

Form No- 601 A

EXPORT CREDIT INSURANCE COVER FOR

BANKS

EXPORT FINANCE

(RUPEE LOAN)

ECGC



भारतीय निर्यात ऋण गारंटी निगम लिमिटेड

Export Credit Guarantee Corporation of India Ltd

EXPORT CREDIT GUARANTEE CORPORATION OF INDIA LTD.

Regd. Office: Express Towers, 10th Floor. P. Box No. 373 Nariman Point, Bombay 400021.

Issued by **the Export Credit Guarantee corporation of India Limited** (hereinafter called "**The Corporation**") to the **Insured** named in the **Schedule** hereunder written (here in after referred to as "**the Schedule**").

WHEREAS the **Insured** has made a proposal in writing requesting the **Corporation** to insure him against a percentage of amount of loss that may be sustained by him by reason of certain risks hereinafter mentioned, in connection with his granting to the **Borrower** named in the **Schedule**, a loan in Indian Rupees under the **loan agreement** described in the **Schedule** (hereinafter called "**the Loan Agreement**") which the **Corporation** has agreed to do subject to and upon the terms and conditions hereinafter present, expressed and contained.

NOW, therefore, in consideration of the amount of premium as stated in the **Schedule** paid by the **Insured** and the further premiums to be paid by him as stipulated therein, the **Corporation** hereby insures the **Insured** against the risks stated herein, subject to all the terms of this **Cover** including provisos, conditions and definitions herein contained, against a percentage of loss as mentioned in the **Schedule** (which forms part of this **Cover**) that may be sustained by the **Insured** due to the failure of the **Borrower** to repay to the **Insured** any **Insured Debt**, the cause of such non-repayment being none other than by **Protracted Default** and/or the **Insolvency** of such borrowers.

Insured Debt shall in this **Cover** mean so much of any loan granted to the **Borrower** in accordance with the terms and conditions of the **Loan Agreement** as shall for the time being remain unpaid which the **Insured** is

entitled in terms of the **Loan Agreement** to demand and recover from the **Borrower** up to the due date for repayment of the loan.

PROVISOS

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

- (a) if the **Insured** agrees to postponement/defer/rescheduling of the due date/s of payment of any **Insured Debt** or part thereof without the prior consent in writing of the **Corporation**;
- (b) if the **Insured** accepts a composition or arrangement or settlement with the **Borrower** without the prior approval in writing of the **Corporation**;
- (c) if any right under the **Cover** is assigned by the **Insured** without the prior approval writing at the **Corporation**;
- (d) for which a claim has not been made to the **Corporation** in writing in the form prescribed by it within twelve months from the due date of payment;
- (e) if the contract between the **Borrower** and the employer, any of the terms and condition thereof or the execution thereof are/or is illegal and/or unenforceable either wholly or in part.
- (f) if the **Loan Agreement** between the **Insured** and the **Borrower** or any of the terms and conditions thereof or the execution thereof are or is illegal and/or unenforceable either wholly or in part.

TERMS AND CONDITIONS

1. It shall be the duty of the **Insured** to exercise reasonable care and prudence in granting or disbursing loans and in withholding the grant or disbursement of loans including the examination and checking up of the accounts of the **Borrower** from time to time and also the safeguarding and whenever necessary in enforcement of the securities held by the **Insured** for and in connection with the loans for which cover is provided herein. The **Insured** shall continue to exercise all the necessary care and prudence until such loans are repaid.
2. The **Insured** shall retain for his own account and shall not insure with any other person:
 - (a) so much of the **Insured's loss** (as hereinafter defined) as exceeds the **Insured Percentage** as referred to in the **Schedule** hereto; and
 - (b) so much of any loss of the **Insured** as exceeds the Maximum

Liability under this **Cover**.

PROPOSAL

3. The Proposal made by the **Insured** is expressly accepted by the **Corporation** as being of the essence and the basis of the contract contained in this **Cover** and by accepting the **Cover** the **Insured** hereby warrants that to the best of his knowledge and belief, the statements made in the Proposal were true on the date of the Proposal and on the date when the **Corporation** agreed to issue and issued this **Cover** but this condition is not to be construed as limiting the obligations imposed on the **Insured** by law to disclose to the **Corporation** from time to time all material circumstances which has changed from the date of proposal and to exercise all reasonable care diligence and prudence and generally to observe the utmost good faith at all times and to disclose all facts directly or indirectly in any way affecting the liability of the **Corporation** under this **Cover**, immediately on his becoming aware thereof. If any of the statements contained in the Proposal be untrue or incorrect in any respect, this **Cover** shall be void and the **Corporation** will retain any premium that has been paid.

DECLARATIONS

4. The **Insured** shall periodically declare to the **Corporation** in the form prescribed by the **Corporation** details regarding loans disbursed to the **Borrower**, interest and approved charges accrued and payments received from the **Borrower** etc. Submission of such declarations should be according to the periodicity in this regard contained in the **Schedule** hereto.

PREMIUM

5. The further premium payable under this **Cover** shall be calculated and paid by the **Insured** in accordance with the amount in this regard contained in the **Schedule** hereto.
6. Due payment of premium according to condition No.5 of this **Cover** and Section 64 VB of the Insurance Act, 1938 at the rate specified in the **Schedule** and observance of all the other terms and conditions and provisos of this **Cover** are conditions precedent to any liability of the **Corporation** under this **Cover**.

FALSE OR FRAUDULENT CLAIMS

7. If the **Insured** makes any claim knowing it to be false or fraudulent in any way or connives at assists encourages or abets the **Borrower** in creating or bringing into existence any fraudulent circumstances leading or giving rise to a claim under this **Cover** this **Cover** shall become void and a claims under it shall be forfeited and any sums previously paid by the **Corporation** under the **Cover** shall forthwith become repayable by the **Insured** ~~but~~ and the **Corporation** shall be entitled to retain payments made to it by way of premium or otherwise.

MAXIMUM LIABILITY

8. The total liability of the **Corporation** under this **Cover** shall be limited to _____ or such other sum as may be agreed to in writing between the **Insured** and the **Corporation** on an application made therefore by the **Insured**.

CONSULTATION

9. In the event of an **Insured Debt** not being paid on the due date as defined hereinafter or in the event of the **Borrower** being at any time to the knowledge of the **Insured** is in financial difficulties, the **Insured** shall notify the **Corporation** in writing, thereof immediately and shall take all steps necessary by way of enforcement of any security or otherwise in connection with any loss which the **Insured** may have incurred or may be likely to incur, including, if so required by the **Corporation** the institution of legal proceedings at the costs of the **Insured** and such other steps as the **Corporation** may require the **Insured** to take for minimizing the loss or for recovery of the **Insured Debt** from the **Borrower**.

CLAIMS

10. Upon the occurrence of **Insolvency** or **Protracted Default** of the **Borrower** the **Insured** shall be entitled to make a claim under this **Cover** in respect of any **Insured Debt**, arising by reason of such **Insolvency** or **Protracted Default** and (subject always to the provisions of Conditions 11, 12 and 14 of this **Cover** and after taking into account any interim payments and recoveries) the **Corporation** shall thereafter pay to the **Insured** the insured percentage (as referred to in the **Schedule** hereto) of the **Insured's Loss** in Indian Rupees.
11. The **Insured** shall be entitled to make a claim under this **Cover**
- (A) Where the loss is due to **Insolvency** of the **Borrower** unless otherwise agreed to in writing by the **Corporation**, either
- i) one month after the loss has been admitted to rank

- against the Insolvent's estate in favor of the **Insured** on a claim which shall be filed by the **Insured** in a competent Court of Law immediately on being apprised of the **Insolvency** of the **Borrower**, or
- ii) after four months from the date of **Insolvency** of the **Borrower** whichever of the two dates is the earlier,

PROVIDED THAT, where the claim is payable as in this sub-clause (ii). The **Insured** shall deliver to the **Corporation**

- (a) evidence satisfactory in the opinion of the **Corporation** that the **Insured** has filed his claim validly and effectively in such **Insolvency** of the **Borrower** 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**.
- (B) In the case of **Protracted Default** immediately after the expiry of four months from the due date of payment.

RECOVERY STEPS AND SHARING OF RECOVERIES

12. Upon payment of claim under this **Cover** by the **Corporation** to the **Insured**, the **Insured** shall at his cost take all steps which may be necessary or expedient or which the **Corporation** may at any time require to effect recoveries whether from the **Borrower** or from any other person from whom such recoveries may be made including, if so required, the institution of legal or other proceeding including legal proceedings if necessary, in a foreign country.
13. Notwithstanding anything to the contrary contained in the Loan Agreement or any other Agreement between the **Insured** and the **Borrower** upon recovery by the **Insured** or by the **Corporation** of any sum in respect of the amount due from the **Borrower** to the **Insured**, the sum so recovered shall forthwith be divided between the **Insured** and the **Corporation** in the same proportion in which the loss has been shared. The **Insured** shall pay proportionate share all sums so recovered to the **Corporation** forthwith upon their being received by him or by any other person on his behalf the **Insured** hereby acknowledging and declaring that until such payment is made to the **Corporation**, he receives and holds such sums in trust for the **Corporation**.

RECOVERY EXPENSES

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

DISCLOSURE

15. The **Corporation** may at any time examine or take copies of any letters, accounts or other documents in the possession or control of the **Insured** relating to or connected with this **Cover** or connected with the subject matter of this **Cover** 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 costs any reasonable steps to obtain for the **Corporation** any information or the sight of any document in the possession of any third party relating to or connected with this **Cover**.

CANCELLATION

16. The **Corporation** may at any time and at its sole discretion give notice in writing to the **Insured** reducing the **Maximum Liability** or cancelling the insurance granted by the **Cover** in respect of the **Borrower** and such reduction or cancellation shall apply to any loan granted and disbursed immediately after such notice has been received by the **Insured**.

DEFINITIONS

1. **INSOLVENCY**

The **Borrower** shall be deemed to be **Insolvent** for the purpose of this **Cover** when:

- (a) he is declared bankrupt by a competent court of Law in India; 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 in respect of his business or his property or any part thereof; or
- (d) If the **Borrower** be an incorporated body:
 - (i) an order has been made for its compulsory winding up by a competent court of Law ; or

- (ii) an effective resolution has been passed in General Meeting for its 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 a competent Court of Law in India .

2. **INSURED'S LOSS**

"The **Insured's Loss**" means so much of an **Insured Debt** as shall be admitted to rank against the insolvent estate of the **Borrower** or in the case of **Protracted Default** so much of the **Insured Debt** as is outstanding in the books of the **Insured** on the Due Date of Payment (as hereinafter defined) and as shall not be in dispute between the **Borrower** and the **Insured** after taking into account the whole of the amount of any recoveries relating thereto made up to the date of claim in respect of loss payable under this **Cover**.

3. **RECOVERIES**

"Recovery" means the amount of moneys that may be realized from (including dividends paid or payable out of an Insolvent estate) securities, indemnities guarantees, rights of action, counter-claims or set-off or other rights or advantages held by the **Insured** or otherwise available for the purpose of reducing the amount of any indebtedness of the **Borrower**.

4. **DUE DATE OF PAYMENT**

The words "Due date of Payment" shall mean the due date of repayment of the Loan or any installment thereof mentioned in the Loan Agreement and shall include and shall be deemed to include in any case where the time of payment has been extended by the **Insured** with the approval in writing of the **Corporation**, the date or dates to which the time has been so extended.

For Managing Director.

Schedule referred to and forming part of **Cover No.** _____
dated _____.

I. (i) Name and address of the Insured :

(ii) Name and address of the Borrower :

(iii) Description of the Loan Agreement :

1. (a) Date
2. (b) Amount of Loan :
3. (c) Due Date of repayment :
4. (d) Purpose for which the loan
amount is to be utilized :

II. Rate of Premium :

IV. Period of the **Cover** :

V. Maximum Liability of the Corporation under the **Cover** :

VI. Percentage of Cover :

VII. Amount of premium

1. (a) Paid by the Insured :
2. (b) To be paid by the Insured :

VIII. Declarations

1. (a) Period for which declarations are
to be submitted :

2. (b) Periodicity :

3. (c) Date for submission of declarations :