

## Specific Service Contract (Political Risks) Policy

### EXPORT CREDIT GUARANTEE CORPORATION OF INDIA LTD.

(A GOVT. OF INDIA ENTERPRISE)

Regd. Office :

Express Towers, 10th Floor, P.Box No. 373

Nariman Point, Mumbai 400 021.

Telex : 011-3231.

Telephones :

22845452 / 22845463 / 2284 5471 / 2284 5472

Gram : INDERIC



Policy No. \_\_\_\_\_

Policy made the \_\_\_\_\_ day of \_\_\_\_\_  
between Messrs \_\_\_\_\_  
who carries on business at \_\_\_\_\_

(hereinafter called 'the Exporter') of the one part and the Export Credit & Guarantee Corporation Ltd., (hereinafter called 'the Corporation') of the other part.

WHEREAS the Exporter has entered into a contract as specified in the Schedule appended hereto (hereinafter called 'the contract') with Messrs \_\_\_\_\_

(hereinafter called 'the Buyer') for rendering of certain services mentioned therein.

AND WHEREAS the exporter has made a proposal dated the \_\_\_\_\_ day of \_\_\_\_\_ (hereinafter called 'the proposal') requesting the Corporation to insure him against a percentage of loss which he may sustain by reason of certain risks involved in the contract for rendering of services to the buyer.

AND WHEREAS the exporter has agreed that the said proposal shall be the basis of this Policy.

NOW, THEREFORE, in consideration of the premium of Rs. \_\_\_\_\_

paid by the exporter to the Corporation, the Corporation hereby insures the Exporter in accordance with the terms and subject to the conditions hereof against a percentage of the amount of any loss as hereinafter defined which may be sustained by the Exporter under the contract due to the following causes (hereinafter called the 'Risk Insured'),

#### RISKS INSURED:

(i) the failure or refusal on the part of the buyer to fulfil the terms of the contract, such failure or refusal not arising from any breach of contract or warranty on the part of the exporter nor from any other cause within the control of the exporter; or

(ii) the operation of a law, or of an order Decree or Regulation having the force of law, which in circumstances outside the control of the Exporter, prevents restricts or controls, the transfer of payment from the buyer's country to India, of an irrevocable deposit made by the buyer in the currency of his country within 30 days from the due date of payment under the relative contract for transfer to India; or

(iii) the occurrence of war between the buyer's country and India; or

(iv) the occurrence of war, hostilities, civil war, rebellion, revolution, insurrection or other disturbance in the buyers' country; or

(v) imposition of restrictions by the Government of India, in circumstances outside the control of the Exporter, preventing the rendering of the services to the buyer; or

(vi) any other cause not being within the control of the exporter and/or of the buyer which arises from events occurring outside India.

PROVIDED ALWAYS that the Corporation shall not be liable for loss:-

(a) in respect of any risk which at the date when contract is made can be insured with the Government or any of its organisations other than the Corporation or can normally be insured with commercial insurers;

(b) which arises from the insolvency of any agent of the Exporter or the insolvency of a collecting bank or from any act or default on the part of such agent or collecting bank;

(c) which arises due to the failure or refusal on the part of the buyer to accept the services and/or to pay for them due to the claim of the buyer that he is justified in withholding payment of the contract price or any part thereof by reason of any payment credit, set-off or counter claim and/or due to his claim that for any other lawful reason he is excused from performing his obligations under the contract;

(d) unless a claim for the loss is made by the Exporter to the Corporation in writing in the form prescribed by it on or before \_\_\_\_\_

(e) which arises from prevention of or delay in the transfer of payment from the buyer's country until the buyer has made an irrevocable deposit for transfer to the Exporter on such terms and in such bank as are approved by the Corporation in writing, of a sum in the currency of the buyer's country equal to the amount due for payment under the contract;

(f) which arises from any failure or inability of the Exporter to obtain any authority necessary under the regulations in force in India at the date of the Contract for rendering of the services.

#### TERMS AND CONDITIONS: REPRESENTATIONS AND DISCLOSURES BY EXPORTER

1. **Proposal and Declaration:** 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 be untrue or incorrect in any respect, this policy shall be void but the Corporation may retain any premium that has been paid.

2. **Disclosure of Facts:** Without prejudice to any rule of law it is declared that this policy is given on conditions that the Exporter has at the date of issue of the policy disclosed and will at all time during the operation of this policy promptly disclose all facts in any way affecting the risks insured.

3. **Withdrawal of Cover:** The Corporation shall be at liberty at any time to give written notice to the Exporter 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 services that may be rendered on or after that date. Note: Dispatch of notice means a notice sent by ordinary post to the latest address registered with the Corporation.

#### **DUTIES OF THE EXPORTER**

4. **Exporter's Obligations:** The Exporter shall-

(a) use all the reasonable and usual care, skill and forethought, and take all measures including any measures which may be required by the Corporation to prevent or minimise loss;

(b) notify to the Corporation in writing of the occurrence of any event likely to cause a loss without delay but in no case later than 30 days of his becoming aware of any such occurrence;

(c) if during the course of rendering of services, it should come to the Exporter's knowledge that the buyer's country has any circumstances existing in it which may lead to any loss, exercise his right to stop rendering services unless the Corporation consents in writing to his refraining from so doing.

5. **Declarations:-** (a) The Exporter shall on or before the 10th day of each calendar month, forward to the Corporation a declaration on the form prescribed by the Corporation of -

(i) all services rendered by him during the previous month;

(ii) all amounts which, at the end of the previous month, remained wholly or partly unpaid for more than one month from the due date of payment in respect of services previously declared (Such declarations shall be continued to be forwarded to the Corporation in respect of all transactions insured with it so long as such transactions remain outstanding).

(b) the exporter shall furnish the Corporation promptly with any further information regarding the contract and services rendered by the Exporter thereunder that the Corporation may from time to time require.

6. **Contract price**

In this Policy the contract price of services rendered shall exclude any payments at the date of the contract secured by irrevocable letters of credit confirmed by a bank in India or received from the buyer.

7. **Percentage of loss payable:** Subject to the terms and conditions hereof, the Corporation agrees to pay to the Exporter 90 per cent of the loss, as hereinafter defined, sustained by him in respect of the contract to which this policy applies by reason of any of the risks insured immediately after the time hereinafter specified for ascertainment of the loss.

8. **Amount of loss:** The amount of loss shall-

(a) as regards services rendered to and accepted by the buyer, be the contract price of those services 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 Exporter is entitled to appropriate

in whole, or, in part payment of the price of the services and

(ii) any expenses saved by the non-payment of agent's commission or otherwise; and

(iii) any part of the contract price of services which represents interest payable by the buyer for credit facilities in respect of any period subsequent to payment by the Corporation;

(b) as regards services not accepted by the buyer be the contract price of the services less-

(i) any expenses saved by the non-fulfilment of the contract

(ii) any sums which, at the date at which the loss is ascertained the exporter has recovered from any source, including realisation of any security, and any sums or credits in his possession which the Exporter is entitled to appropriate as or towards payment of the contract price, or any part thereof.

Provided that the sums so recovered or realised shall be the sums less all expenses of recovery or realisation thereof;

(iii) any part of the contract price which represents interest payable by the buyer for credit facilities in respect of any period subsequent to payment by the Corporation.

9. **Time for ascertainment of loss:** Subject to the submission by the exporter on the form prescribed by the Corporation of a claim supported by evidence which, in the opinion of the Corporation, is sufficient and by a verification of the cause of loss, the Corporation will pay to the Exporter in Mumbai the amount of loss hereby insured immediately after the loss has been ascertained and such loss shall be ascertained;

(a) where the loss is due to the failure or refusal on the part of the buyer, to fulfill his obligations under the contract such failure or refusal not arising from reasons within the control of the Exporter four months from the date of such failure or refusal or four months from the due date of payment whichever of the two dates is the earlier;

(b) where the loss is due to the prevention of or delay in the transfer of payments from the buyer's country to India in circumstances outside the control of both the Exporter and the buyer, four months after the due date of payment by the buyer, or if the buyer has made an irrevocable deposit for transfer to the Exporter four months after making of such deposit, whichever of the two is the earlier;

(c) in all other cases, four months after the occurrence of the event which is the cause of the loss

Provided that where the buyer has on or after the due date of payment withheld payment of the contract price or any part thereof, or has declined to perform any of his obligations under the contract or agreement and claims that he is justified in so doing for any reason whatsoever the amount of such loss shall not be ascertained unless otherwise agreed to in writing by the Corporation, until

(i) the buyer has withdrawn such claim; or

(ii) the exporter has established to the satisfaction of the Corporation the validity or invalidity of such claim, but in any case not earlier than the appropriate time hereinabove specified.

10. **Payment of loss:** The Exporter shall, as a condition precedent to the payment by the Corporation of a percentage of any loss as herein defined, deliver to the Corporation from the person holding the documents pertaining to the contract insured under this policy a writing acknowledging and agreeing (1) that the documents are held in trust for the Corporation. (2) that upon demand by the Corporation they shall be delivered upto the Corporation, and (3) that if any payments are received against such documents the amounts so received shall be paid according to the directions of the Corporation.

11. **Rate of Exchange:** All payments under this policy shall be made in Indian Rupee at the Head Office of the Corporation and for the purpose of payment of premiums and losses, the contract-price of services expressed in a foreign currency shall be converted into Indian Rupee at the Bank buying rate of exchange at Mumbai on the date provided in the contract or agreement for the invoicing of such services.

PROVIDED that, if devaluation of the currency in which the buyer has to pay takes place before the claim is paid, the amount claimed in Indian currency shall be based on the devalued rate.

#### **LIMITATION OF CORPORATION'S LIABILITY**

12. **Limitation of Liability:** The Corporation shall not be liable for loss-

(a) in respect of any amounts receivable by the Exporter under the contract if the same has been assigned without full recourse to the Exporter unless prior approval in writing of the Corporation thereto has been obtained; or

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

(c) if the relevant authority to import the services and to pay for them is made subject to conditions as to the export of other services from any country or to conditions as to the payment for such other services when so exported.

(d) if the terms of the contract are altered in any respect without the consent in writing of the Corporation.

13. **Maximum Liability:** The total liability of the Corporation under this Policy shall be limited to Rs.

#### **RECOVERIES**

14. **Action after payment of claim:** Upon payment by the Corporation of the amount due hereunder to the Exporter, the Exporter shall:

(a) take all steps which may be necessary or expedient or which the Corporation may at any time require, to effect recoveries, whether from the buyer or from any other person from whom, such recoveries may be made;

(b) upon request assign and transfer to the Corporation his rights under any contract in respect of which such payment has been made, including his right to receive any moneys payable under such contract or his right to damage from any breach thereof;

(c) upon request deliver upto the Corporation any documents relating to the contract in respect of which such payments have been made and assign and transfer

to the Corporation his right and interest in any such documents;

(d) upon request assign, deliver up or otherwise transfer to the Corporation any negotiable instruments, guarantees or other securities relating to such contracts.

15. **Recovery Expenses:** Any expenses incurred by the Exporter with the consent of the Corporation or by the Corporation for the purpose of effecting recoveries from the buyer or any other source shall be a first charge on any amounts recovered thereafter.

16. **Recoveries:** Any sums recovered by the Exporter or the Corporation of a loss to which this policy applies after the date at which the loss is ascertained from the buyer or any other source shall be divided between the Corporation and the Exporter in the proportion of 90 and 10.

The Exporter shall pay all sums so recovered to the Corporation forthwith upon their being received by him or by any person on his behalf, the Exporter hereby acknowledging and declaring that until such payment is made to the Corporation he receives and holds such sums in trust for the Corporation.

17. **Due date of payment:** The words 'Due date of payment' in Risks Insured under this Policy and clauses 5, and 9 of this policy shall include and be deemed to include, where the time of payment has been extended by the Exporter with the consent in writing of the Corporation, the date to which the time has been so extended.

18. **Assignments:** This Policy, or any amount payable hereunder, is assignable only with the previous approval in writing of the Corporation.

19. **Fraudulent Claims:** If the Exporter makes any claim hereunder, knowing the same to be false or fraudulent or if any fraudulent means or devices are used by the Exporter or any one acting on his behalf to obtain any benefit under this policy, the liability of the Corporation hereunder shall cease and the Exporter shall have no claim hereunder and shall repay to the Corporation on demand all sums paid by the Corporation and the Corporation shall be entitled to retain all payments made to it by way of premiums or otherwise

20. **Observance of Conditions:** 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 the Corporation hereunder and to the enforcement thereof by the Exporter.

21. **Failure to Comply with Conditions:**

No failure by the Exporter to comply with the terms and conditions of the Policy shall be deemed to have been waived, excused or accepted by the Corporation unless the same is expressly so waived, excused or accepted by the Corporation in writing.

Schedule dated the \_\_\_\_\_ for Managing Director showing particulars of contract covered' under the Policy is attached herewith and forms part hereof.

for Managing Director.

**EXPORT CREDIT & GUARANTEE CORPORATION OF INDIA LTD.**  
Express Towers 10th Floor, Nariman Point, Mumbai - 400 021.

Schedule attached to and forming part of Specific Services Contract (POLITICAL RISKS)

Policy No.

dated

issued to

Messrs \_\_\_\_\_

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1. (a) Name of the Buyer :

(b) Address :

(c) Business :

2. Details of the Contract

(a) Date of Contract :

(b) Nature of service to be rendered :

(c) Period within which the services are to be rendered :

(d) Place where the services are to be rendered :

(e) Total value of the contract :

(f) Terms of payment :

(g) Currency of invoice :

3. Amount Covered :

for Managing Director