



ECGC Limited

EXPORT RECEIVABLES (FACTOR'S RISKS) INSURANCE (ERIC) - Bond

ECGC Limited

(A Government of India Enterprise)

Registered Office: ECGC Bhavan, CTS 393, 393/1, M.V. Road
Andheri (E), Mumbai - 400069 India

Paste
Insurance
stamp

Cover Number :
Date of Issue :
Place of Issue :

This Insurance Cover (“**Cover**”) is issued by ECGC Limited, (hereinafter referred to as “**ECGC**”/ “**INSURER**”) to the export factor (hereinafter referred to as “**INSURED**”) whose name and address is specified in Schedule to this Cover (“**THE SCHEDULE**”), at the place and on the date mentioned in the said Schedule;

WHEREAS the Insured is desirous of availing risk protection from ECGC in respect of factored export receivables of its Exporter Client without recourse and has approached ECGC seeking suitable insurance cover;

WHEREAS the Insured has made a Proposal (hereinafter referred to as “**the PROPOSAL**”) on the date specified in the Schedule, requesting ECGC to indemnify them against the loss that the Insured may sustain by reason of certain risks involved in providing factoring services to its Exporter-Client in India, in pursuance of a valid Factoring Agreement entered with such Exporter Client;

WHEREAS the Insured has confirmed and represented that it has obtained the certificate of registration from the Reserve Bank of India for carrying out the business of factoring and shall maintain such registration during the continuance of the present Cover. The Insured at all time shall obtain all necessary approvals required and comply with all other obligations prescribed under the Factoring Regulations Act, 2011 and any other law applicable for carrying out the export-factoring business;

WHEREAS the Insured has agreed that the said Proposal shall be the basis of this Cover;

AND WHEREAS this Cover is in consideration of the Insured having paid the minimum premium to ECGC, as mentioned in the Schedule for the issue of this Cover and having agreed to pay further premiums that are payable in terms of this Cover as consideration;



AND in reliance on the warranties and declarations made by the Insured under this Cover, including all written statements and materials furnished to ECGC in conjunction with such Cover;

NOW THEREFORE, ECGC hereby agrees that in the event of loss suffered by the Insured, owing to non-realization of the **INSURED RECEIVABLES** by reason of the occurrence of any of the **INSURED RISKS** herein below specified, ECGC shall indemnify the Insured up to the **INSURED PERCENTAGE** of the **INSURED LOSS**, save and except those risks that are specified as **EXCLUSIONS** and further subject to the terms and conditions of this Cover;

NOTES FOR INTERPRETATION

- I.** Headings in the Cover are used for ease of reference only and are to be disregarded in construing the Cover.
- II.** References to Schedules shall be construed to be references to the respective schedules to this Cover as amended, modified or revised and applicable and valid at the relevant point of time.
- III.** The term “export of goods” under this Cover specifically excludes export of services, export of any other excluded items referred in this Cover.
- IV.** Time, wherever stipulated in relation to the performance of any of the requirements under the Cover by the Insured, is of essence.
- V.** References to the knowledge, information, belief or awareness of the Insured or of any person connected to the Insured shall be deemed to include knowledge, information, belief or awareness of the Insured or such person will be expected to have upon due examination of all information after conducting all due diligence inquiries and investigations that is expected of a person of ordinary prudence.
- VI.** Definitions of the terms and phrases are given at the end of the Cover.
- VII.** The words ‘you’ or ‘your’ when used in the Cover would mean and refer to “the Insured”. The words ‘we’ or ‘us’ or ‘our’ when used in the Cover would mean and refer to “Insurer”/ “ECGC”.
- VIII.** Unless repugnant to the context or meaning thereof, in this Cover, singular shall include plural, masculine shall include feminine and animate shall include inanimate and vice-versa.



PART – I

1. INSURED RISKS

A. Commercial Risks (Buyer Risks)

- (i) PROTRACTED DEFAULT OF THE DEBTOR
- (ii) INSOLVENCY OF THE DEBTOR

B. Political Risks (Country Risks)

- (i) CONTRACT FRUSTRATION
- (ii) CONTRACT CANCELLATION
- (iii) INCONVERTIBILITY / TRANSFER DELAY
- (iv) IMPORT RESTRICTION



PART – II

(TERMS AND CONDITIONS)

2. YOUR PROPOSAL

- A.** You have read, been explained and have fully understood the terms, conditions and requirements of this Cover.
- B.** The contract of insurance evidenced by this Cover is a contract of utmost good faith between the Insurer and the Insured. Both you and ECGC have specifically accepted your Proposal as being the basis of the contract contained in the Cover and that the said Proposal shall form part thereof. By signing the Proposal Form and accepting the Cover you warrant that the statements and declarations made in the Proposal were complete, true and correct and you have disclosed all material facts and/ or information (viz., export turnover, previous experience, outstanding, overdue, bad debts, relationship with the Exporter and Buyer etc.) in any way affecting the risks insured, as at the date of the Proposal and at the date when ECGC agreed to issue the Cover. You expressly warrant that you have not failed to declare any information that was sought in the Proposal Form.
- C.** You also warrant that you shall immediately notify and disclose to ECGC of any change to the information supplied in the Proposal Form or of any other material facts and/ or information affecting the Cover including any amendment, and / or addition to the Cover or any information sought by ECGC during the operation of the Cover.
- D.** These warranties do not limit any legal obligation or duty (at common law or otherwise) on you to disclose to ECGC all/ any material facts and/ or information and to act with the utmost good faith at all times.
- E.** The information sought in the Proposal is material information. If any of the statements or the information contained in the Proposal or the declarations are found to be untrue or incorrect or incomplete in any respect at any point in time or any failure on your part to notify or disclose to ECGC of any change to the information supplied in the Proposal Form or any facts and/ or information in any way affecting the risks insured and/or Cover including any amendment, change, variation and / or addition to the Cover, this Cover shall become void and ECGC shall be entitled to retain any premium that has been paid.



3. OBLIGATIONS AND WARRANTIES:

The Insured shall:

- A.** Exercise reasonable care and prudence, skill and foresight before offering export factoring services to the Exporter and continue to take all practicable measures available to you to prevent or minimize any loss under the Cover with the same diligence as if were you not insured including any measures which ECGC may require you to take, to prevent or minimize loss in respect of Insured Receivables.
- B.** If requested by ECGC to do so, execute such documents and take such actions as ECGC may require, to enable ECGC to intervene directly in any proceedings relating to the Insured Receivables.
- C.** Act in good faith and disclose and notify to ECGC immediately of any and all material facts and / or information that might have a bearing on the risks insured under this Cover and of any variation to any such information already furnished any time earlier by you.
- D.** If you have reason to believe that the Debtor or its group companies is/are unable to or is likely to be unable to perform or comply with its obligations under any contract which shall include non-payment of a Factored Invoice on due date OR in the event of the occurrence of any event/Insured Risk which is likely to cause a loss, you shall notify ECGC in writing immediately but in any case not later than 30 days after you become aware of one or more of such occurrence and continue to notify ECGC of the developments till realization of payments and consider submission of declaration of overdue payments, if any, in the prescribed format within the stipulated time period.
- E.** You shall at all-time comply with provisions of Factoring Regulations Act, 2011, and have all necessary approvals required under the Factoring Regulations Act, 2011, and all other laws applicable for carrying out the export-factoring business by you.
- F.** You shall hold absolute and transferable legal rights for enforcing legal recourse against Debtor for recovery of the amounts remaining unpaid and due for recovery from them and shall take all necessary measures to safeguard such legal rights properly and sufficiently;
- G.** You shall provide or agree to provide ECGC with all such information, correspondence and other documents, which in the opinion of ECGC is relevant or necessary for the enforcement of right of recourse against the Debtor and shall always extend full co-operation and assistance to ECGC and/ or to its nominees to facilitate recovery of any and all monies pertaining to the unpaid Insured Receivable.



- H.** You shall not agree to a postponement of the original due date for payment of the Insured Receivables except when –
- (i)** the need for such extension arises prior to the due date of payment and is in pursuance of a request received by you from Debtor prior to such due date; and
 - (ii)** extension of due date is not being implicitly accepted by you after the failure of the Debtor to pay on the due date; and
 - (iii)** the extended credit period is in conformity with all the relevant and applicable regulatory requirements; and
 - (iv)** you have obtained our written approval before granting such extension.
- I.** You shall not agree to convert the original terms of payment of the Insured Receivables except when you have specifically obtained our written approval before granting such conversion.
- J.** You shall retain that much of the amount of loss as is in excess of the insured percentage of loss under this Cover to your own account and keep it uninsured.
- K.** In the case of Insolvency of the Debtor, you shall deliver to ECGC evidence, satisfactory in our opinion, that you/Exporter have filed or give an undertaking that you/Exporter shall file your claim in such Insolvency of the Debtor, and a declaration in writing to ECGC that you/Exporter have done or omitted nothing whereby such claim is liable to be rejected by the Court appointed Receiver, Liquidator etc., in such Insolvency.
- L.** In the event of you/Exporter or the Debtor experiencing or becoming aware of delays or difficulties or restrictions in obtaining transferable foreign exchange allocated for transfer to India of a payment made in local currency against an Insured Receivable by reason of Legislative Restrictions imposed by the Debtor's Country, you/Exporter shall promptly and without any delay advise and require the Debtor concerned to pay in local currency to the credit of your account in Debtor's country, if any, or to have the amount deposited irrevocably with a bank in the Debtor's country in favour of your account as soon as the payment had become due on the Insured Receivable and to have all necessary statutory and regulatory formalities duly complied with for due transfer of the amount to India.
- M.** You shall ensure that exporter is routing all bills on the approved Debtor through you and not through any other Banks/Institution/Factor.



N. Filing of Returns and its Timely Submission

You shall, by not later than the tenth day of every calendar month submit to ECGC in the format prescribed by ECGC the following monthly returns, namely –

- i. Monthly Declaration of Insured Receivables furnishing full particulars of all the Insured Receivables purchased by you from the Exporter under an agreement for purchase of export receivables without recourse, during the immediately preceding calendar month;
- ii. Monthly Declaration of Realizations and Overdue Receivables furnishing full details of Insured Receivables that were realized or recovered and of Insured Receivables that had fallen due for payment but remained overdue and unpaid during the immediately preceding calendar month.

4. BILLS/ INVOICES COVERED

- A.** The Bills/ invoices drawn by the Exporter on the Debtor on Open Account (OD)/ Acceptance (DA) basis shall be covered. This Cover is issued on a Whole Turnover basis and shall apply to all invoices factored by you during the period of cover except such factored invoices that are specifically agreed to be excluded, in writing by us.

5. REDUCTION AND VARIATION, OF COVER

- A.** If at any time during the Period of Cover there is a material change in our credit risk perception in respect of the Debtor or in respect of the Debtor's Country or in respect of any Insured Receivable, ECGC shall be at liberty at its sole discretion to reduce or vary the Insured Loss and / or terms under this Cover.
- B.** Any such reduction or variation, will be notified to you by communication addressed to you in that regard and shall apply to all invoices factored after such notification.

6. Payment of Premium

- (i)** As this Cover is issued on a Whole Turnover basis, you shall be liable to pay premium at the rates as set out in the Schedule hereto or, as the case may be, at such other rates for the time being in force on the factored amount of all the invoices factored (save and except invoices exempted or excluded or not covered) for the Exporter-Debtor combination to which this Cover applies.



- (ii) **Minimum Premium:** The Minimum Premium shall be calculated on the projected amount of all the receivables under its exporter-buyer combination based on the appropriate premium rates. The amount of Minimum Premium is specified in the Schedule. The Minimum Premium shall be paid in advance before the commencement of the Cover.

No part of the Minimum Premium shall be refundable or be carried forward whether or not any part of it remained in balance after due adjustment against premiums on invoices factored by you and declared to us. If the Premium to be paid, calculated at the applicable rates on the cumulative amount of invoices factored, is in excess of the Minimum Premium already paid and available for adjustment, you shall be liable to pay further Premium forthwith to make up for the shortfall. It is clarified that the onus shall be entirely on you to ascertain whether or not any further Premium has become due on the value of invoices factored. The Minimum Premium shall be adjusted towards premium falling due on the factored invoices declared to ECGC provided however that premium due on a factored invoice shall not be deemed to have been paid unless and until the relevant declaration of factored invoices is duly submitted as per the terms of this cover, notwithstanding that credit balance was available in the minimum premium account.

- (iii) **Advance Deposit of Premium:** You shall, prior to factoring any Invoice, deposit and keep on depositing with ECGC in a Deposit Premium Account maintained with ECGC for your Cover, amounts that are sufficient and adequate to meet the premium that falls due for payment in respect of factored invoices. If, as on the Date of Factoring, nil or insufficient balance is available in the Deposit Premium Account to meet the full premium due on the Insured Receivables, ECGC shall have no liability to indemnify you for losses in respect of the said factored invoices (s) but you shall not be absolved of your obligation to pay the amount of premium that was due thereon.
- (iv) **Estimation of Advance Premium:** The estimated amount of advance deposit of Premium payable may be arrived at with reference to the monthly average of estimated aggregate value of invoices factored during the period of cover. If and when the estimated value of invoices to be factored is revised at any time during the currency of the period of cover, the monthly average premium for the residual period, would be revised accordingly and, you shall also ensure that sufficient and adequate premium that falls due for payment upon factoring of invoices are maintained throughout the period of cover by crediting it to the Deposit Premium Account in such a manner that the minimum balance available in the Deposit Premium Account is not less than the amount of monthly average premium so worked out. It shall however,



be your sole responsibility to ensure that sufficient and adequate premium pertaining to the factored invoices, are maintained in the Deposit Premium Account before factoring such invoices, throughout the period of cover, failing which ECGC shall have no liability to indemnify you for losses in respect of the said factored invoice(s).

- (v) **Adjustment of Premium against Insured Receivables:** Upon receipt of the monthly Declaration of factored invoices, ECGC will verify the premium due on the factored invoices, so calculated and declared by you and will adjust the amount due against the balance available in the Deposit Premium Account.
- (vi) **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 factored invoices made and declared by you, premium shall be adjusted against Insured Receivables in its chronological order. No cover shall be available on a factored invoice if as on the date of factoring, the balance available in the Deposit Premium Account was insufficient to meet the full amount of premium due on that/those factored invoice(s);
- (vii) **Carry Forward / Refund of the amount of credit balance in the Deposit Premium Account:** Upon renewal of the Cover for a fresh period, the outstanding credit balance, if any, remaining in the Deposit Premium Account shall be carried forward to the Deposit Premium Account under the renewed Cover and in the event of expiry of your Cover and also your failure to renew the Cover, you shall be eligible for refund of the due eligible amount, out of the credit balance provided however that no part of the Minimum Premium shall be carried forward or refunded.
- (viii) **Right to receive the full Premium:** ECGC shall be entitled to cancel this Cover and to retain the premium paid and to demand, receive and retain the full amount that was due towards premium on every Insured Receivable that was factored by you during the Cover Period (save and except factored invoices exempted or excluded or not covered) notwithstanding whether or not ECGC have ceased of any liability in respect of any such factored invoices by reason of any breach, failure, negligence, lapse or other act of omission or commission on your part, 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 Factoring, delay in submission or non-submission of the relevant declarations, etc.
- (ix) If the amount of invoice factored and declared to ECGC cumulatively exceeds the Insured Loss provided under this Cover or is otherwise, not in accordance with the Cover, mere acknowledgement of the



declaration by ECGC or any payment or tender of premium by you or its acceptance by ECGC shall not be deemed to bind ECGC to undertake liability in respect of such factored invoices.

- (x) **Variation of Premium Amount:** Any modification of risk perception on the Debtor's Country, may affect the amount of premium payable on your Insured Receivables. Such change shall be notified to you either by communication addressed to you in that regard or through ECGC web-site (www.ecgc.in). You may check the country classification of the Debtor's country before factoring any invoice on ECGC's website for determining the applicable premium rate. When such modification is notified to you, the amount of premium payable on all the Insured Receivables on or after the date of said notification will be at such modified rate of premium as mentioned in the schedule

7. CURRENCY AND RATE OF EXCHANGE

- A.** The currency of the Cover is Indian Rupees. The Insured Loss / wherever specified under the Cover are Rupee limits and any amounts payable under the Cover are payable in Indian Rupees only.
- B.** If the invoice value of the goods dispatched is expressed in a currency other than Indian Rupee (meaning a foreign currency), each of the invoice value shall be converted into Indian Rupee at the relevant rate of exchange as on the Date of Factoring and such amount in Indian Rupee shall be recorded in your books and the amount so recorded shall form the basis for the returns and declaration.
- C.** If a claim arises, the value so recorded in your books and on which the Premium has been remitted to ECGC shall be taken into account for the purpose of arriving at the Insured Loss in Indian Rupees, except that any amount collected or realized in a foreign currency and applicable towards reducing the Insured Receivable shall be converted into Indian Rupees immediately by applying the prevailing rate of exchange on the date of its realization to arrive at the Insured Loss in Indian Rupees.

8. CLAIMS

- A.** In the event of you suffering a loss in respect of any of the Insured Receivables owing to the occurrence of an Insured Risks, you may file a claim with ECGC for indemnification in accordance with the provisions of this Cover. ECGC shall have no liability to indemnify you unless the proximate cause of loss is the occurrence of an Insured Risk and your right and interest in the relevant Insured Receivable has been assigned and transferred by you in favour of ECGC, as may be directed.



- B.** Any claim made by the Insured under this Cover for indemnification of loss shall invariably be in the Claim Form prescribed by ECGC and shall satisfy each of the following requirements, namely –
- (a) A minimum of one hundred twenty days (120) shall have elapsed after the relevant Due Date;
 - (b) Not more than one year has elapsed after the expiry of Due Date of payment. It is clarified that if there are more than one invoice in default and due for indemnification, the relevant Due Date for this purpose would be that of the earliest of one in default;
 - (c) The Claim Form should be complete in all respects furnishing full and complete information sought for therein supported by relevant documents;
- C.** Upon receipt by ECGC of all the relevant and necessary information, along with duly filled Claim Form in the prescribed format and documents, including such additional information/ documents, if any, as aforesaid, and after being satisfied that there exists an undisputed debt with regard to the Insured Receivables, ECGC shall forthwith proceed to examine the claim.
- D.** After verifying and ascertaining the occurrence of Insured Risk(s), upon being satisfied that such Insured Risk(s) was the proximate cause of loss and that all the terms and conditions of the Cover have been complied, ECGC shall settle the claim by payment of amount not exceeding the Insured Percentage as applied on the amount of loss and further subject to the Insured Loss. After settlement of the Claim by ECGC, if you have assigned the rights and interest in favour of ECGC then you shall have no obligation to pursue or initiate recovery proceedings against the Debtor, as the same stands transferred to ECGC.
- E.** In the event of ECGC finding that the cause of loss was not any of the Insured Risks or that the loss is not covered as per terms of this cover, ECGC shall not be liable to indemnify the loss and shall reject the claim with reasons. Under such circumstances, if any rights or interest are assigned in favour of ECGC by you, ECGC shall either cancel and nullify such assignment of the relevant Insured Receivable or shall reassign it to you.

9. TIME FOR ASCERTAINMENT OF LOSS - WAITING PERIOD

- A.** After receipt of a claim from you as aforesaid, ECGC will pay to you the Insured percentage of the amount of loss and further subject to the Insured loss within a reasonable period of time, as determined by us, after the cause of loss and amount of the Insured loss has been ascertained, subject to the terms of the Cover.



- B.** No amount in respect of any Insured Receivable shall become due and payable by ECGC under this Cover until and unless the cause of loss and amount of the Insured loss has been ascertained and the relevant waiting period applicable to the respective cause of loss has expired, which shall be:-
- (i)** In the case of **Insolvency**, upon the expiry of four months from the due date of payment or one month after the loss has been admitted to rank against the estate of the Insolvent Debtor in your favour, whichever of the two dates is the earlier.
 - (ii)** In the case of **Protracted Default**, four months from the due date of payment or the extended due date, with our prior approval, as the case may be.
 - (iii)** In all other cases, unless otherwise specified by us, four months from the date of occurrence of the event which is the cause of the loss.

(Note: A month shall be considered to be of 30 days for the purpose of waiting period)

10. RECOVERIES AND ITS SHARING

- A.** After ECGC has made a claim payment to you under the Cover, in case the Insured receivable are not assigned to ECGC, you must take all practicable measures/steps that may be necessary or expedient or which ECGC may at any time advise you to take to, effect recoveries, whether from the Debtor or from any other person or institutions or agencies from whom such recoveries may be made.
- B.** The steps which ECGC may advise you to take may include one or more of the following that you must do so:-
- (i)** Refer it to a debt collection agency (DCA);
 - (ii)** Appoint an advocate, solicitor or attorney, to take legal or other proceedings against the Debtor or against its insolvent estate;
 - (iii)** If so required and asked by ECGC, you shall assign and transfer in favour of ECGC or it's nominee, in such form as ECGC may approve or prescribe, all your rights and interests and/ or the rights and interest of the Exporter in the relevant Insured Receivable together with all supporting and connected documents so as to facilitate expeditious exercise of right of recourse against the Debtor. Any failure on your part in this regard or any defect in the title so assigned and transferred by you shall absolve ECGC of all its liability to indemnify you for losses suffered on the corresponding Insured Receivables.



- (iv) If so required by ECGC, deliver to ECGC or to our nominee any goods or documents relating thereto in respect of which a claim payment has been made and assign and transfer to ECGC your right and interest in any such goods and documents;
 - (v) If so required by ECGC, assign, deliver or otherwise transfer to ECGC or to our nominee any negotiable instruments, guarantees or other securities relating to such goods or contracts.
 - (vi) If so required by ECGC, authorize ECGC to take all such measures as ECGC may deem appropriate for effecting recoveries on our behalf and/or on your behalf, including the authority to give up the whole or any part of the insured Receivable.
- C. Without prejudice to foregoing, if so required by ECGC, you shall execute in ECGC's favour a power of attorney or a substituted power of attorney, as the case may be, granting ECGC full right and authority to recover the Insured Receivables from the Debtor through appropriate legal proceedings or otherwise and to give discharge in respect of the Insured Receivables.
- D. If a claim had already been settled by ECGC under this Cover in respect of such an Insured Receivable that is subsequently recovered or realized by you, you must remit to ECGC its share in all the sums so recovered forthwith upon its receipt by you or by any person on your behalf, within seven working days from the date of recovery. You hereby acknowledge and declare that until such payments are made to us; you shall be receiving and holding such sums in trust for us.
- E. All costs and expenses reasonably incurred by you, excluding your administrative costs, for the purpose of effecting recovery of the Insured Receivables, as evidenced by invoices rendered to you by the debt collection agency or solicitors / attorneys, shall have a prior charge on the amounts collected or recovered thereafter. It is expected that you seek our advice at the relevant point of time pertaining to all such likely costs and expenses.
- F. Subject to the conditions prescribed in Clause 11 hereunder, the amounts recovered from the Debtor or from any other source, either by you or by ECGC, net of costs and expenses of recovery, shall be shared between you and ECGC, in the same proportion as the relevant losses were borne by each of the party respectively, whether or not such division results in the retention of a greater or lesser sums by ECGC than that was paid by ECGC, either because of change in rate of exchange or for any other cause, circumstances or reasons.
- G. It is a condition precedent to ECGC's agreeing to these costs and expenses as being a prior charge on the amounts collected or recovered, that you have complied with all the terms and conditions of the Cover in respect of the Insured Receivable to which such costs and expenses relate.



11. RECOVERY EXPENSES INCLUDING LEGAL COSTS

- A.** ECGC may not contribute towards recovery expenses including legal costs, unless agreed otherwise in writing. In the event ECGC agrees to contribute towards your recovery expenses, its contribution to recovery expenses relating to the Insured Receivable shall not exceed the percentage ECGC shall be entitled to as our share if and when the debt is recovered. Where the Indebtedness of the Debtor at the relevant time exceeds the Insured Receivable, our contribution shall not exceed such percentage share in the proportionate costs that is apportioned to the Insured Receivable.
- B.** ECGC will not contribute towards:
- (i)** Your administrative costs; or
 - (ii)** legal costs incurred for the purpose of establishing Debtor liability in respect of any disputed Indebtedness.

12. INSPECTION OF DOCUMENTS

- A.** You agree and acknowledge that ECGC shall always at any time have a right to inspect the books, documents and records pertaining to the Insured Receivables and to examine and/or to take copies of any letters, accounts or other documents in your possession or control which relate to or are directly connected with the Insured Receivables.
- B.** If ECGC so requests, you shall make available to ECGC the extracts and copies or any information in your possession and must also take all reasonable steps to obtain for ECGC any information or the sight of any documents in the possession or control of any third party relating to or connected with the Cover or any transaction between you and the Exporter or Debtor, in connection with claim or otherwise, without any cost to us.

13. GIVING NOTICE / NOTIFICATION

- A.** A notice to be served upon you by ECGC under this Cover shall be in writing and shall be deemed to have been duly served if it (i) is sent by ordinary post or registered post or through a reputed private courier at your office address or (ii) is transmitted electronically by e-mail at your e-mail address. For the purpose hereof, your postal address and e-mail address / id as specified for the time being in the Schedule shall be deemed to be the relevant address/ email id.



B. A notice duly served as aforesaid shall come into force with immediate effect no sooner it is received by you and in any case –

(a) When sent by ordinary post or private courier, by not later than two working days from the date of its dispatch;

(b) When sent electronically by e-mail, no sooner the message containing the notice is seen or opened by you and in any case by not later than the commencement of the very first working day immediately following the day on which it was sent at the relevant e-mail address / id

For the purpose of this clause, the term “working days” means any day other than Saturday or Sunday or a day declared as public holiday in the place to which the notice is addressed.

C. Any notice including revision in classification of the Debtor’s Country uploaded website shall be deemed to be effective from the same day of its uploading therein. This Cover provides you with a Customer/User ID and password for online access to ECGC’s database by visiting our official website.

D. Any notice required to be served upon ECGC by you under this Cover shall be deemed to have been duly served when dispatched by ordinary post or through a reputed private courier service or delivered by a special messenger at the address of our controlling branch office specified in the Schedule.

14.FRAUDULENT CLAIMS

A. If you make any claim hereunder by misrepresentation of facts or knowing the same to be false or fraudulent in any way or if any fraudulent or dishonest means or devices are used by you or any one acting on your behalf to obtain any benefit under this Cover, our liability hereunder shall cease and the Cover will be void. Also, you shall have no claim hereunder and all claims under the Cover shall be forfeited.

B. In addition, you shall immediately have to repay all sums that ECGC has previously paid under any Cover, on our demand. In such circumstances, ECGC shall be entitled to retain all the payments made by you towards premiums or otherwise under the Cover.

15.CANCELLATION AND TERMINATION OF THE COVER

(i) In the event of any breach of the terms of this Cover by the Insured, ECGC shall be entitled to cancel the Cover with effect from the date of such breach (omission or commission or the default) as is notified by us.



- (ii) In the event of any adverse experience/ change in risk perception on the Debtor or the Debtor's country or the exporter or due to any other reason affecting ECGC's liability under the Cover, ECGC shall be at the liberty, at any time, to cancel this Cover, and such cancellation will be effective from the date of the notice issued to you.
- (iii) Notwithstanding what is stated above, this Cover may be terminated forthwith by either of the Parties if the other Party becomes the subject of any voluntary or involuntary bankruptcy, insolvency, reorganisation or liquidation proceeding, makes an assignment for the benefit of its creditors, convenes a meeting of its creditors, admits in writing its insolvency or inability to pay its debts and/ or a floating charge over all or a material part of its assets crystallises by reason of default (however described); or

16. OBSERVANCE OF CONDITIONS

- A.** You agree and acknowledge that due performance and observance of each term and condition contained herein or in the Proposal or Declaration including payment of due premium in advance (upfront and thereafter, as applicable) and other charges, shall be a condition precedent to any of our liability hereunder and to the enforcement thereof by you.
- B.** Any failure or negligence on your part to comply with any of the said terms and conditions may discharge ECGC from its obligation to indemnify you and ECGC shall have the right to repudiate all liability for payment under the Cover.

17. FAILURE TO COMPLY WITH CONDITIONS

No failure by you 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 at our sole discretion and such waiver, excuse or acceptance shall be subject to such terms and conditions as ECGC may stipulate, including a reduction in the Percentage of Loss Covered specified under this Cover.

18. LAW AND JURISDICTION

It is understood and agreed by the Parties that the construction, validity and performance of this Cover and any disputes between you and ECGC concerning the interpretation of the terms, conditions, limitations, and/or exclusions contained herein, shall be in accordance with and governed in all respects by Indian Law. Each party agrees that no other courts than those either at Mumbai shall have jurisdiction over any matter arising out of, concerning or relating to this Cover.

19. WAIVER



No action or inaction by ECGC shall be an affirmation of the Cover or a waiver of any provision and shall not prevent ECGC from relying on any such term or condition or condition precedent in the future.

20. SEVERABILITY, CONSTRUCTION AND CONFORMANCE TO STATUTE

- A.** If any provision contained in this Cover is, for any reason, held to be invalid, illegal, or unenforceable in any respect, it is hereby deemed to be severed and to have no effect on any other valid, legal and enforceable provisions of this Cover.
- B.** If any provision contained in this Cover is, for any reason, held to be invalid, illegal, or unenforceable, it will be construed by limiting it so as to be valid, legal, and enforceable to the extent compatible with applicable law.

21. ASSIGNMENT OF YOUR RIGHTS UNDER THE COVER

You shall not assign any rights or benefits under the Cover except with our prior written approval and complying with any requirements we may make. If such assignment is done without our prior written approval, the Cover shall be void from the date of the assignment and ECGC shall not be bound by any such assignment.

22. GRIEVANCE REDRESSAL

In case you have any grievance or wish to represent a matter for redress/review including claim representations, you may approach ECGC's Grievance Department set up under its Grievance Redressal Mechanism.



PART – III

(EXCLUSIONS)

Any loss that you may suffer which falls under any of the following categories shall not be eligible for indemnification under this Cover and is expressly excluded from the purview of ECGC's liability, namely:-

- A.** Any loss arising in respect of an Insured Receivable the proximate cause for which was not any of the **Insured Risks**.
- B.** Any loss arising in respect of an Insured Receivable in cases where all the invoices/ bills drawn by the Exporter on the Debtor had not been routed through you;
- C.** Any invoice/bill of which the Date of Factoring is not within the Period of Cover;
- D.** Any loss arising out of Bills/ Invoices drawn under Letters of Credit, Bills/ Invoices drawn on Associate/Sister concerns, Bills/ Invoices drawn under Consignment Sales, Merchanting Trade, Deemed Exports, non-performance by the exporter-clients as per the contract relating to quantity, quality, time schedule, etc.
- E.** Any loss arising out of export of following:
 - (i) Gems, Jewellery & Diamond (GJD);
 - (ii) Iron-ore;
 - (iii) Granite;
 - (iv) Software exports;
 - (v) Traded Commodities namely, Gold, Silver, Crude Oil, Wheat, Palm Oil, Cotton, Rubber, Sugar.
- F.** Any loss arising out of an Insured Receivable where the exported goods have not been accepted by the Debtor or where the liability for payment is not accepted by the Debtor;
- G.** Any loss arising out of any act of omission, neglect, failure or commission on the part of the Insured or of the Exporter or of any of the agents of either you or the Exporter;
- H.** Any loss arising out of an Insured Receivable that has become irrecoverable or in respect of which the right of recourse against the **Debtor** is lost or impaired owing to an act of negligence or omission or commission on the part of you or the Exporter or any of the agents of either you or the Exporter;
- I.** Any loss arising from a receivable that is not due and payable by a Debtor;



- J.** Any loss arising out of factored invoices due and outstanding from the Debtor that is in excess of the Insured Loss;
- K.** Any loss arising out of an Insured Receivable the right of recourse in respect of which is not validly or properly transferred by you in favour of ECGC or its nominee unless ECGC has expressly agreed otherwise in writing.
- L.** Any loss arising from non-payment of Insured Receivables by a Debtor for the reason that there exists unresolved disputes or issues between the Debtor and the Exporter or you or that the non-payment of the Insured Receivable by the Debtor was owing to his claim that he was justified in withholding payment (by reason of any counterclaim, set-off, dispute relating to due performance of the Export Contract, etc.) whether or not such dispute or issue pertains to the Insured Receivables.
- M.** Any loss arising out of an Insured Receivable due to noncompliance of relevant statutory or regulatory norms governing such trade transactions.
- N.** Any loss arising from Insured Receivables that is due from a Debtor which as at the time of purchase of the relevant Insured Receivable by the Insured was already subject to –
 - a. proceedings initiated under the relevant local bankruptcy or insolvency law; or
 - b. appointment of an administrator, receiver, liquidator, trustee or other similar official for the assets of the Approved Debtor under the relevant local bankruptcy or insolvency laws by a competent Court of law; or
 - c. any such other or similar proceedings under the relevant local laws.
- O.** If further factoring of invoices is made at a time when whole or any part of a debt owed to you by the Debtor for previous invoice is remaining overdue and unpaid and/or after the date of occurrence of any of the Insured Risks, whichever is the earlier.

PART – IV

(DEFINITIONS)

In this Cover, 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.

23.AMOUNT OF LOSS



Amount of any Insured Receivable that remained unpaid or unrealized owing to the occurrence of any of the Insured Risks but shall not include the following:

- (a) any amount that is not acknowledged either expressly or impliedly as debt by a Debtor or has remained unpaid by the Debtor owing to his claim that he is justified in withholding payment for whatever reasons, including but not limited to any credit/debit notes, counterclaim, set off, adjustment, or;
- (b) any loss arising out of an Insured Receivable where the exported goods have not been accepted by the Debtor or where the liability for payment is not accepted by the Debtor, or;
- (c) deficiencies in performance of the relevant Export Contract relating to quantity, quality, time schedule, etc. or;
- (d) non-performance of any covenant under the Export Contract by the Exporter, or;
- (e) loss due to non-compliance of relevant statutory and regulatory norms by you, or;
- (f) loss due to non-payment by Associate Company of the Exporter being the Debtor;
- (g) Any part payment received and Commission saved;
- (h) Loss arising out of any Excluded Risk specified under Part-III.

24. ASSOCIATE COMPANY

Any entity, whether incorporated or otherwise, now existing or hereafter constituted, in which the exporter has any direct or indirect interest in or connection with other business entity (in India or overseas) be it managerial, financial or is owned/controlled by members of same family or close relatives and/or vice-versa, such relationship between them shall be treated as holding company, subsidiary, associates, joint ventures or group company/concerns relationship between/among them.

For the purposes of same family or close relative, a person shall be deemed to be a relative of another if -

- (i) they are members of a Hindu undivided family; or
- (ii) they are husband and wife; or
- (iii) the one is related to the other in the manner indicated in the 'List of Relatives (including the person and its spouse side as well)', being illustrative, not exhaustive: -



List of Relatives 1. Father, 2. Mother (including step-mother), 3. Son (including stepson), 4. Son's wife, 5. Daughter (including stepdaughter), 6. Father's father, 7. Father's mother, 8. Mother's mother, 9. Mother's father, 10. Son's son, 11. Son's son's wife, 12. Son's Daughter 13. Son's Daughter's husband, 14. Daughter's husband, 15 Daughter's son, 16 Daughter's son's wife, 17. Daughter's daughter, 18, Daughter's daughter's husband. 19. Brother (including step-brother), 20. Brother's wife, 21. Sister (including step-sister), 22. Sister's husband.

25. EXPORTER

An exporter in India as mentioned in the Schedule with whom you have entered into an agreement for purchase of export receivables without recourse.

The term "Client" shall have the same meaning as ascribed to.

26. DISPATCH

The term Dispatch/ Dispatched shall mean passing or handing over of the goods to the first carrier for through carriage to the place where the Debtor or their nominee/consignee is to accept them, Dispatched shall be construed accordingly.

27. DATE OF FACTORING

The date of factoring shall be the date on which the amount is disbursed to the Exporter against the factored invoices.

28. DEBTOR

Debtor is a legal entity or natural person as mentioned in the Schedule, who is liable to the Insured for payment of the export receivables which are purchased by the Insured.

29. DEEMED EXPORTS

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

30. DUE DATE AND OVERDUE



Due Date with respect to an Insured Receivable means the date on which payment is due for payment by the Debtor to the Insured and shall include an extended Due Date, if any, in accordance with the provisions of this Cover. In the event of payment on any Insured Receivable is to be made on various dates in instalments or any extended Due Dates are agreed allowing payment in such instalments, the Due Date for the purpose of determining default by the Debtor shall be construed to be the earliest date on which any one or more of the instalments that remained unpaid after becoming due for payment. A payment not received on or before the aforesaid due date, shall be deemed to be Overdue.

31. EXPORT CONTRACT

Export Contract means and includes a Purchase Order, a contract or an agreement for export of goods entered into between the Exporter and the / Debtor

32. FACTORING

Factoring means the business of financing or acquisition of trade receivables of assignor by accepting assignment of such receivables.

33. FACTORING AGREEMENT

A Factoring Agreement is an agreement between a factor and the Exporter for extending such factoring services as mentioned in the Schedule.

34. GROSS INVOICE VALUE

Gross Invoice Value means the invoice value of goods exported by an Exporter to a Debtor in terms of an Export Contract but would exclude (i) any amount that is received or should have been received by the Exporter on or before the dispatch of goods and (ii) any amount that is due for payment under a documentary letter of credit.

35. INSURED RISKS

Insured Risks means any or all of the following causes of loss to the exclusion of any and every other cause:

A. Protracted Default

Protracted Default means failure on the part of a Debtor, after having accepted delivery of the goods exported by the Exporter in accordance with



the relevant Export Contract, to pay the Gross Invoice Value or any part thereof due thereon to the Exporter or to the Insured to receive the said amount within a period of One Hundred and twenty days (120) days after the expiry of the relevant Due Date;

B. Insolvency of Debtor

There is insolvency (i) when an Debtor commences or becomes the subject of any proceedings under the relevant and applicable local bankruptcy or insolvency laws; or (ii) when a Court having jurisdiction over the Debtor has appointed a receiver, liquidator, trustee, or other similar official for the assets of the Debtor under the relevant and applicable bankruptcy or insolvency laws; or (iii) when the Debtor makes a compromise or arrangement with his creditors; or (iv) a Court having jurisdiction over the Debtors makes an arrangement with the creditors binding on the Debtor; or (v) when such circumstances exist as are, in the opinion of ECGC equivalent to any of the above;

C. Contract Cancellation

Contract Cancellation shall mean the cancellation of a legally valid Contract of Sale between the exporter and the debtor, including cancellation of a previously issued and currently valid authority/license of the debtor (or the named Consignee in the Contract of Sale) to import the goods by the Government of the debtor's Country after dispatch of the goods by the exporter, in circumstances outside the control of the exporter and / or the debtor and / or the Insured and such cancellation directly prevents payment of the Insured receivable.

D. Contract Frustration

Contract Frustration shall mean the direct prevention of payment of the Insured receivable as a result of the occurrence of war, hostilities, civil war, insurrection, rebellion, revolution and / or other disturbances within the debtor's Country or as a result of the occurrence of war between India and the debtor's Country, after dispatch of the goods by the exporter.

E. Import Restrictions

Import Restriction shall mean the implementation of any law or order, decree or regulation having the force of law, by the Government of the debtor's Country, after dispatch of the goods by the exporter, in circumstances outside the control of the exporter and / or the debtor and / or the Insured that prohibits the import of goods into the debtor's Country and directly prevents payment of the Insured receivables.

F. Inconvertibility / Transfer Delay



Inconvertibility (also known as Transfer Delay) shall mean when events occur in the debtor's Country or legislative or administrative measures are taken in that Country (such as, 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 and / or the debtor and / or the Insured, prevent, restrict or delay the transfer of payment of the Insured receivables (or part of it), by the debtor's Country. Further, Inconvertibility shall be deemed to occur either -

- (i) at the date when the local currency deposit is made to your account / your counterpart's account / exporter's account (or deposited irrevocably with a Bank in the debtor's Country for your account / your counterpart's account) and the necessary transfer formalities are completed by the debtor; or
- (ii) at the date on which approval for foreign exchange allocation against an application made by the debtor has been refused by the Central Bank of the debtor's Country.

36. INSURED LOSS

Insured Loss is the amount as specified in the Schedule and is the maximum amount covered by ECGC under this Cover.

37. INSURED PERCENTAGE

Insured Percentage means the percentage of Insured loss agreed to be indemnified by ECGC in pursuance of the provisions of the Cover and as specified in the schedule to the Cover.

38. INSURED RECEIVABLE

Insured Receivable means the Gross Invoice Value of a shipment dispatched by the Exporter to the Debtor and purchased by the Insured under a Factoring Agreement with the Exporter, subject to the maximum of Insured Loss and terms of the Cover.

39. INDEBTEDNESS

Indebtedness, in respect of the Debtor shall mean any and all the amounts owed by the Debtor to you whether payable now or at a future date.

40. PERIOD OF COVER

Period of Cover shall mean the period of validity of this Cover specified in the Schedule (Note-The loss which may occur to you in respect of factored invoices where the Date of Factoring is prior to the commencement of the Period of Cover and/or in respect to factored invoices where Date of



Factoring is after the end of the Period of Cover, as defined in the Schedule, shall not be insured under the Policy).

41. MERCHANTING EXPORTS

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 Debtor without those goods crossing the Indian customs boundaries.

42. EXPORT UNDER CONSIGNMENT SALES

When the goods have been exported on Consignment basis i.e., those shipments that are despatched by the Exporter to the overseas stock holding agent or overseas unit of the Exporter in pursuance of an agency agreement or arrangement or otherwise including warehousing and may also include any part of the aforesaid goods despatched to the Debtor in further sale.

43. DATE OF SHIPMENT

The Date of Shipment shall be dependent on the mode of transportation adopted by the Exporter. The Date of Shipment / Export for respective modes of transportation shall be as under: -

Mode of transportation	Date of Shipment/Export
By Sea	The date of Shipped On-Board (SOB) / date of Received For Shipment (RFS), mentioned in the Bill of Lading or the Master Bill of Lading, issued by the Shipping line.
By Air	The date mentioned along with the flight number in the Master Airway bill.
By Road	The date on which goods crossed Indian border as certified by Land Customs Authorities (LCA).
By Rail	The date of Railway Receipt (RR).
By Post	The date stamped on postal receipt.
By Registered Courier Service	The date affixed on Courier Receipt / Waybill.

44. EXPORT/SHIPMENT



The term Export/Shipment would mean the dispatch of goods from India after customs clearance by the Exporter to the Debtor or to their nominee/consignee in pursuance of an export contract by appropriate mode of transportation (by land, sea, air or by any other authorized means or a combination of any or all of the these).

45. DEBTOR'S COUNTRY

Debtor's Country means the country of the Debtor in which they are resident or have the place of business.

46. COVER

Cover means the Proposal Form including any modifications/additions to it, the Cover-Letter and the Bond, issued to the Insured whose name and address is specified in the Schedule and, unless repugnant to the context or meaning, shall include the Schedule, Endorsement, Addendum, Supplement, Corrigendum etc., if any, attached to it.

47. SCHEDULE

Schedule means the schedule attached to and forming part of the Cover.

Signature:

Designation:

Office of Issue and Seal:

CLAIM FORM

FOR EXPORT RECEIVABLES (FACTOR'S RISKS) COVER

1. Name & address of the Insured :
2. Cover No :
3. Name of the Exporter :
4. Name & country of the Debtor :
5. Details of unrealized receivable for which claim is lodged:

S. No	SB No	Ref No	Date of shipment (As per Bill of Lading or Airway Bill)	Date of Factoring	Original & Extended due date	Gross Invoice Value (in Foreign Currency & INR)		Payment realized		Amount due		Commodity	Date & Port of discharge of goods
						FC	INR	FC	INR	FC	INR		

6. Experience of the Exporter with the Debtor in the last two years from 1st factored bill in claim:

S. No	Date of shipment	Gross Invoice Value in FC	Gross Invoice Value (Rs)	Terms of payment	Due date	Date of realization

7. Cause of loss : Protracted Default of Debtor / Insolvency of Debtor / Political Risks / Others

8. Amount of loss:

Total Bill amount factored :
(In Foreign Currency)
Its converted value (in INR) :
Less Bills amount realized :
(In Foreign Currency)
Its converted value (in INR) :
Less: Amount recovered, if any (INR):
TOTAL LOSS (INR) :

9. If loss is on account of transfer delay:

Sr No	Date of shipment	Date of factoring	Value of shipment	Terms of payment	Date of payment in local currency	Date of completion of exchange control formalities
1	2	3	4	5	6	7

10. Brief description of action initiated to recover the debt:

11. Documents Enclosed:

- a. Contract/Order
- b. Invoice
- c. Bill of Lading/Airway Bill
- d. Details of Bills Factored.
- e. Collection Advice.
- f. Non-payment advice/Proof of loss.
- g. Customs Shipping Bill, SDF or Exchange control GR Form.
- h. Original Accepted Unpaid Bill of Exchange/Acknowledgment of liability.



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- i. Proof of delivery from Airline/Shipping Co./Cargo Co. and confirmation from Debtor that he has taken delivery.
- j. Correspondence with the Debtor, other agencies.
- k. Action taken for recovery, if any.
- l. In case of Insolvency:
 - i. Proof of Insolvency
 - ii. Claim lodged by Insured/exporter with official receiver/Insolvency Court and Acknowledgement thereof.
- m. Copy of ledger maintained by the Insured for Exporter-Debtor for last two years from 1st Factored Bill in claim.

We hereby undertake:

- a. To pursue all recovery steps, directly or through a specialized debt collecting agent/lawyer or assign and transfer of rights and interests in the Insured receivables to ECGC as laid down under their provisions of the Cover:
- b. To pay to ECGC immediately, if any recoveries are effected as laid down under the provisions of the Cover.

We declare that the information given herein to be true and correct in every particular.

We accordingly claim payment of Rs. _____ (Rupees _____
_____ only) being ____% of the loss of
Rs _____.

Signature :
Name of the official Designation :
Address :
Date Seal :
