

HDFC ERGO Professional Indemnity Policy

Manufacturing Endorsement Wording

I. The Policy is amended as follows:

1. The following Coverage Extensions are added to Section 2. Extensions of Cover:

2.8 Defamation

The **Insurer** shall indemnify the **Insured** for **Financial Loss** resulting directly from a **Claim** first made against the **Insured** during the **Period of Insurance** or the **Extended Reporting Period**, if applicable, based upon libel, slander, offence or injurious falsehood committed unintentionally by an **Insured** on or after the **Retroactive Date** and prior to the end of the **Period of Insurance** within the provision of **Professional Services**.

The cover provided under this Extension shall be subject to both the applicable **Sub-Limit of Liability** and **Retention** specified in the Schedule.

2.9 Technology Services

The **Insurer** shall indemnify the **Insureds** for **Financial Loss** resulting directly from a **Claim** first made against the **Insured** during the **Period of Insurance** or the **Extended Reporting Period**, if applicable, based upon a **Wrongful Technology Act** taking place on or after the **Retroactive Date** and prior to the end of the **Period of Insurance**.

The cover provided under this Extension shall be subject to both the applicable **Sub-Limit of Liability** and **Retention** specified in the Schedule.

2. Section 4. Definitions is amended as follows:

A. The definition of **Third-Party Client** is replaced with the following:

4.46 Third-Party Client

Third-Party Client means collectively a **Client** and **Customer**.

B. The definition of **Wrongful Professional Act** is replaced with the following:

4.49 Wrongful Professional Act

Wrongful Professional Act means:

4.49.1 any act, error, omission, misrepresentation, misstatement, misleading statement, neglect, or breach of duty;

4.49.2 a **Wrongful Security Act**; or

4.49.3 a **Wrongful Privacy Act**

actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible in connection with rendering or failure to render **Contract Manufacturing Services** to a **Client**;

4.49.4 a design or manufacturing error or omission actually or allegedly committed by an **Insured**, or by someone for whom the **Insured** is legally responsible that results in the failure of **Manufactured Products** to perform the function or serve the purpose intended by the **Insured**.

C. The following definitions are added:

Client

Client means a third party who procures **Contract Manufacturing Services** from the **Company** pursuant to a written contract.

Contract Manufacturing Services

Contract Manufacturing Services means the manufacturing or assembly of **Products** by the **Insured** for a **Client** pursuant to a written contract or agreement with such **Client** including:

(i) The sourcing of raw materials or component parts subject to written specification of the **Client**

(ii) **Fulfillment Services** rendered on behalf of the **Client**.

Customer

Customer means a third party who purchases **Manufactured Products** directly from the **Company**.

Fulfillment Services

Fulfillment Services means:

(i) Warehousing and stock management of the finished **Products** on behalf of a **Client**;



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- (ii) Processing deliveries including picking, packing, and shipping of **Products**;
- (iii) Processing **Products** returns that were authorized by a **Client**.

Manufactured Product

Manufactured Product means a **Product** that is

- (i) designed by the **Insured**;
- (ii) manufactured, or assembled by or on behalf of the **Insured**; and
- (iii) sold to a third-party.

Including:

- (a) any embedded **Software** and firmware developed by the **Insured** and contained within such **Product**;
- (b) materials, parts, or equipment furnished in connection with such **Products**;
- (c) training in the use of, support of, servicing of, maintenance of, and repair of such **Products**;
- (d) written warranties or representations made by the **Company**, with respect to the quality, durability, or use of such **Products**; and
- (e) providing of or the failure to provide warnings or instructions regarding the use of such **Products**.

Product

Product means tangible goods or items other than real property that are sold to others.

Professional Services

Professional Services means:

- (i) **Contract Manufacturing Services** provided by the **Insured** to a **Client** pursuant to a written contract or agreement with such **Client** for compensation; and
- (ii) the design and fabrication of **Manufactured Products**;

Technology Services

Technology Services means the design, development, licensing, provisioning, maintenance and support of:

- (i) an on-line platform used to provide a **Client** access to tools and resources related to the **Contract Manufacturing Services** of the **Company**;
- (ii) an Application Program Interface (API) or similar software to connect the **Company's Computer System** with the **Computer Systems** of a **Client** to facilitate data exchange in the provision of **Contract Manufacturing Services**; or
- (iii) an on-line platform to provide remote maintenance, service, and monitoring of **Manufactured Products**.

Wrongful Technology Act

Wrongful Technology Act means any act, error, omission, misrepresentation, misstatement, misleading statement, neglect, or breach of duty actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible in connection with the **Insured's** rendering or failure to render **Technology Services** in conjunction with **Professional Services**.

3. Section 5. Exclusions is amended as follows:

A. Exclusion 5.12 Intellectual Property is replaced with the following:

- 5.12 Intellectual Property arising out of, based upon, in connection with, attributable to or as a consequence of the:
 - 5.12.1 invalidity, infringement, violation, breach or misappropriation of any patent, intellectual property right, copyright, trade or service mark; or
 - 5.12.2 misappropriation of trade secret.

Provided; however, Subsection 5.12.1 of this exclusion shall not apply to any actual or alleged copyright infringement by embedded software or firmware developed by the **Insured** and contained within a **Manufactured Product**

B. Subparagraph 5.16.4 of Exclusion 5.16 Prior and Pending Claims or Notifications is replaced with the following:

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5.16.4 any **Interrelated Wrongful Act**, or **Employee Dishonesty, Defamation** as covered by Extension 2.2, or loss of **Documents** as covered by Extension 2.6 which has the same originating cause as any item referenced in 5.16.1, 5.16.2 or 5.16.3 above; or any **Mitigation Costs** relating to the foregoing.

C. The following exclusions are added:

Ceasing Support

based upon, arising out of, or attributable to any actual, alleged, or threatened decision by any **Insured** to not provide or support, or to cease to provide or support, any **Manufactured Product** or **Contract Manufacturing Services**;

Cost Guarantees

arising from, based upon, in connection with, attributable to or as a consequence of any failure to meet a cost guarantee or estimate of probable costs.

Product Recall

arising out of, based upon, in connection with, attributable to or as a consequence of the recall, repair, replacement, upgrade, supplement or removal of **Manufactured Products** or any **Product** manufactured as part of **Contract Manufacturing Services**, including **Products** which incorporate such products, from the marketplace; provided, however, this exclusion shall not apply to any **Claim** solely for the inability to use or access such **Products** by a **Third-Party Client**.

Services, Goods, or Equipment for Nuclear Facility

arising out of, based upon, in connection with, attributable to or as a consequence of **Manufactured Product** or any **Product** manufactured by the **Insured** as part of **Contract Manufacturing Services** that is designed for or used in the construction, maintenance, or operation of any **Nuclear Facility**.

Wear and Tear

arising out of, based upon, in connection with, attributable to or as a consequence of any wear and tear, gradual deterioration, age or obsolescence.

4. Subparagraph 2) of General Condition 7.12 Subrogation and Recoveries is replaced with the following:

2) a **Client** if, prior to the **Claim**, the **Company** contractually entered into a legally enforceable waiver of subrogation as part of the contract for **Contract Manufacturing Services**; provided however, the **Insurer's** right of recovery against the **Company** shall remain.

ALL OTHER TERMS, CONDITIONS AND LIMITATIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.