

निर्माण कार्य पॉलिसी

CONSTRUCTION WORKS POLICY

भारतीय निर्यात ऋण गारंटी निगम लि.,
(भारत सरकार का उद्यम)

EXPORT CREDIT GUARANTEE CORPORATION OF INDIA LTD.

(A GOVT. OF INDIA ENTERPRISE)

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Gram : INDERIC



Policy No. _____

POLICY made the day of 200..... between
M/s.....

who carry on business at
..... (hereinafter called "the INSURED") of the one part and the Export Credit
Guarantee Corporation of India Limited (hereinafter called "the CORPORATION") of the other part.

WHEREAS the INSURED has entered into a Project Contract as specified in the Schedule appended hereto
(hereinafter called "the CONTRACT") with M/s.....
(hereinafter called "the EMPLOYER") for the execution of certain works mentioned therein, in
..... (hereinafter referred to as "the PROJECT COUNTRY"),

AND WHEREAS the INSURED has made a Proposal dated the (hereinafter
called "the PROPOSAL") requesting the Corporation to insure him against a percentage of loss which he may
sustain in connection with the Contract, by reason of certain risks specified hereinafter in these presents.

NOW, THEREFORE, in consideration of the premium paid and further premium to be paid by the Insured to the
Corporation as specified in item 8 in the Schedule to this Policy, the Corporation hereby insures the Insured in
accordance with the terms of the offer dated made by the Corporation to the
Insured in respect of the said hereinbefore recited Proposal and subject to the conditions hereof against EIGHTY
FIVE per cent of the amount of any loss which may be sustained by the Insured due to the risks (hereinafter
called "the Risks Insured"), specified in detail in clause 1 under the head "Risks Insured", subject however to
exclusions of Corporation's liability, specified hereinafter in clause 2.

PART I - RISKS INSURED AND EXCLUSIONS

Clause 1 : RISKS INSURED

- (i) the insolvency, as hereinafter defined, of the
Employer;

Note : It is clarified that this risk shall not be insured
against when the Employer is a "Government
Employer", as hereinafter defined.

- (ii) the failure or refusal on the part of the Employer, to
pay on the due date of payment any sum payable
under the terms of the Contract or the amount of any
Bill of Exchange or Promissory Note given to secure
payment of such sum;

- (iii) the failure or refusal of the Employer to pay any sum
due to the Insured under an arbitration award, as
hereinafter defined, such failure or refusal not arising
from any failure of the Insured to implement any part
of such award binding on the Insured;

- (iv) the operation of any Law or of an Order, Decree,
Notification or Regulation having the force of law or
a restrictive foreign exchange policy of the Government
of the Project Country and/or of.....
through which payments to the Insured are to be
channelised as per the Contract, Introduced In the
said country(ies) after the date of the Contract which,
in circumstances outside the control of the Insured
and, where the Employer is not a Government Employer

as defined hereinafter, also of the Employer, prevents, restricts or delays the transfer of payment from the Project Country to India of an irrevocable deposit made by the Employer of a sum equal to the amount due for payment under the Contract in the currency of the Project Country, for transfer to India;

- (v) failure of the Insured to receive any sum which is due and payable under the Contract by reason of the occurrence of either-

- (a) war between the Project Country and India or;
- (b) war, hostilities, civil war, rebellion, revolution, insurrection or other disturbances in the Project Country;

- (vi) the failure of the Insured to receive any sum pursuant to a provision, if any, in the Contract for payment of any amount which is to become payable by the Employer under the Contract on the termination or frustration thereof and if such failure is due solely to its having become impossible to ascertain either the amount or the due date of payment of such sum by reason of the occurrence of either-

- (a) war between the Project Country and India or;
- (b) war, hostilities, civil war, rebellion, revolution, insurrection or such other disturbances in the Project Country;

- (vii) in respect of goods or materials (not being insured's plant to be used for construction purpose) manufactured or purchased by the Insured after the date of the Contract solely for the purpose of being used in the performance of the Insured's obligations under the Contract for which, at the date of the occurrence of the event which is the cause of loss, the Employer has no liability to pay under the Contract-

- (a) the imposition of any Law or of an Order, Decree, Notification or Regulation having the force of law which in circumstances outside the control of the Insured prevents the import of the goods or materials into the Project Country or
- (b) the cancellation in circumstances outside the control of the Insured of a previously Issued and currently valid authority to import the goods or materials into the Project Country, or
- (c) the cancellation in circumstances outside the control of the Insured, of a currently valid export licence or the imposition of restriction on the export of goods or materials not previously subject to licence in India.

Provided that, where the goods or materials mentioned hereinabove include any item of plant and machinery, this sub-clause (vii) shall apply only to such items of the plant or machinery as are specifically approved for cover by the Corporation, under Item 7(B) of the Schedule' to this Policy.

- (viii) The Incurring, in respect of goods or material exported from India for the purposes of the Contract, of any additional handling, transport or Insurance

charges which are occasioned after exportation, interruption or diversion of voyage outside India at which it is impracticable to recover from the Employer.

Clause 2 : EXCLUSIONS OF LIABILITY

Notwithstanding anything contained in clause 1, Corporation shall not be liable for-

- (a) Any loss which arises from any of the risks described in clause 1 hereinabove, if those risks are excluded from the purview of the cover of this Policy by item 7(A) of the Schedule to this document.
- (b) Any loss which arises from risk no.(iv) in clause 1 hereinabove, if risk (i), (ii), (iii) are excluded from the purview of this Policy by item 7-A in the Schedule to this Policy or by sub-clause (k) hereinbelow and if payment of deposit in Project Country currency, as specified in the Schedule, in respect of said risk (iv) is not made within 30 days of the due date of payment by or on behalf of the Employer.
- (c) Any loss which arises from any failure of the Insured when the Employer is not a Government Employer defined hereinafter, of the Employer to comply with any Law or to obtain issue or deliver any authority necessary under any Law or Order, Decree, Notification or Regulation having the force of law and in force in India in the Project Country, at the date when the Contract was made, relating to
 - (i) the works executed or to be executed by the Insured or the mode of execution thereof or,
 - (ii) the making of payments in respect thereof or,
 - (iii) for the purchase or importation of any goods or materials necessary for the execution of the works or the recruitment of labour required.
- (d) Any loss which arises from
 - (i) the insolvency, liquidation or winding up of any agent of the Insured or any seller or carrier of goods or the Contractor or Employee engaged by the Insured or the bank(s) through whom the transaction is handled,
 - (ii) any act, omission, default or negligence on the part of the Insured or such agent, seller or carrier of goods or sub-contractor, employee or collecting bank.
- (e) Any loss where the relevant authority of the Project Country to import goods or materials and to pay for them is made subject to conditions as to the export of other goods or materials from any other country or to conditions as to the payment for such other goods or materials when so exported.
- (f) Any loss caused by any provision in the Contract whereby payments thereunder are to be made in a currency other than that permitted under the foreign exchange control regulations of the Government of India in force, on the date of the Contract.
- (g) Any loss under sub-clause (vii) of "the Risks Insured" which occurs in respect of goods or materials to be exported from a country outside India before the date on which such goods or materials are exported from the

country or, where such goods or materials are to be imported into India, before the date of such importation.

- (h) Any loss in respect of any risk which at the date when the 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; nor shall the Corporation be liable for any loss arising in connection with any such Contract of Insurance.
- (i) Any loss in respect of work done, services rendered or commitments undertaken under the Contract after the date mentioned in item 1(g) of the Schedule to this Policy, unless otherwise agreed to in writing by the Corporation, in its absolute discretion, on an application in writing made by the Insured to the Corporation at least ninety days before the aforesaid date.
- (j) Any loss in respect of payments due for work executed or expenditure incurred after the Employer has been in default in making any payment due under the Contract for a period of one hundred twenty (120) days after its due date, unless on an application in writing made to the Corporation by the Insured before the expiry of ninety (90) days of such default, the Corporation in its absolute discretion agrees otherwise, subject to such terms and conditions as it deems fit to stipulate.
- (k) Any loss arising under risk (i) (ii) or (iii) in clause 1 in respect of any amount payable by the Employer under the Contract which is secured by a Bank Guarantee or irrevocable Letters of Credit opened by banks in Project Country or in other foreign countries.
- (l) Any loss which represents interest payable by the Employer on any sum due under the Contract for any period subsequent to the due date of payment of that sum by the Employer.
- (m) Any loss arising before the Insured has received in India the advance payment mentioned in item 4 of the Schedule to this Policy.

PART II - REPRESENTATIONS BY INSURED AND OTHER CONDITIONS

Clause 3 : PROPOSAL AND DECLARATION

- (i) The Proposal including the declarations therein shall be deemed to be incorporated in this Policy as the basis thereof and the Policy is given on condition that the statements or representations made-including those made relating to the details of the Contract-in the Proposal or any of its Schedules or Annexures, were true when they were made and are true at the date of giving of this Policy. If any of such statements or representations are untrue or incorrect in any respect, this Policy shall be void but the Corporation may retain any premium that has been paid.

The provision in this paragraph shall apply to any statement made by the Insured concerning the Contract, notwithstanding that the Corporation may have seen and examined the Contract.

- (ii) The truth and accuracy of the statements in the written application, submissions and representations

made by the Insured to the Working Group constituted by the Reserve Bank of India for consideration of projects for support by financial institutions and the Corporation as also the truth and accuracy of the summary of the Insured's said application prepared by the insured's bankers, for use of the Working Group shall be a condition precedent to any liability of the Corporation.

Strict compliance by the Insured with the stipulations made and conditions imposed by the Working Group, while clearing the project for support by financial Institutions and the Corporation shall be a condition precedent to the Corporation's liability, notwithstanding that the Corporation, through any of its Officers, could have before the date of this Policy, discovered the breach by the Insured of any of such stipulations or conditions.

Clause 4 : DISCLOSURE OF FACTS

- (a) This Policy is given on the condition that the Insured has at the date of giving of the Policy, disclosed and will at all times during the operation of this Policy promptly disclose all facts in any way affecting the risk insured, including facts which have the effect of increasing the risks.
- (b) The Corporation or any other person authorised by the Corporation may, at any time examine or take copies of any correspondence, accounts or other documents in the possession or under the control of the Insured relating to or connected with the Contract and the Insured shall, upon demand by the Corporation, without delay or dispute, make the same available for this purpose to the Corporation and the Insured shall at the request of the Corporation supply to the Corporation any information in his possession or power and take, at his own cost, all steps to obtain for the Corporation any information or the sight of any documents in the possession of any third party relating to or connected with the Contract.

Clause 5 : INSURED'S DUTIES FOR PREVENTION OF LOSS

The Insured shall

- (i) use all care, skill and forethought and take all measures, including any measures which may be required by the Corporation to prevent or minimise loss;
- (ii) notify the Corporation in writing of the occurrence of any event likely to cause a loss without delay but in any case within 48 hours of his becoming aware of such occurrence.

Clause 6 : PERIODICAL DECLARATIONS

The Insured shall make declaration to the Corporation by completing and returning to the Corporation such form or forms as may be, from time to time, prescribed by the Corporation and shall provide upon request such other information in relation to the works or progress thereof including finance thereof as may at any time be required by the Corporation.

Clause 7 : MAXIMUM LIABILITY

The total amount covered by the Policy and the total liability of the Corporation under this Policy shall be limited to the sums

mentioned in items 5 and 6 respectively of the Schedule to this Policy or such other larger sums necessitated during the execution of the project, as may be agreed to in its absolute discretion by the Corporation, on an application, In writing, made by the Insured to the Corporation as soon as the Insured becomes aware of the circumstances requiring a cover of a larger sum.

Clause 8 : ASSIGNMENT

The Corporation shall not be under any liability to pay any loss in respect of the Contract in accordance with clause 15 of this Policy unless either:

- (a) the Insured has at the time of making a claim in respect of such loss made a declaration in writing that the Insured has not assigned, charged, hypothecated or pledged to any person, firm, company or association of persons, any part of the amount receivable under the Contract or under any part of any arbitration award or any right or interest acquired by virtue thereof and has not received any security in respect thereof, (or securing the payment of the amount of such loss, or
- (b) in any case where the Insured has made any such assignment charge, hypothecation or pledge or has received any such security, the person In whose favour such assignment, charge, or pledge has been made or from whom such security has been received has given an undertaking in writing to the Corporation in a form approved by the Corporation that in consideration of the Corporation paying the said loss he will not make any claim whatsoever to any recoveries subsequently made in respect of such loss, other than such claim as he may be entitled to make to the proportion of the recoveries reserved to the Insured under clause 20 hereof.

Clause 9 : PREMIUM

Premium in respect of this Policy is the amount specified in item 8 of the Schedule to this document and is payable as specified in that item, provided that If any claim is made under this Policy, the unpaid portion, if any, of the full premium shall forthwith become payable.

Clause 10 : EXCHANGE RATE

For the purpose of clauses 6 and 16 of this Policy, any amounts in the relative foreign currency(ies) shall be declared or computed as Rupee amounts calculated at the rate/s specified in item 9 of the Schedule to this Policy.

PROVIDED THAT, if the currencies In which the Employer has to pay is devalued for any reason whatsoever before the claim is paid, the amount claimed in Indian Currency shall be based on the devalued rate/s.

Clause 11 : ALTERATION IN CONTRACT

The liability of the Corporation under this Policy shall cease if, without the Corporation's previous consent In writing, the Insured agrees to any addition, alteration or variation in the terms of the Contract or agrees to or acquiesces In any departure from such terms or agrees to any extension of the due dates of payment for any sums payable by the Employer.

Clause 12 : THE UNINSURED PERCENTAGE

The Insured shall retain for his own account and uninsured

- (i) so much of the Insured's loss as exceeds the insured percentage as specified under this Policy and
- (ii) so much of the balance loss of the Insured exceeds the Maximum Liability specified in item 6 of the Schedule of this Policy.

PART III - CONDITIONS PERTAINING TO CLAIM UNDER THIS POLICY

Clause 13 : ALLOCATION OF PAYMENTS RECEIVED

All payments of principal payable under any contract and payments of Interest accruing up to the due date of payment of such principal, whether such payments relate to the Contract or another Contract insured by the Corporation under any other Policy or to a Contract not insured by the Corporation (irrespective of any appropriation made by the person making such payment) shall, unless the Corporation otherwise agrees in writing, be allocated-

- (a) where such payments are made by the Employer, to the amounts outstanding under all Contracts made by the Insured with the Employer- in the chronological order of the due dates of payment of those amounts; and
- (b) where such payments are made by the Surety under a guarantee of payment or, as the case may be, under a guarantee of payment and undertaking relating to payment to the amounts outstanding at the date of such payment under all Contracts made by the Insured with the Employer to which guarantees by the Surety relate in the chronological order of the due dates of payment of those amounts.

Clause 14 : TIME LIMIT FOR CLAIM AND EVIDENCE TO BE FURNISHED

Unless otherwise agreed to in writing by the Corporation, the Corporation shall not be liable for any loss unless a claim in respect of the loss is made and lodged by the Insured with the Corporation In writing, in the form prescribed by It, within one year from the date prescribed for ascertainment of the loss under clause 15 hereinafter.

- 2. The Insured must submit with his claim form reliable and satisfactory evidence in support of all his statements contained in the claim form and In particular the Insured shall provide evidence, satisfactory In the opinion of the Corporation, in support of
 - (a) his contention, if any, that the amounts outstanding, which are the subject of his claim, have actually become due and payable by the Employer and are outstanding as on the date of the claim and/or
 - (b) his contention, if any, that deposits in local currency have been made irrevocably by the Employer and that the transfer to the Insured is being delayed for no fault of the Insured/Employer and/or
 - (c) his contention, if any, that additional handling, etc. expenses as contemplated in Risk (viii) under the head "Risks Insured" have been Incurred by the Insured.

Clause 15 : TIME FOR ASCERTAINMENT OF LOSS

The Corporation will pay to the Insured in Bombay in Indian Rupees the sum payable as a claim by the Corporation towards the loss Insured by this Policy after the loss has been ascertained and such loss shall be ascertained

- (A) (i) Where the loss is due to the occurrence of the risk specified in sub-clause (1) of "the Risks Insured," one month after the loss has been admitted to rank against the Insolvent's Estate in favour of the Insured or four months after the due date of payment whichever of the two dates is the earlier;

Provided that where the claim is made before the loss is admitted to rank against the Insolvent's Estate in favour of the Insured, the Insured shall deliver to the Corporation (a) evidence satisfactory in the opinion of the Corporation that the Insured has filed his claim in such insolvency of the Employer and (b) 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;

- (ii) Where the loss is due to the occurrence of the risk specified in sub-clause (ii) of "the Risks Insured", four months after the due date of payment under the Contract, or the due date of payment under the Bill of Exchange or Promissory Note whichever is later;
- (iii) Where the loss is due to the occurrence of the risk specified in sub-clause (iii) of "the Risks Insured", four months after the due date of payment under the arbitration award;
- (iv) Where the loss is due to the occurrence of the risk specified in sub-clause (iv) of "the Risks Insured", four months after the due date of the payment or four months after the completion of the formalities necessary in order to obtain transfer to India of the irrevocable deposits made, whichever of the two is the later;
- (v) Where the loss is due to the occurrence of the risks specified in sub-clause (v) of "the Risks Insured", four months after such occurrence or four months after the due date of payment whichever of the two is the later;
- (vi) Where the loss is due to the occurrence of the risk specified in sub-clause (vi) of "the Risks Insured", four months after such occurrence;
- (vii) Where the loss is due to the occurrence of any of the risks specified in sub-clause (vii) of "the Risks Insured", four months after the occurrence of the event which is the cause of loss or one month after the salvage value of the goods or materials involved is realised, by the Insured by resale or otherwise, whichever of the two is the later;
- (viii) Where the loss is due to diversion risk as defined in sub-clause (viii) of "the Risks Insured", as soon as

reliable proof of loss to the satisfaction of the Corporation is furnished.

- (B) Where the time for ascertainment of loss due to the occurrence of the risks specified in sub-clause (ii) or (iii) of "the Risks Insured", has arrived hereunder, the Corporation may at any time thereafter elect to treat as a loss any other sum payable under the terms of the Contract notwithstanding that the date for ascertainment of the loss in respect of that other sum under risk (ii) or (iii) of "the Risks Insured" has not then arrived, and where such election is made, the loss shall be calculated in accordance with clause 16(i) of this Policy as if that sum were due and payable at the time of election. Payment of the insured percentage of loss so calculated shall be a full and complete discharge of the Corporation's liability hereunder in respect of that sum.
- (C) Notwithstanding the foregoing provisions of this clause where the Employer claims to be Justified in withholding payment of any sum due under the terms of the Contract or the amount of any Bill of Exchange or Promissory Note given to secure payment of such sums by reason of any payment, credit, set-off or counter claims or for any other reason to be excused from performing its obligations under the Contract, the loss shall not be ascertained unless the Corporation agrees to the contrary, until either the Corporation is satisfied that the Employer has withdrawn such claim or the Insured has established to the satisfaction of the Corporation the validity or invalidity of such claim by legal proceedings in the Employer's country against the Employer or If the Corporation, in its absolute discretion, shall agree, in such other manner as the Corporation may direct but in any case not earlier than at the appropriate time hereinbefore specified.

Clause 16 : AMOUNT OF LOSS

The amount of loss shall :

- (1) Where the loss is due to the occurrence of the risk specified in sub-clause (1) of "the Risks Insured" be the sum payable and outstanding for the time being under the Contract, by the Employer to the Insured, less the following amounts in so far as they have not already been taken into account in computing the amount of any other loss under this Policy, that is to say-
- (a) the amount which, at the date at which the loss is ascertained the Employer would have been entitled to take into account and which has been established in the manner set out in clause 15(C) of this Policy and any other amount which at that date the Employer 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 such sum, and
- (b) the value of the realisation of any security held by the Insured against payment of such sum: and
- (c) any part of such sum for which the Corporation is not liable by virtue of any provision of this Policy.

- (2) Where the loss is due to the occurrence of the risks specified in sub-clause (ii) or (iv) or (v) of "the Risks Insured", be the sum of loss as ascertained, less the amounts referred to in heads (a), (b) and (c) of sub-clause (1) of this clause and any amount which represents interest payable by the Employer for credit facilities in respect of any period subsequent to the due date of payment under the Contract.
- (3) Where the loss is due to the occurrence of the risk specified in sub-clause (vi) of "the Risks Insured", be
 - (a) the actual amount, if any, provided as payable under the Contract on the termination or frustration thereof in respect of works executed or, if no such amount has been provided, the amount estimated for the purpose of this sub-clause as hereinafter, provided in respect of works executed, less, in either case, the following amounts in so far as they have not already been taken into account in computing the amount of any other loss under this Policy, that is to say:
 - (i) the amount which, if the said actual amount or estimated amount has been due under the Contract at the date at which the loss is ascertained, the Employer would at that date have been entitled to take into account and which has been established in the manner set out in clause 15(C) of this Policy and any other amount which at that date the Employer would have been entitled to take into account by way of payment, credit, set-off or counter claim or which at that date the insured would have been entitled to appropriate in whole or in part payment of the said actual amount or estimated amount;
 - (ii) the amount referred to in sub-clause (1) (b) and (c) of this clause;
 - (b) The sum estimated for the purpose of this sub-clause as hereinbefore mentioned shall :-
 - (i) if previous to the termination or frustration of the Contract the Employer's liability has been computed thereunder for any works executed, be such amount as bears to the number of days in the period beginning with the date upto which the last such computation was made and ending with the date of termination of the Contract or the date of the occurrence of the event which caused frustration of the Contract, the same proportion as the total value of such liability bears to the number of days in the period beginning with the date on which works were commenced under the Contract and ending with the date upto which the last such computation was made, for payment;
 - (ii) if no such liability of the Employer has been computed be such amount as appears to the Corporation to be reasonable.
- (c) Where the Corporation has made payment under risk (vi) of "the Risks Insured" of this Policy by reference to estimated figures, and subsequent to such payment by the Corporation the actual amount or amounts payable under the Contract are ascertained, the Corporation shall recalculate the loss by reference to the actual amounts payable and the Corporation or the Insured shall each pay to the other of them such amount as is necessary to ensure that the liability of the Corporation hereunder is based on the actual amount payable under the Contract.
- (4) Where the loss is due to the occurrence of any of the risks specified in sub-clause (vii) of "the Risks Insured", be the price at which the said goods or materials are included in the Contract, less-
 - (a) any expenses saved by the Insured by reason of non-completion of manufacture and non-delivery; and
 - (b) where any of the said goods or materials have been resold, the sums realised in such resale or the salvage value thereof realised, by the Insured or anyone on his behalf.
- (5) Where the loss is due to the occurrence of the risk specified in sub-clause (viii) of "the Risks Insured", be the amount of any additional handling, transport or insurance charges which are occasioned by interruption or diversion of voyage outside India and which it is impracticable to recover from the Employer, less any allowance, rebate or refund to which the Insured may be entitled by reason of the interruption or diversion of the voyage.
- (6) Where the loss is due to the occurrence of the risk specified in sub-clause (iii) of "the Risks Insured", be the sum due under the arbitration award less :
 - (a) any part of such sum for which the Corporation is not liable by virtue of any provision of this Policy; and any amount which represents interest payable by the Employer for credit facilities in respect of any period subsequent to the due date of payment under the Contract.
 - (b) in so far as they have not been taken into account in computing the said sum or the amount of any other loss under this Policy, the amounts referred to in sub-clauses (a) and (b) of sub-clause (1) of this clause.

Clause 17 : PAYMENT OF LOSS

If (a) claim for any loss shall be made by the Insured under this Policy and if the claim shall be admitted (but not otherwise) it shall be paid by the Corporation direct to the Insured's bankers in India, holding the documents pertaining to the Contract Insured under this Policy or having a right or lien over the receivables under the Contract and in that event the bank's receipt would be in full legal discharge to the Corporation therefor and the Corporation shall have no further obligations to the Insured. Provided that, the Insured shall, as a condition precedent

to the payment by the Corporation of such a loss, deliver to the Corporation from the bank holding the documents pertaining to the Contract insured under this Policy in writing acknowledging and agreeing,

- (i) that the claim amount disbursed by the Corporation, shall be used by it firstly for liquidation of borrowings insured by the Corporation, if any, in India or abroad, made by or on behalf of the Insured, against the receivables outstanding which are the subject of the Insured's claim;
 - (ii) that the documents held by it are held in trust solely for the Corporation and that, upon demand by the Corporation, they shall be delivered up to the Corporation unconditionally and without any objection, and
 - (iii) that if any payments are received against such documents, all amounts so received shall be held by it in trust for the Corporation and paid according to the directions of the Corporation.
- (b) The Insured shall also furnish to the Corporation, before payment of any claim by it, an undertaking that he would make at his cost, all efforts, including such, measures as the Corporation may instruct him to take, diligently to recover the outstanding amounts and to pass on the Corporation's share to it on receipt of the said amounts and the said undertaking shall, if so required by the Corporation, be supported by a bank guarantee in favour of the Corporation from a public sector bank in India, for such amount not exceeding the claim amount paid by the Corporation, and for such period, as the Corporation may prescribe.

Clause 18 : FRAUDULENT CLAIMS

If the Insured makes any claim hereunder knowing the same to be false or fraudulent or if any fraudulent means or devices are used by the Insured or any one acting on his behalf, to obtain any benefit under this Policy, the liability of the Corporation hereunder shall thereupon cease and the Insured shall have no claim hereunder and shall repay to the Corporation, on demand, all sums paid by it and the Corporation shall be entitled to retain all payment made to it by way of premium or otherwise.

PART IV - ACTION AFTER CLAIM IS PAID BY THE CORPORATION

Clause 19 : ACTION AFTER PAYMENT OF CLAIM :

- (a) Upon payment of the Insured's claim by the Corporation the Insured shall :
- (i) take all steps at his cost which may be necessary or expedient or which the Corporation may at any time require him to take to effect recoveries, whether from the Employer or from any other guarantor or other person from whom such recoveries may be made;

- (ii) upon request assign and transfer to the Corporation the Insured's rights under the Contract including the right to receive any moneys payable.
- (iii) upon request deliver up to the Corporation any goods or materials held by the Insured for work to be executed under the Contract and any documents relating thereto and assign and transfer to the Corporation the Insured's rights and interest in such goods, materials and documents;
- (iv) upon request assign, deliver up or otherwise transfer to the corporation any negotiable instruments guarantees or other Securities relating to the Contract.
- (v) do and execute all such other acts, deeds, matters and things and sign all such documents as the Corporation may require him to do or execute for the purpose of effecting recoveries from the Employer or from any other source. AND for the purpose of this provision the Insured hereby appoints the Corporation its ATTORNEY to do or execute and to exercise all or any of the acts, matters, deeds and things required to be done and executed or carried out by the Insured upon payment by the Corporation.

- (b) Any amount paid by the Corporation to the Insured under this Policy shall be refundable by the Insured to the Corporation with Interest at 5% over bank rate, if in the opinion of the Corporation, the insured has failed or neglected to take steps, measures or actions as stipulated herein for effecting recoveries.

Clause 20 : RECOVERIES

Any sums recovered by the Insured or the Corporation, after the date at which the amount of the loss is paid by the Corporation, whether from the Employer or any other source, shall be divided between the Corporation and the Insured in the proportion in which loss is borne by them respectively according to the terms of this Policy, whether or not such division results in the retention by the Corporation of a greater or lesser sum than the amount paid by the Corporation under this Policy in connection with that amount of loss, whatever the causes, circumstances or events in or by reason of which such retention as aforesaid may result or take place.

The Insured shall pay the Corporation's share from all sums so recovered to the Corporation forthwith upon their being received, the Insured hereby acknowledging and declaring that until such payment is made to the Corporation the Insured or his agent, if any, receives and holds such sums in trust for the Corporation. Any delay on the part of the Insured in making such payments to the Corporation shall entitle the Corporation to claim interest on those payments at 5% over bank rate.

Clause 21 : RECOVERY EXPENSES

Any expenses incurred by the Insured with the consent of the Corporation or by the Corporation for the purpose of effecting recoveries from the Employer or any other source shall be a first charge on any amount recovered thereafter.

PART V - DEFINITIONS

Clause 22 : (1) HEADINGS FOR PARTS AND CLAUSES HEREIN

The headings given to each of the clauses and parts contained in this Policy shall not control or affect the construction hereof.

(2) EXPORT OR EXPORTATION

All references in this Policy to goods being exported or to exportation shall be deemed to include the placing of goods in any seaworthy shipping vessel or in any aircraft for the purpose of being exported.

(3) ARBITRATION

All references in this Policy to an arbitration award shall mean an award of arbitration by Arbitrators appointed in accordance with the provisions for the purpose contained in the Contract.

(4) INSOLVENCY

The Employer 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 Employer be an incorporated body;
 - (i) an order has been made for compulsory winding-up, or
 - (ii) an effective resolution has been passed 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 creditors has been sanctioned by the court, or

- (f) whether the Employer be an incorporated or unincorporated body, such conditions exist as are substantially equivalent in effect to any of the foregoing conditions.

(5) GOVERNMENT EMPLOYER

The Employer shall be deemed to be 'Government Employer' for the purpose of this Policy, when the Employer is the Government or a department of the Government of the Project Country.

PART VI - OBSERVANCE OF TERMS AND CONDITIONS BY THE INSURED

Clause 23 : OBSERVANCE OF TERMS AND CONDITIONS BY THE INSURED

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

Provided further that no failure by the Insured to comply with the provisions of this 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 subject to such terms and conditions as the Corporation may stipulate, including reduction in percentage of loss payable as claim.

Schedule Dated is attached to this Policy and forms part thereof.

For Export Credit Guarantee Corporation of India Ltd.

Signature

Place : Designation

EXPORT CREDIT GUARANTEE CORPORATION OF INDIA LTD.

(A Govt. of India Enterprise)

Schedule attached to and forming part of Construction Works Policy No.
issued to

M/s.

Item No.

1. (a) Name & Address of the Employer :

(b) (i) Name of the Project Country i.e.
country in which works are to be
executed :

(ii) Name of the country through which
payments to the insured are to be
channelised under the Contract :

(c) Status of the Employer (i.e. is the employer
the Govt. or a Dept. of the Govt. of the country
mentioned against (b) (i) above?) :

(d) Description of Project Contract :

(e) Date of Project Contract :

(f) Date of commencement of work :

(g) Estimated date of completion :

(h) Shipment programme in regard to
supplies :

(j) **Project Contract Price** :

(i) Contract price (exclusive of interest
payable by Employer) (Rs.)

(ii) Interest payable by Employer (Rs.)

(iii) Total Contract Price (Rs.)

2. A. Terms of Payment

(a) Supplies :

(b) Erection/Installation of Plant
& Machinery :

- (c) Civil Works other than those at (b) above :
- (d) Technical know-how :
- (e) Training of personnel :
- (f) Security for payments :
- B. (a) **Currency of Payment** : **Currency** **Amount** **Value in Rs.**
- (i) In non-convertible local currency :
- (ii) In freely convertible currency :
- (iii) In any other currency :
- (b) **Place of Payment**
- (c) **Procedure prescribed by the Project Contract** :
- (i) for claiming payment :
- (ii) for disbursement of payment by Employer :

3. A. Breakdown of contract price in item 1(j) (i) by sources of supplies and services.

	India Rs.	Country in which works are to be executed (Project country) Rs.	Other countries (Please specify) Rs.	Total Rs.
Goods or materials wholly or partly produced manufactured or processed in the country (excluding contractor's plant)				
Labour (including expatriates) expenses.				
Other charges for services including charges for use of contractors's plant, etc., finance charges, insurance, transport, etc.				
Total				

B. Add interest payable by the Employer (Rs.)
[as in 1(j) (ii)] :

C. Total Project Contract price for the Policy
[as in 1(j) (iii)] : Grand Total (Rs.) -

4. Amount excluded from purview of cover being
Advance Payment : Rs.

5. Amount covered by this Policy (i.e. item 3(C)- item 4) : Rs.

6. Maximum Liability of the Corporation under this Policy (i.e. 85% of item 5 above) : Rs.

7. A. Stipulation regarding exclusion of any of the causes of loss listed under the head "the Risks Insured" in clause 1 of this Policy. (Refer clause 2 (a) in this Policy) :

B. Stipulation regarding approval of any items of plant and machinery approved for cover in respect of risk (vii) in clause 1 of this Policy. (Refer Proviso to clause 1(vii) in the Policy) :

8. **Premium** : Total amount of premium for this Policy Rs.

(i) paid by the insured till the date of this Policy

: **Amount** **Date of Payment**

(i)

(ii)

Total

(ii) payable by the Insured

: **Amount** **Date of Payment**

(i)

(ii)

(iii)

Total

(iii) Exchange rate/s be applied for purposes of clauses 6 and 16 of this Policy

: **One Unit of foreign currency** **No. of Rs.**

(i)

(ii)

(iii)

Dated this _____ day of _____

For **Export Credit Guarantee Corporation of India Ltd.**

Signature :

Designation :

Place