

FORM NO.: 102

Small Exporter's Policy (SEP)**ECGC Limited**

(Formerly known as Export Credit Guarantee of India Ltd.)
(A Government of India Enterprise)
Registered Office: ECGC Bhawan, CTS No. 393, 393/1-45,
M.V. Road, Andheri East, Mumbai-400069, India.

Policy Number :
Dated at :
On :

Small Exporter's Policy issued by ECGC Ltd. (formerly known as Export Credit Guarantee Corporation of India Limited) (hereinafter referred to as "ECGC") to the exporter specified in Schedule-I (hereinafter referred to as "the insured"), at the place and on the date mentioned in the said Schedule;

WHEREAS the insured has made a proposal (hereinafter referred to as "the Proposal") on the date specified in Schedule-I requesting ECGC to insure him against a proportion of any loss that the insured may sustain by reason of certain risks involved, in the export of goods in pursuance of a contract for export of goods with a buyer;

AND WHEREAS the insured has agreed that the said Proposal shall be the basis of this Policy;

AND WHEREAS the insured has paid to ECGC the amount mentioned in Schedule-I towards 'Minimum Premium' (the receipt of which is hereby acknowledged by ECGC) for issue of this Policy;

NOW THEREFORE, in consideration of the said Minimum Premium paid by the insured and the promise to pay further premiums that may become payable in terms of Clause 10 of the Policy, ECGC hereby insures the insured in accordance with the terms and conditions hereof and subject to the exclusions to the 'Risks Insured' and limitations to ECGC's liability, against a percentage of the Amount of Loss as hereinafter defined, which he may sustain due to the following causes (hereinafter referred to as "the risks insured") in respect of shipment of goods by the insured.

RISKS INSURED AND EXCLUSIONS

(1) Risks Insured

(a) Commercial Risks

- (i) Insolvency of the buyer as hereinafter defined;
- (ii) Failure of the buyer to pay to the Insured within two months after the due date of payment, the gross invoice value of the goods delivered to and accepted by the buyer;
- (iii) Failure or refusal on the part of the buyer to accept the goods which have already been exported from India, where any such failure or refusal is not excused by and does not arise from or in connection with any breach of contract or warranty on the part of the insured or from any other cause within his control provided that the insured shall, if so required by ECGC, establish to the satisfaction of ECGC through such means or documents as ECGC may require including appropriate legal proceedings against the buyer if necessary, that the said failure or refusal on the part of the buyer was wrongful;

(b) Political Risks

- (iv) Operation of a law or of an order, decree or regulation having the force of law which, in circumstances outside the control of the insured and/or the buyer, prevents, restricts or controls the transfer of payment from the buyer's country to India;
- (v) Occurrence of war between the buyer's country and India;
- (vi) Occurrence of war, hostilities, civil war, rebellion, revolution, insurrection or other disturbances in the buyer's country;
- (vii) Imposition of any law or order, decree or regulation having the force of law which, in circumstances outside the control of the insured and/or of the buyer, prevents the import of the goods into the buyer's country;
- (viii) Cancellation, in circumstances outside the control of the insured and/or of the buyer, of a previously issued and currently valid authority to import the goods;
- (ix) Incurring in respect of goods shipped from India of any additional handling, transport or insurance charges which are occasioned by interruption or diversion of voyage outside India and which is impracticable to be recovered from the buyer;
- (x) Any other cause, save and except in the case of merchanting exports in which case this risk will stand excluded, which arises from an event occurring outside India but not being a cause inherent in the nature of the goods or that is within the control of the insured and/or



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the buyer or that is specifically excluded from the purview of cover under the policy.

(2) **Exclusions to the 'Risks Insured'**

ECGC shall not be liable to the insured in respect of any loss the insured may suffer, the proximate cause for which is a risk other than any of those specifically listed under the 'Risks insured' herein above. Without limiting the generality of the aforesaid, losses arising out of any of the following causes are specifically excluded from the purview of cover under this policy, i.e., any loss that arises from -

- (a) Default, insolvency or an act of omission or commission of any marine or other insurer of goods or of an opening bank in a letter of credit transaction;
- (b) Default, insolvency or an act of omission or commission of the collecting bank, the carrier of goods or any other agent of the insured;
- (c) Failure or inability of the buyer to obtain any authority necessary under the regulations of the buyer's country in force at the date of shipment either to import the goods and/ or to pay for them as contracted and invoiced;
- (d) Failure or refusal on the part of the buyer to accept the goods and/or to pay for the whole or any of it due to his claim that –
 - (i) he is justified in withholding payment of the contract price or the gross invoice value or any part thereof by reason of any payment, credit, set-off or counterclaim and/ or that
 - (ii) he is excused from performing his obligations under the contract including his obligation to pay, for any reason whatsoever, including but not limited to disputes or allegations relating to the quality, quantity, specifications, delivery schedule, etc., of the goods supplied to him by the insured whether or not such disputes relate to past or current shipments;

unless the insured has, for the amount of his loss, obtained a final judgment enforceable against the buyer from a competent court of law in the buyer's country provided however that ECGC may, at its sole discretion and on being satisfied that the allegations or claim or the dispute raised by the buyer as aforesaid is not tenable or justified in the light of information gathered by or made available to it, agree in writing to waive this exclusion;

- (e)
 - (i) Delay in or prevention of the transfer of any payment from any overseas country of sums due under any contract of insurance effected by the insured;
 - (ii) Non-receipt by the Insured, for any reason whatsoever, of insurance monies in Indian Rupees due under an insurance effected by the buyer upon occurrence of the event insured against;
 - (iii) Failure on the part of the Insured or the buyer to have proper or adequate insurance against a risk that is normally insured with commercial insurers (other credit risk insurers);
 - (iv) Any cause whatsoever that is inherent in the nature of the goods.
- (f) Prevention of or delay in the transfer of payment from the buyer's country until and unless the buyer has made an irrevocable deposit for transfer to the insured, of a sum in the currency of the buyers country equal to the amount due for payment under the contract and have complied with all the relevant exchange control formalities, if any, for facilitating the transfer of the funds to the insured unless the buyer was prohibited from making such a transfer by operation of any law, order, decree or regulation having the force of law in the buyer's country;
- (g) Any adverse fluctuation in the rate of exchange to be applied for conversion of the amount received in a foreign currency to Indian rupees.

TERMS AND CONDITIONS

- **Representations and disclosures by the insured**

Proposal and Declaration

1. The proposal and the declaration therein shall be the basis of this Policy and shall form part thereof and if any of the statements contained in the Proposal or the Declaration are untrue or incorrect in any respect, this policy shall be voidable at the discretion of ECGC and ECGC may retain any premium that has been paid.

Disclosure of Facts

2. Without prejudice to any rule of law it is declared that this Policy is given on condition that the insured has, as at the date of issue of this Policy disclosed and will at all times during the operation of this policy promptly disclose all facts in any way affecting the risks insured.

Shipments Covered

3. Subject to the terms and conditions contained herein, this Policy shall apply to all shipments of goods (except those specifically excluded hereunder or as per Schedule-I) made by the Insured pursuant to any contract or agreement for sale thereof to any buyer in any of the countries specified in Schedule-II during the Policy Period specified in Schedule-I.

- **Shipments excluded**

Restricted Cover

4. Shipments to buyers in any of the countries specified in Schedule-III (as modified by ECGC from time to time and notified to the Insured) are excluded from the purview of cover under this Policy save and except for those shipments in respect of which the Insured has applied for and obtained specific prior written approval from ECGC. Cover in pursuance of any such specific approval by ECGC as aforesaid shall be further subject to payment of such additional fees and to such additional conditions, restrictions and/or qualifications as ECGC may stipulate in each such approval.

Exclusion of shipments

5. Except with the approval in writing of ECGC (which ECGC shall not be obliged to give), this policy shall not apply to any shipment which:

- (a) is made under a contract or agreement of sale which does not specify the nature, quantity and price of the goods sold or agreed to be sold or the due date of payment and the currency in which the payment is to be made; or
- (b) is invoiced to any buyer in a currency not permitted by the exchange control laws, rules and/or regulations for the time being in force in India; or
- (c) involves granting of credit for a period longer than 180 days from the date of shipment.

Withdrawal of Cover

6. ECGC shall be at liberty at any time to give written notice to the Insured that, as from such date (not being earlier than the date of the notice) as may be specified in the notice, this Policy shall not apply to any shipment that may be made to the buyer specified in the notice, or to all the buyers in a country specified in the notice, irrespective of whether or not the country in which the said buyer or buyers is/are resident or carrying on business, continues to be specified in Schedule-II hereto.

(Note: written notice means a notice sent to the latest address registered with the ECGC)

- **Duties Of the Insured**

Obligations of the Insured

7. The Insured shall –

- (a) Use all reasonable and usual care, skill and foresight and take all practicable measures, including any measures which may be required by ECGC to prevent or minimize loss. The measures that ECGC may require the Insured to take may include (i) advice to bring back to India the goods that were exported but not delivered to or accepted by the buyer, (ii) to institute legal proceedings against the buyer or anyone else (iii) to take control of the goods and/or to recover costs and damages, etc.;
- (b) Notify to ECGC in writing of the occurrence of any event likely to cause a loss without delay but in any case, by not later than 30 days of his becoming aware of any such occurrence;
- (c) Exercise his right to stop the goods in transit from being delivered and stop shipment of further consignments, if during the course of transit of goods, it comes to the insured's knowledge that the-
 - (i) buyer's country has banned the import of goods contracted for; or
 - (ii) buyer's country has ordered confiscation of goods; or
 - (iii) there are circumstances existing in buyer's country that may lead to any loss; or
 - (iv) the buyer has become insolvent or facing grave financial problem; or
 - (v) the buyer has refused to honour his commitment under the contract;- unless ECGC consents in writing to his refraining from so doing



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- (d) Furnish ECGC promptly with all such information as ECGC may require at any time with regard to the shipment of goods made by him during the Policy Period; and
- (e) Retain so much of the amount of loss as is in excess of the percentage of loss payable by ECGC under this policy to his own account and uninsured;

- **Monthly Declarations of Shipments and of Overdue Payments**

8. The Insured shall deliver to ECGC on or before the 15th day of each calendar month –

- (a) a declaration of shipments in the prescribed form giving information on all the shipments made by him during the previous month. If no shipment has been made during a month, a 'NIL' declaration shall nevertheless be submitted;
- (b) a declaration of overdue payments in the prescribed form giving information on all such shipments as were insured under this policy and in respect of which the payment due from the buyer remained wholly or partly unpaid after having become overdue for not less than sixty days as at the close of the preceding month and shall continue to deliver such declarations of overdue payments so long as any such payment remained outstanding;

- **Premium**

Minimum Premium

9. No part of the Minimum Premium specified in Schedule-I and which has been paid by the Insured shall be refundable or be carried forward whether or not any part of it remained in balance after due adjustment against premiums on shipments made by the Insured and declared to ECGC. The Minimum Premium shall be adjusted towards premium falling due on the shipments declared to ECGC provided however that premium due on a shipment shall not be deemed to have been paid unless and until the relevant shipment declaration is duly submitted in time, notwithstanding that credit balance was available in the minimum premium account.

10. Incidence of Premium, Advance Deposit of Premium and payment of Credit Limit Application processing fee:

The Insured shall be liable to pay premium at the rates set out in, Schedule-II hereto or, as the case may be, at such other rates for the time being in force on the gross invoice value of all the shipments to which this Policy applies;



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(a) **Incidence of Premium:** Premium payable on a shipment falls due for payment forthwith upon making the shipment, time being of essence;

(b) **Advance Deposit of Premium:** The insured shall, prior to making any shipment, deposit and keep deposited with ECGC in a Deposit Premium Account maintained with ECGC amounts that are sufficient and adequate to meet the premium that falls due for payment upon making of shipments. If, as on the date of making a shipment(s), nil or insufficient balance is available in the Deposit Premium Account of the insured to meet the full premium due on that/those shipment(s), ECGC shall have no liability to indemnify the insured for losses in respect of the said shipment(s) but the insured shall not be absolved of his obligation to pay the amount of premium that was due thereon.

(c) **Amount of Minimum Premium And Average Monthly Premium:** The amount of Minimum Premium payable by the insured and the amount of average monthly premium are specified in the Schedule. The average monthly premium is arrived at with reference to the monthly average of estimated annual value of shipments to be made during the Period of Cover. If and when the estimated value of shipments to be made is revised at any time during the currency of the period of Cover, the Average Monthly premium for the residual period too would be revised accordingly;

(d) **Payment of Minimum Premium & Maintenance of Minimum balance in the Deposit Premium Account:** The insured shall remit an amount equivalent to the Minimum Premium or the average monthly premium, whichever is higher, prior to issuance of the Policy (which ECGC acknowledges to have received) which would be credited to the Deposit Premium Account of the insured. The insured shall ensure that throughout the Period of Cover the Minimum balance available in the Deposit Premium Account is not less than the amount of Average Monthly/quarterly Premium specified in the Schedule- I or such other revised Average Monthly/quarterly Premium, if any as advised in that regard;

(e) **Adjustment of Premium against shipments made:** Upon receipt of the monthly Declaration of Shipments in pursuance of condition 8(a), ECGC will calculate the premium due on the shipments so declared by the insured and will adjust the amount due against the balance available in the Deposit Premium Account;

(f) **Consequence of inadequacy of sufficient credit balance in the Deposit Premium Account:** In the event of inadequacy of sufficient credit balance in the Deposit Premium Account for adjustment of premium due on shipments made and declared by the insured, premium will be adjusted against shipments in its chronological order. No cover under the Policy will be available on a



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shipment if as on the date that shipment, the balance available in the Deposit Premium Account was insufficient to meet the full amount of premium due on that shipment(s);

(g) **Carry Forward / Refund of the amount of credit balance in the Deposit Premium Account:** Upon the expiry of the Period of Cover and renewal of the Policy for a fresh period, the outstanding credit balance, if any, remaining in the Deposit Premium Account of the insured will be carried forward to the Deposit Premium Account under the renewed Policy and in the event of the insured not renewing the Policy after expiry of the Period of Cover, he will be eligible to seek refund of the said amount of credit balance PROVIDED HOWEVER THAT no part of the Minimum Premium shall be carried forward or refunded.

(h) **Corporation's right to receive the full Premium:** ECGC shall be entitled to demand, receive and retain the full amount that was due towards premium on every shipment that was made by the insured during the Policy Period (save and except shipments exempted or excluded) notwithstanding whether or not ECGC ceased to have any liability in respect of any such shipment by reason of any breach, failure, negligence, lapse or other act of omission or commission on the part of the insured, including (but not limited to) inadequacy of sufficient credit balance in the Deposit Premium Account to meet the amount of premium due thereon as on the date of making a shipment, delay in submission or non-submission of the relevant declarations in pursuance of condition 8(a) and 8(b), etc.;

(i) **Payment of Credit Limit Application Processing Fee:** The insured shall, while applying for setting up a credit limit on an overseas buyer in pursuance of condition 21 (a) of the Policy, remit such amount as may be specified by ECGC towards credit limit application processing fee.

Gross Invoice Value

11. In this Policy, the gross invoice value of shipments shall include any insurance, freight or other charges paid or to be paid by the insured on behalf of the buyer but shall exclude any payments secured by irrevocable Letters of Credit confirmed by a bank in India or payments received from the buyer prior to the date of shipment.

Variation of Premium Rates

12. Premium rates for any country may be varied upon written notice given by ECGC to the Insured to that effect. In such a case the change will take effect as from the date specified in such notice and will apply only to shipments made on or after that date provided that if



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the rate of premium for the time being in force as set out in the Premium Schedule is increased, the Insured shall be entitled within 14 days after the date of the notification of such increase, to exclude shipments to that country from the purview of cover under the Policy and in that event no premium shall thereafter be payable in respect of any shipment made to buyers in that country, nor shall ECGC be liable in respect of any shipment made to that country subsequent to the date specified in the said notice.

- **Claims**

Percentage of the amount of loss payable

13. The portion of the amount of loss that ECGC hereby agrees to pay shall be a percentage, as specified in Schedule I, of the amount of loss ascertained in accordance with condition 14 and shall further be subject to condition 20. Where the loss is due to any of the causes specified in sub-clauses (iv) to (x) under the 'Risks Insured', the said percentage shall be 100.

Amount of Loss

14. The 'amount of loss' for the purpose of payment of a claim under the policy shall never exceed the relevant Gross Invoice Value and be arrived at as described herein below:

- (a) Where the loss is due to the diversion risk as defined in sub-clause (ix) of 'the Risks Insured' under the policy, the Amount of Loss shall be the amount of any additional handling, transport or insurance charges which are occasioned by interruption or diversion of voyage outside the India and which is impracticable to be recovered from the buyer, less any allowance, rebate or refund to which the Insured is entitled by reason of the interruption or diversion of voyage;
- (b) As regards goods delivered to and accepted by the buyer, the Amount of loss shall be the gross invoice value of those goods, less –
 - (i) the amount which, at the date at which the loss is ascertained the buyer would have been entitled to take into account by way of payment, credit, set-off or counter-claim or which the Insured is entitled to appropriate in whole or in part payment of the price of the goods; and
 - (ii) any expenses saved by the non-payment of agent's commission or otherwise; and



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- (iii) any part of the gross invoice value of the goods which represents interest payable by the buyer for credit facilities in respect of any period subsequent to payment by ECGC.
- (c) As regards goods not delivered to or not accepted by the buyer and brought back to India on being advised to do so by ECGC, the Amount of Loss shall be the direct expenses reasonably incurred by the Insured for its export and to bring it back to India such as freight, insurance, demurrage, custom duties, etc., but shall not include any consequential or indirect loss;
- (d) As regards goods not delivered to or not accepted by the buyer and not brought back to India, the Amount of Loss shall be the gross invoice value less –
 - (i) any expenses saved by the non-fulfilment of the contract for the sale of those goods;
 - (ii) any sums which, at the date at which the loss is ascertained, the insured has recovered from any source, including realization of any security, resale of any goods or materials and any sums or credits in his possession which the insured is entitled to appropriate as or towards payment of the purchase price, or any part thereof provided that the sums so recovered or realized from any security or resale of any goods or material shall be the sums less all expenses of recovery, realization or resale; and
 - (iii) any part of the gross invoice value of the goods which represents interest payable by the buyer for credit facilities in respect of any period subsequent to payment by ECGC;

PROVIDED ALWAYS THAT (a) goods not delivered to the buyer shall remain the property of the Insured and any resale thereof by the insured shall be with the prior approval of ECGC. In case the resale of the goods not delivered is made without the prior approval of ECGC, ECGC shall not be liable for any loss suffered by the insured in connection with that particular shipment AND THAT (b) where the goods are not accepted by the buyer and/or sub-clause (d) of the 'exclusions to the Risks Insured' applies, the amount of loss shall be the amount as defined hereinabove or the amount for which a final judgment is obtained by the insured against the buyer, whichever is lesser;

Time for Ascertainment of the Amount of Loss (Waiting Period)

15. Subject to the submission by the insured of a claim in the prescribed form duly supported by evidence which, in the opinion of ECGC is sufficient for verification and ascertainment of the cause of loss, ECGC will pay to the Insured so much of the amount of loss as is hereby insured immediately after the loss has been ascertained. No amount in respect of any shipment shall become due and payable by ECGC under this policy until and unless the loss has been ascertained. The time for ascertainment of loss will be –

- (a) where the loss is due to buyer's insolvency as hereinafter defined, upon the expiry of two months after the due date of payment or one month after the loss has been admitted to rank against the estate of the insolvent in favour of the Insured, whichever of the two dates is the earlier, provided that –
 - (i) the insured shall deliver to ECGC evidence satisfactory in the opinion of ECGC that the insured has filed his claim in such insolvency of the buyer, and
 - (ii) a declaration in writing that he has done or omitted nothing whereby such claim is liable to be rejected by the Court in such insolvency;
- (b) where the loss is due to the buyer's failure to pay the gross invoice value of the goods delivered to and accepted by the buyer, then after the expiry of the two months from the due date of payment;
- (c) where the loss is due to the goods not having been delivered to or accepted by the buyer, then one month after the date on which the goods have been resold or otherwise disposed of by the insured with ECGC's approval in writing;
- (d) where the loss is due to prevention of or delay in transfer of payments from the buyer's country to India in circumstances beyond the control of both the insured and the buyer, upon the expiry of two months after the due date of payment or after the completion of all the formalities necessary in order to obtain transfer to India of the irrevocable deposits made, whichever is the later, provided however that, where ECGC's liability does not extend to the commercial risks specified in sub-clauses (i), (ii) and (iii) of "the Risks Insured" hereinabove, then unless



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irrevocable deposits have been made by the buyer within one month from the due date of payment, no loss shall be ascertained and ECGC shall have no liability whatsoever for the loss occasioned.

- (e) where the loss is due to diversion risk as defined in sub-clause (ix) of 'the Risks Insured' as soon as the proof of loss to the satisfaction of ECGC is furnished; and
- (f) in all other cases, upon the expiry of the waiting period after the occurrence of the event which is the cause of the loss.

PROVIDED HOWEVER THAT, where the insured has obtained a guarantee or, as the case may be, a guarantee and undertaking whether in compliance with a condition imposed by ECGC for approval of Credit Limit or otherwise and a claim by the Insured against such guarantor has arisen, then unless ECGC agrees in writing to the contrary, no loss shall be ascertained and no payment shall become due from ECGC under this policy until either the insured has obtained a judgment against the guarantor in a competent court in the country specified in such condition, or the insured has satisfied ECGC in such other manner as may be required by ECGC in writing that his claim against the guarantor is valid and subsisting, but in any case not earlier than at the appropriate time herein-above specified under this clause.

Payment of Loss

16. The Insured shall, as a condition precedent to the payment of a percentage of any loss as herein defined, procure and deliver to ECGC a letter from the Bank which holds the documents pertaining to the shipment concerned acknowledging and agreeing (i) that the bank holds the same in trust for ECGC, (ii) that the Bank shall, upon demand by ECGC, deliver them to ECGC, and (iii) that, if the Bank shall receive any payment against such documents, the Bank shall make payment thereof according to the directions of ECGC in writing.

Rate of Exchange

17. All payments by ECGC under this policy shall be in Indian rupees and, for the purpose of payment of premiums and losses, the gross invoice value of shipments invoiced in a foreign currency shall be converted into Indian rupee at the relevant rate of exchange specified or applied by the bank that handles the relevant export documents provided however that if devaluation of the currency in which the buyer has to make payment takes place before the claim is paid, the amount claimed in Indian currency shall be based on such devalued rate.

Limitation and Exclusions to ECGC's liability

Limitation of ECGC's Liability

18. ECGC shall not be liable for payment of any loss

(a) in respect of a shipment if the whole or any part of the gross invoice value receivable by the Insured has been assigned by the Insured without full recourse to the Buyer, save and except where prior approval in writing of ECGC has been obtained for such assignment; or

(b) in respect of a debt as to which the insured has extended the period for payment or has accepted a composition arrangement with the buyer without the prior approval in writing of ECGC; or

(c) which arises from a contract under which the relevant authority of the buyer to import the goods and/or remittance by the buyer is made subject to (i) exports of any goods from any country or (ii) realization of payment for such goods when exported;

PROVIDED THAT in any of the aforesaid cases the Insured shall be liable to pay and ECGC shall be entitled to demand, receive and to retain the full premium that was due on all such shipments.

Exclusions to ECGC's Liability

19. Notwithstanding anything to the contrary stated elsewhere in this policy, unless otherwise agreed to by ECGC in writing, ECGC shall cease to have any liability in respect of the gross invoice value of any shipment or part thereof –

(a) If the Insured has failed or neglected to duly declare in time in strict compliance with the requirements under condition 8(a) of the policy any one or more of the shipments that were required to be declared under the said condition and/or to pay the full premium that was due thereon; or

(b) In respect of which the Insured has failed to submit the relevant declarations of overdue payments as required in strict compliance with the requirements under condition 8(b) of the policy;

(c) In cases where payment terms are cash against documents, documentary sight draft or documents against



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payment, the Insured or anyone acting for or on behalf of the Insured has released or has caused the release of the documents and/or of the goods to the buyer on any other terms of payment other than on payment for onward transmission to the Insured of the full amount that was due thereon; or

(d) If the Insured has failed or neglected to duly lodge a claim with ECGC in the prescribed form within 360 days from the respective due date of payment or 540 days from expiry of the Policy, during which period the shipment was effected, whichever is earlier. The failure on the part of Insured in lodging the claim in the prescribed form duly filled in along with requisite documents within the stipulated period may however be considered on merits by the Insurer on being satisfied, if such failure has occurred by the Insured for reasons beyond the control of the Insured.

Credit Limits and Sharing of Commercial Risks

Credit Limit

20. The liability of ECGC under this policy for losses, occasioned owing to any of the commercial risks described in clauses (i), (ii) or (iii) of the "Risks Insured" in respect of shipments made to any one buyer shall be limited to the amount hereinafter defined as the Amount of Credit Limit.

Amount of Credit Limit

21. **The amount of Credit Limit on any particular buyer shall be:**

(a) where on an application made by the Insured in the prescribed form, ECGC has approved and communicated to the Insured in writing an amount as the Credit Limit on a particular buyer, the amount so specified shall be the credit limit in respect of that buyer. Such approved credit limit shall always be subject to the terms of payment and the terms and conditions specified in or appended to the relevant credit limit approval. If, in respect of any particular buyer, ECGC is of the opinion that a higher share of commercial risk shall be retained by the Insured and has specified a percentage as the percentage of loss covered in respect of that particular buyer then in that case, irrespective of what is stated under condition 13 herein above, the percentage of loss payable by ECGC for any loss arising out of commercial risks on that buyer shall not exceed the said percentage so specified in the credit limit approval.

(b) where no application for approval of credit limit has been made by the insured or where against an application made,



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ECGC is yet to communicate its decision to the Insured, then the credit limit shall be as under, subject to the buyers not in the list of Buyers who have come to the adverse notice of ECGC which is available on its website and Insured is required to access it by obtaining an user id and password from the Insurer :-

- (i) If the transaction is on Documents against payment (DP) or Cash against Documents (CAD) terms of payment, then Rs.10,00,000/- (Rupees Ten Lacs only) provided that the number of claims payable on credit limits availed under this clause shall not exceed two; or
- (ii) If, during the two-years period immediately preceding the date of shipment, the Insured had made at least one shipment previously to that particular buyer on payment terms identical to the shipment(s) in question and had duly realized all payments on the respective due dates, then the highest amount that remained outstanding due from the buyer on any of those shipments on similar payment terms subject to a limit of Rs.20,00,000/- (Rupees Twenty Lacs only) per buyer with a sub-limit of Rs.6,00,000/- (Rupees Six Lacs only) therein for open account transactions, i.e. for shipments made on 'Open Delivery' or DA terms.

Maximum Liability

22. The aggregate liability of ECGC under this policy shall not under any circumstances exceed the amount specified In Schedule-I as the Maximum Liability, subject to such modifications as may be agreed to from time to time between the Insured and ECGC.

• Recoveries

Action after payment of claim

23. Upon payment of a claim under this Policy by ECGC, the insured shall take all steps which may be necessary or expedient or which ECGC may at any time require to effect recoveries whether from the buyer or from any other person from whom such recoveries may be made including (if so required) through institution of legal or other proceedings and upon being so advised by ECGC, shall -

- (a) assign and transfer to ECGC his rights under the relevant contract in respect of which the loss occurred and such claim payment was made, including his right to receive any monies



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payable under such contract or his right to damages for any breach thereof;

(b) deliver up to ECGC any goods in respect of which such claim payment has been made and any documents relating thereto and assign and transfer to ECGC his rights and interest in any such goods and documents; and

(c) assign, deliver or otherwise transfer to ECGC any negotiable instruments, guarantees or other securities relating to such goods or contracts.

Recovery expenses

24. Any expense incurred by the Insured with the consent of ECGC or by ECGC for the purpose of effecting recoveries from the buyer or any from other source shall be a first charge on any amounts recovered thereafter.

Sharing of Recoveries

25. Any sums recovered by the Insured or by ECGC after the date at which the loss is ascertained, from the buyer or from any other source shall be divided between ECGC and the Insured in the proportion in which the amount of loss is borne by each of them respectively according to the terms of this Policy, whether or not such division results in the retention by ECGC of a greater or lesser sum than the amount paid by ECGC under this policy in connection with the amount of loss, whatever be the cause, circumstance or reason for such retention. The Insured shall pay to ECGC all sums so recovered forthwith upon the same being received by him or by any person on his behalf, the Insured hereby acknowledging and declaring that until such payment is made to ECGC he receives and holds such sums in trust for ECGC.

• General

Assignment

26. The Policy or any amount payable hereunder shall be assignable only with the prior approval in writing of ECGC and also your complying with requirements, if any, made by ECGC.

Fraudulent Claims.

27. If the insured makes any claim hereunder knowing the same to be false or fraudulent or if any fraudulent or dishonest means or



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devices are used by the insured or any one acting on his behalf to obtain any benefit under this Policy, the liability of ECGC hereunder shall cease and the Insured shall have no claim hereunder and shall repay to ECGC on demand all sums previously paid under this Policy by ECGC. ECGC shall however be entitled to retain all payments made to it by way of premium or otherwise.

Observance of conditions

28. The due performance and observance of each term and condition contained herein or in the Proposal or Declaration shall be a condition precedent to any liability of ECGC hereunder and to the enforcement thereof by the Insured.

Failure to comply with conditions

29. No failure by the insured to comply with the terms and conditions shall be deemed to have been waived, excused or accepted by ECGC unless the same is expressly so waived, excused or accepted by ECGC in writing and such waiver, excuse or acceptance shall be subject to such terms and conditions as ECGC may stipulate, including a reduction in the percentage specified under condition 13 of this Policy, being the percentage of loss payable by ECGC.

Uncovered Risks

30. If any account or bill (or any extension or renewal thereof) in respect of any shipment declared hereunder exceeds the limits hereinbefore provided or is otherwise, not in accordance with the Policy, mere acknowledgement of the declaration by ECGC or any payment or tender of premium by the Insured or its acceptance by ECGC shall not be deemed to bind ECGC to undertake liability in respect of such account or bill (or to approval of the renewal or extension).

Payment of Claim

31. If a claim for any loss shall be made by the insured under this policy or under any endorsement which may at any time be attached to this policy and the claim shall be admitted by ECGC (but not otherwise), it shall be paid by ECGC direct to the bank which handled the export documents pertaining to the relevant shipment(s) concerned on discount or collection basis to enable the Bank to apply the amount to adjust the balance, if any, in the Post-shipment Credit account of the insured and, in the event of ECGC making the payment to the bank as above, the bank's receipt would be in full legal discharge to ECGC and ECGC shall have no further obligations to the Insured.

Jurisdiction

32. Any dispute concerning the interpretation of the terms, conditions, limitations and/or exclusions contained herein is understood and agreed by both the Insured and ECGC to be subject to Indian Law. Each party agrees to submit to the exclusive jurisdiction of the Courts in Mumbai (which expression shall include tribunals and other judicial forums constituted under any special statute) or at the place of issue of this policy as specified in the Schedule.

Arbitration clause

33. If any dispute or difference arises out of or in relation to this policy between the parties, such dispute/difference shall be referred to a Sole Arbitrator to be appointed by ECGC in writing. Arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be Mumbai.

Giving Notice

34. Any notice, which we may give to you under the Policy including any notice relating to Credit Limits and/or the reduction or cancellation of cover or modification in country classification relating to premium etc may be given –

- by ordinary post or by recorded delivery through a reputed private courier service to your address as stated in the Schedule or to any other address of which we have been notified by you for this purpose; or
- by facsimile or electronically.

Any notice sent by ordinary post or by courier service shall be deemed to be served on the third working day after posting or handing over to the courier or on your receipt, whichever is earlier. For the purpose of this condition a working day means any day other than a Saturday or Sunday or a public holiday in the place to which the notice is addressed.

Any notice sent electronically, including by facsimile, shall be deemed to be served on viewing by you or on the first working day after transmission, whichever is the earlier.

- **Definitions**

35. In this policy, unless repugnant to the context or meaning, the following words or group of words, as the case may be, shall have the meaning assigned to them herein.

Amount of Loss

(1) Amount of Loss means the amount arrived at in accordance with the provisions of condition 14 of the policy, with reference to the relevant cause of loss;

Buyer

(2) Buyer means any legal entity, including a natural person, that is liable to the insured for payment of the gross invoice value of the shipments made by the insured;

Buyer's Country

(3) Buyer's Country means the country in which the buyer is resident and where the delivery of the shipment is due in another country, would also include such other country;

Deemed Exports

(4) Deemed Exports" refers to those transactions in which the goods supplied do not leave the country and the payment for such supplies is received either in Indian rupees or in free foreign exchange.

Due date of payment

(5) Due date of payment means the date on which payment falls due to the insured from the buyer and where an extension of the due date has been agreed to by the Insured with the written consent of ECGC, will include such extended due date;

Insolvency

(6) The buyer shall be deemed to be insolvent for the purpose of this policy when:

- (a) he is declared bankrupt, or
- (b) he has made a valid assignment, composition or other arrangement for the benefit of his creditors generally, or
- (c) a receiver has been appointed to manage his estate, or
- (d) if the buyer be an incorporated body –
 - (i) an order has been made for compulsory winding up or;



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- (ii) an effective resolution has been made for voluntary winding up provided that such resolution is not merely for the purpose of reconstruction or amalgamation, or
- (e) an arrangement binding on all the creditors has been sanctioned by the Court, or
- (f) whether the buyer be an incorporated or unincorporated body, such conditions exist as are substantially equivalent in effect to any of the foregoing conditions;

Insured

(7) Insured means the exporter named as such in the Schedule -I;

Merchanting Exports

(8) Merchanting Exports, unless repugnant to the context, shall have the same meaning assigned to that term by the Reserve Bank of India in the context of international trade transactions by Indian exporters where the goods or merchandise are sourced from abroad and exported directly to the buyer without those goods crossing the Indian custom boundaries. An endorsement duly approved by ECGC based on your specific request for covering such exports, is required.

Notice / Notification

(9) To give written Notice or to notify means a written communication sent to the Insured by ordinary post or by courier or by any other means ordinarily used for transmission of such communications in contemporary times, including electronic means, at the latest address registered with ECGC.

Policy Period

(10) Policy Period means the period of validity of this Policy specified in the Schedule;

Shipment

(11) The term Shipment would include 'deemed exports' as also merchanting exports.

For ECGC Ltd.

Signature:

Designation :

Office of Issue and Seal.
