters'** liability in respect of such **Claim** or other such matter shall then be at an end.

**4.2.5** This **Policy** shall provide coverage only for covered matters and parties. In the event of a **Claim** or **Circumstance** which involves covered and non-covered matters or covered and non-covered parties, the **Insured** and the **Underwriters** agree to use their best efforts to determine a fair and proper allocation of amounts covered under this **Policy**, taking into account the relative legal and financial exposures of the parties to this **Policy**.

**4.2.6** The **Underwriters** may investigate, negotiate and settle any **Claim**, **Circumstance** or other matter for which coverage is provided under this **Policy**, as they deem expedient; however, the **Underwriters** shall not be obligated to pay any claim or judgment or to defend any suit after the **Limit of Liability** has been exhausted by payment of judgments or settlements; provided that:

- a** in the event that the **Underwriters** have paid the **Limit of Liability** in respect of any judgment or settlement, the **Underwriters'** liability in respect of any further **Defence Costs** shall cease; and
- b** if the amount of compensation the **Insured** is legally required to pay to dispose of a **Claim**, **Circumstance** or other matter for which coverage is provided under this **Policy** exceeds the **Limit of Liability**, the liability of the **Underwriters** to pay **Defence Costs** in connection with such **Claim**, **Circumstance** or other matter shall be limited to the same proportion of the **Defence Costs** as the **Limit of Liability** bears to the total amount of compensation paid to dispose of the **Claim**, **Circumstance** or other matter.

### 4.3 Cooperation

**4.3.1** As a condition precedent to the right to be indemnified under this **Policy**, the **Insured** must provide to the **Underwriters** (or their appointed agent) promptly, and in any event within fourteen (14) days, or if longer period required subject to the consent of the **Underwriters**, of any request made by the **Underwriters** (or their appointed agent), the full details together with any other information requested regarding any matter for which the **Insured** has requested to be indemnified. The **Insured** must also provide such cooperation and assistance as the **Underwriters** (or their legal advisers or appointed agents) may require, including but not limited to:

- a** providing all documentation;
- b** providing detailed comments on any claim document;
- c** providing detailed signed statements of fact;
- d** ensuring access to any and all information;
- e** providing information, assistance and signed statements of fact in respect of any subrogation proceeding commenced by the **Underwriters**; and
- f** providing all other information and assistance, within the time period requested.

**4.3.2** All **Insureds** and all persons, firms and companies acting for or on the **Insured's** behalf shall ensure that all documents, products, appliances, plant or other items that may be relevant to any matter for which coverage may be provided under this **Policy** shall be preserved as far as practicable and shall not be intentionally destroyed or otherwise intentionally disposed of.

### 4.4 Fraudulent Claims

If the **Insured** shall give any notice or make any request in respect of any matter for which coverage may be provided under this **Policy** knowing such notice or request to be false or fraudulent as regards amount or otherwise, this **Policy** shall become void and all entitlements to any indemnity under this **Policy** shall be forfeited.

### 4.5 Subrogation

The **Underwriters** shall be subrogated to all of an **Insured's** rights of recovery against any third-party that may exist before and after any indemnity is provided under this **Policy**. However, the **Underwriters** shall not exercise any such rights against any **Employee** or any director, principal, partner or member of the **Company**, except if the matter for which indemnity is provided under this **Policy** was contributed to, or caused by, a fraudulent, dishonest or malicious act or omission by such person. The **Insured** shall, without charge, provide such assistance as the **Underwriters** require in any subrogation proceeding.

Application of Recoveries:

All recoveries for payments made under any Coverage Section, whether made by the **Underwriters** or the **Insured**, shall be applied net of the expense of such recovery:

- a first, to the **Insured** in satisfaction of the **Insured's** covered loss in excess of the amount paid under that Coverage Section;
- b second, to the **Underwriters** in satisfaction of amounts paid in settlement of the **Insured's** claim;
- c third, to the **Insured** in satisfaction of any Retention; and
- d fourth, to the **Insured** in satisfaction of any loss not covered under a Coverage Section.

Recoveries do not include any recovery for insurance, suretyship, reinsurance, security or indemnity taken for the **Underwriters'** benefit.

#### 4.6 Territorial and Jurisdictional Limits

This **Policy** applies to:

- a **Technology Services** performed, or **Technology Products** supplied, or any other matters which give rise to coverage under the **Policy** which take place, anywhere in the world or as otherwise specified in Item 9 in the Schedule; and
- b **Claims** brought against the **Insured** anywhere in the world or as otherwise specified in Item 10 in the Schedule; and
- c legal proceedings brought against the **Insured** anywhere in the world, or as otherwise specified in Item 10 in the Schedule.

## SECTION 5: GENERAL CONDITIONS

### 5.1 Limits of Liability

- 5.1.1 The **Limit of Liability** is the **Underwriters'** maximum liability under this **Policy**.
- 5.1.2 Any Sublimit of Liability: (i) shall be part of, and not in addition to, the **Limit of Liability**; and (ii) is the maximum liability of the **Underwriters** for all amounts to which the Sublimit of Liability applies.
- 5.1.3 Any payment by the **Underwriters** of **Damages** or other amounts shall reduce and may exhaust the **Limit of Liability**. If such **Limit of Liability** is exhausted by the payment of **Damages** or other amounts under this **Policy**, the **Underwriters** will have no further obligations of any, including any obligation to pay any further **Defence Costs**.
- 5.1.4 The payment of any amounts covered (except **Defence Costs**) shall reduce and may exhaust any applicable Sublimit of Liability of this **Policy**. If any such Sublimit of Liability is exhausted by

the payment of such amounts, the **Underwriters** shall have no further obligations under this **Policy** with respect to any matter to which such Sublimit of Liability applies, including any obligation to pay any further **Defence Costs**.

- 5.1.5 **Defence Costs** are not part of, and are in addition to, the **Limit of Liability** and any Sublimit of Liability. Payment by the **Underwriters** of **Defence Costs** shall not reduce any such **Limit of Liability** or Sublimit of Liability.

### 5.2 Excess

- 5.2.1 The **Underwriters** shall only be liable to pay or reimburse the **Insured** for amounts covered under this **Policy** that exceed the applicable Excess. The Excess shall be borne by the **Insureds** and remain uninsured. The applicable Excess shall apply to each and every **Claim** or other matter giving rise to coverage under this **Policy**. A single Excess amount shall apply to all amounts covered by this **Policy** that arise from all Related Claims as described in Section 5.3.
- 5.2.2 The application of the Excess to any amounts covered shall not reduce the Excess that applies to any amounts covered. If different Excess amounts apply to different parts of a **Claim** or other matter giving rise to coverage under this **Policy**, the applicable Excess amount shall be applied separately to each part of such **Claim** or matter, and the sum of such Excess amounts shall not exceed the largest single Excess amount which applies to such **Claim** or matter.

- 5.2.3 If the **Company** is legally required or permitted to indemnify a natural person **Insured** for any amounts covered by this **Policy**, and does not do so for any reason, the **Underwriters** shall not require payment of the applicable Excess by such **Insured**. However, the **Company** hereby agrees to reimburse the **Underwriters** for the full amount of such Excess immediately upon request, unless the **Company** is unable to do so solely by reason of having becoming insolvent or entering into liquidation or administration.
- 5.2.4 The Excess shall not apply to **Defence Costs** and Section 1.2.2 and Section 1.2.3.

### 5.3 Related Claims

- 5.3.1 All **Claims** arising out of, based upon or attributable to:
  - a the same acts, errors or omissions;
  - b a series of related acts, errors or omissions; or

c the same matter or transaction, shall be considered a single **Claim** for the purposes of this **Policy**.

5.3.2 All such **Claims** shall be considered first made at the earliest time that any such **Claim** is first made against the **Insured**.

#### 5.4 Alteration to Risk

5.4.1 The **Insured** must notify the **Underwriters** in writing as soon as practicable of any material alteration to the risk covered by this **Policy** that occurs during the **Policy Period**, including but not limited to any change in the nature of or cessation of the **Insured's Business**.

5.4.2 Following the receipt of such notice, the **Underwriters** shall have the right to either:

- a exclude coverage for this additional exposure by issuing an endorsement to this **Policy** specifically excluding such exposure; or
- b offer to provide coverage for this additional exposure by issuing a quote to the **Named Insured** for such coverage.

5.4.3 Coverage for any such additional exposure shall be provided by the **Underwriters** only if the **Named Insured**:

- a provides the **Underwriters** with full particulars of the event(s), as requested by the **Underwriters**, that materially alter the risk covered by this **Policy**;
- b accepts in writing the terms, conditions and additional premium required by the **Underwriters** for such coverage; and
- c pays such additional premium when due.

#### 5.5 Authorisation

The **Named Insured** shall act as agent on behalf of all **Insureds** with respect to all matters under this **Policy**, including: (a) the giving and receiving of all correspondence regarding this **Policy**; (b) the giving of notice of any **Claim, Circumstance** or other matter; (c) giving and receiving notice of cancellation; (d) the payment of the premium; and (e) the receiving and accepting any endorsements issued to form a part of this **Policy**.

#### 5.6 Changes

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the **Underwriters** will not effect a waiver or

change in any part of this **Policy** or stop the **Underwriters** from asserting any right under the **Conditions**. The **Conditions** can be waived or changed only by written endorsement issued by the **Underwriters**.

#### 5.7 Confidentiality

The **Insured** shall not disclose to any third party the terms, conditions, exclusions, or **Limits of Liability** or the amount of the premium paid, except to the extent that they are required by law to do so or receive written consent from the **Underwriters** to make such disclosure.

#### 5.8 Third Parties

A person who is not a party to this **Policy** shall have no rights under the Contracts (Rights of Third Parties) Act 2002 (Singapore).

#### 5.9 Underwriters' Rights

In the event that the **Underwriters** are entitled to avoid or repudiate this **Policy** ab initio, the **Underwriters** may instead at their election give written notice to the **Insured** that they regard this **Policy** as of full force and effect, except that the **Policy** shall exclude coverage for any **Claim** or any other matter for which cover is provided under this **Policy**, which has arisen or which may arise and which is related to the circumstances which entitle the **Underwriters** to avoid or repudiate this **Policy**. This **Policy** shall then continue in full force and effect and such applicable exclusion shall be added to this **Policy** by endorsement attached hereto.

#### 5.10 Late Notice, Innocent Non-Disclosure and Material Non-Disclosure

5.10.1 The **Underwriters** shall not exercise their right to avoid this **Policy**, nor will the **Underwriters** reject a request for indemnity, solely on the grounds of non-disclosure in the **Proposal Form** or a breach of the notice provisions set forth in this **Policy**, provided that:

- a the **Insured** shall establish to the **Underwriters'** reasonable satisfaction that such non-disclosure or breach was free of any fraudulent conduct or intent to deceive; and
- b if the **Insured** was aware, prior to the Inception Date set forth in Item 2A of the Schedule, of any **Claim, Circumstance** or any matter for which cover is provided under this **Policy**, then if the indemnity available under this **Policy** is greater or wider in scope

than that which would have been available, if any, to the **Insured** prior to such Inception Date, the **Underwriters** shall only be liable to indemnify the **Insured** for such amount and on such terms as would have been available to the **Insured** prior to such Inception Date, except that nothing in this provision shall entitle the **Insured** to any indemnity wider or more extensive than is otherwise available under this **Policy**, provided, however, that this subparagraph (b) shall not apply to Automatic Extension 1.2.4; and

- c if such non-disclosure or breach has resulted in prejudice to the **Underwriters** in the handling or settlement of any **Claim** or request for indemnity, the indemnity afforded by this **Policy** in respect of such **Claim** or request for indemnity shall be reduced by such sum as would have been payable, in the **Underwriters'** reasonable opinion, by the **Underwriters** in the absence of such prejudice; and
- d no indemnity shall be available for any matter for which the **Insured** fails to provide notice in accordance with the seven (7) day period set forth in Section 4.1.1.

**5.10.2** In consideration of the **Underwriters** waiving their right to avoid this **Policy** in accordance with Section 5.10.1 above, and in the event of a material non-disclosure in the **Proposal Form**, the **Underwriters** shall be entitled in their sole discretion: (a) to determine the amount of any additional premium to be paid by the **Insured**; and (b) to charge such additional premium to the **Insured**.

## 5.11 New Subsidiaries

**5.11.1** The term **Subsidiary** shall automatically include any entity of which the **Named Insured** first has **Management Control** ("Controlled Entity") during the **Policy Period**, either directly or indirectly through one or more other Controlled Entities, as long as:

- a such acquired entity is not formed as a partnership; and
- b such acquired entity's total revenue is less than thirty-five percent (35%) of the consolidated revenue of the **Named Insured** at the Inception Date set forth in Item 2A of the Schedule;

provided, however, that the **Insured** gives written notice to the **Underwriters** of such acquired entity prior to the end of the **Policy Period**.

**5.11.2** Any entity acquired during the **Policy Period** by the **Named Insured**, other than any entity described in Section 5.11.1 above, shall automatically be covered for a period of ninety (90) days from the effective date of the acquisition, but only in respect of acts, events or matters actually or allegedly committed or occurring after such date. The **Underwriters** may extend such coverage beyond ninety (90) days if the **Named Insured** submits a written request to the **Underwriters** within ninety (90) days from the effective date of the acquisition with full details regarding such entity. This extension of coverage is conditioned upon the **Insured** paying when due any additional premium required by the **Underwriters** and accepting any amended terms and conditions of this **Policy**.

**5.11.3** Coverage afforded under this **Policy** for any acts, events or matters relating to a **Subsidiary**, or any natural person insured thereof, shall only apply to acts, events or matters actually or allegedly committed or occurring during the time such entity is a **Subsidiary**.

## 5.12 Other Insurance

This **Policy** shall apply only in excess of any other valid and collectable insurance, whether or not such insurance is collected, unless such insurance is specifically stated to be in excess of this **Policy**. If such other valid and collectable insurance provided by any Network Security Liability Policy or Cyber-liability Policy is provided by the **Underwriters**, the Cyber Liability Automatic Extension under Section 1.2.5 will be deleted and will have no effect. The **Insured** must advise the **Underwriters** of the other insurance policy(ies) at the time of making the claim under the **Policy** and provide the **Underwriters** with details of the other insurance(s).

## 5.13 Change in Control

**5.13.1** In the event the **Named Insured** is sold or is involved in a merger with, or acquisition by, another entity such that the **Named Insured** is not the surviving entity and no longer:

- a controls the composition of its board of directors, management committee, partnership executives, partnership board or similar governing body;
- b controls more than half its voting power; or
- c holds more than half of its issued share capital,

then this **Policy** shall continue in full force and effect as to any acts, events or matters covered by this **Policy** that occur prior to the effective date of such transaction; however, there shall be no coverage afforded by this **Policy** for any acts, events or matters covered by this **Policy** occurring after the effective date of such transaction.

**5.13.2** The **Named Insured** shall give the **Underwriters** written notice of such transaction as soon as practicable, but no later than thirty (30) days after the effective date of such transaction.

#### **5.14 GST**

Where the **Insured** is liable to pay tax under the Goods & Services Act 2005 (Singapore) (or any statutory amendment or re-enactment of the section or Act) upon receiving any indemnity payment under this **Policy**, the **Underwriters** will indemnify the **Insured** for the costs of that tax. The indemnity under this Section 5.14 is payable by the **Underwriters** in addition to the **Limit of Liability**.

#### **5.15 Cancellation**

**5.15.1** The **Insured** may cancel this **Policy** at any time by giving the **Underwriters** written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. In such event, the **Underwriters** shall retain the short rate proportion of the premium herein. The **Underwriters** will release any such premium to the **Insured** after receipt of a No Claims Declaration from the **Insured**.

**5.15.2** The **Underwriters** shall have the right to cancel this **Policy** should the **Named Insured** become insolvent or enter liquidation or administration. If such an event occurs, the **Underwriters** shall provide the **Named Insured** with thirty (30) days prior written notice of such cancellation. In the event that prior to the effective date of such cancellation the **Insured** has not provided notice to the **Underwriters** of any **Claim** or **Circumstance** or any other matter for which coverage may be provided by this **Policy**, the **Underwriters** shall return a pro rata portion of the premium to the **Insured**. However, if such notice has been provided, the premium shall be deemed fully earned as of the Inception Date set forth in Item 2A of the Schedule.

**5.15.3** The **Underwriters** shall have the right to cancel this **Policy** if the premium has not been paid by the **Insured** within sixty (60) days after the Inception Date set forth in Item 2A of the Schedule. In the event of such non-payment, the **Underwriters** may cancel this **Policy** as if it had never been in existence and shall provide the **Named Insured** with not less than ten (10) days prior written notice of such cancellation. In the event of such cancellation, the **Policy** will be deemed terminated as of the date indicated in the **Underwriters'** written notice of cancellation to the **Named Insured**.

**5.15.4** Any notice provided to the **Named Insured** under this Section 5.15 shall be delivered or posted to the **Named Insured** at the address set forth in Item 1B of the Schedule. The posting of such notice as aforesaid shall be sufficient proof of notice.

#### **5.16 Governing Law and Jurisdiction**

This **Policy** and any issue, including all and any disputes, relating to its formation, construction, validity or operation shall be determined by the laws of Singapore whose Courts shall have exclusive jurisdiction to hear any dispute.

#### **5.17 Assignment**

This **Policy** and any and all rights hereunder are not assignable without the prior written consent of the **Underwriters**.

#### **5.18 Entire Agreement**

The **Insured** agrees that this **Policy**, including the Schedule, the **Proposal Form** and any endorsements, constitutes the entire agreement between them and the **Underwriters** or any of their agents relating to this insurance.

#### **5.19 Address for Service**

Delta Underwriting Private Limited, as agent for and on behalf of certain Underwriters at Lloyd's, will accept notification of any **Claim**, **Circumstance** or any other matter for which cover may be provided by this **Policy** upon presentation to the address set forth in the Schedule.

## 5.20 Complaints Procedure

**5.20.1** Any enquiry or complaint relating to this **Policy** should be referred to Delta Underwriting Private Limited in the first instance.

If this does not resolve the matter or the Insured is not satisfied with the way the complaint has been dealt with, the Insured should write to:

Lloyd's of London (Asia) Pte Ltd  
138 Market Street  
CapitaGreen  
#05-01  
Singapore 048946

## 5.21 Service of Suit

It is hereby agreed that:

1. This insurance shall be governed by the law of Singapore whose Courts shall have jurisdiction in any dispute arising hereunder; and
2. Any summons, notice or process to be served upon the **Underwriters** for the purpose of instituting any legal proceedings against them

in connection with this insurance may be served upon Bruce Ford (Senior Vice President) of Allied World Syndicate Services Pte Ltd, 138 Market Street, CapitaGreen, #05-02, Singapore 048946, who have authority to accept service on their behalf.

## 5.22 Headings

The descriptions in the headings and any subheadings of this **Policy** (including any titles given to any endorsements attached hereto) are inserted solely for convenience and do not constitute any part of the **Conditions**.

## 5.23 Inspection of Property

The **Underwriters** shall be permitted but not obligated to inspect the **Insured's** property and operations at any time. Neither the **Underwriters'** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of, or for the benefit of, the **Insured**, or others, to determine or warrant that such property or operations are safe.