

ERRORS AND OMISSION LIABILITY INSURANCE

POLICY NUMBER:

NOTES:

THIS INSURANCE CONTRACT IS ESTABLISHED ON THE BASIS OF THE DECLARATIONS AND REPRESENTATIONS MADE AND DOCUMENTS FURNISHED (INCLUDING THE PROPOSAL FORM) BY **THE INSURED** AND **INSURED'S** AGENT(S) TO THE COMPANY, ALL OF WHICH CONSTITUTE AN INTEGRAL PART OF THIS CONTRACT OF INSURANCE.

COMBINED WITH THE POLICY SCHEDULE THIS CONTRACT CONTAINS THE FULL INSURANCE TERMS, CONDITIONS, DEFINITIONS AND LIMITATIONS. PLEASE READ THIS DOCUMENT CAREFULLY AND KEEP IT SAFE. THIS POLICY (AND THE POLICY SCHEDULE WHICH FORMS AN INTEGRAL PART OF THE POLICY) IS A LEGAL CONTRACT. PLEASE EXAMINE IT THOROUGHLY TO ENSURE IT MEETS YOUR REQUIREMENTS. IF IT DOES NOT, PLEASE ADVISE THE COMPANY IMMEDIATELY.

IF **THE INSURED** SHALL MAKE ANY CLAIM KNOWING THE SAME TO BE FALSE OR FRAUDULENT, AS REGARDS AMOUNT OR OTHERWISE, THIS CONTRACT SHALL BECOME VOID AND ALL RIGHTS HEREUNDER SHALL BE FORFEITED.

TABLE OF CONTENTS

1	PREAMBLE	3
2	OPERATIVE CLAUSE.....	3
3	INDEMNITY CLAUSE	3
4	DEFINITIONS	4
5	INDEMNITY TO OTHERS	10
6	NOTIFICATION EXTENSION CLAUSE.....	11
7	EXTENDED REPORTING PERIOD	12
8	CROSS LIABILITY CLAUSE.....	12
9	DEFENCE COST	12
10	SUPPLIMENTARY PAYMENTS	12
11	INDEMNITY LIMITS	13
12	CLAIM SERIES CLAUSE	13
13	COMPULSORY EXCESS.....	13
14	VOLUNTARY EXCESS	14
15	LIMITATION PERIOD	14
16	EXCLUSIONS.....	15
17	GENERAL CONDITIONS.....	23



1 PREAMBLE

This Policy consists of

- i. the Policy wording; and
- ii. each endorsement issued by the Company and attached to and intended to be attached to the Policy wording or intended by the Company to form part of this Policy; and
- iii. the **Policy Schedule**.

The Policy wording and the **Policy Schedule** are to be read together. Any word or expression given a specific meaning in the clause headed Definitions will mean the same wherever else it appears unless specially stated otherwise.

2 OPERATIVE CLAUSE

Upon receipt of written proposal and declaration along with premium from **the Insured** (as named in the **Policy Schedule**), **SBI General Insurance Company Limited** (hereafter referred to as “the Company”) agrees to indemnify the Insured as per the indemnity clause contained hereafter.

3 INDEMNITY CLAUSE

Subject to the terms, exclusions and conditions contained herein or otherwise endorsed hereon, the Company agrees to pay such **Loss** for which **Insured** becomes obligated to pay because of liability imposed by law or assumed in an **Insured Contract**, by reason of any **Financial Injury** arising out of the failure

- i. of Insured Product to perform the function or to serve the purpose intended, due to defect, deficiency, inadequacy or dangerous condition in Insured product; or
- ii. to perform **Insured's Service**, in accordance with the terms and conditions of a contract or agreement;

which is caused by a **Wrongful Act** to which coverage applies and claim for the same is first made against the Insured during the **Policy Period** and notified to the **Company** during the **Policy Period** or applicable extended reporting period. No cover is provided under this contract for serial **Losses** if the first such **Loss** occurred before retroactive date.

The Company will indemnify the Insured up to **Limit of Indemnity** as stated in the **Policy Schedule** for:

- i. all amount which the Insured becomes legally liable to pay as compensation (excluding punitive, exemplary, aggravated and liquidated damages);
- ii. Defence Cost;
- iii. Supplementary Payments.

The indemnity provided above applies only to claim or claims

- i. arising out of **Wrongful Act** by the Insured, committed during the **Period of Insurance**;
- ii. first made in writing against the **Insured** during the **Policy Period** and notified to the Company in writing during the **Policy Period** and/or applicable extended reporting period;

- iii. applies only to **Financial Injury** caused by a **Wrongful Act** committed in India and claim or claims in accordance with the laws of India (unless otherwise specifically provided in the Schedule to this Policy);
- iv. is excluding any judgment award payment or settlement made within countries which operate under the laws of the United States of America or Canada (or to any order made anywhere in the world to enforce such judgment award or settlement either in whole or in part) unless the Insured has requested that there shall be no such limitation and cover for the same is granted by the Company.

The indemnity provided above does not apply to

- i. any Injury, **Wrongful Act**, claim, **Suit** or other circumstances reported, in whole or part, to the Company or any other Insurer before the beginning of the **Policy Period**; or **Deemed Known**, before the beginning of the **Policy Period**, that could reasonably be expected to result in any payment under this insurance;
- ii. Injury arising out of any **Wrongful Act**; or continuation or resumption of any **Wrongful Act Deemed Known**, before the beginning of the **Policy Period**, to have been committed.

4 DEFINITIONS

4.1 AIRCRAFT

"Aircraft" means any vessel, aircraft or thing made or intended to fly or move in or through the atmosphere or space.

4.2 ASBESTOS

"Asbestos" means asbestos in any form, including its presence or use in any alloy, by-product, compound or other material or waste. Waste includes material to be recycled, reconditioned or reclaimed.

4.3 ASBESTOS DUST

"Asbestos Dust" means fibres or particles of Asbestos.

4.4 BODILY INJURY

"Bodily Injury" means any actual, alleged or threatened physical injury, death, illness or disease of or to any person at any time including humiliation, mental anguish, mental injury or shock.

4.5 DEDUCTIBLE OR EXCESS

"Deductible Or Excess" means the amount the Insured first bear in relation to each **Occurrence**. The deductible applies to all amounts payable under this Policy including defence cost.

4.6 DEEMED KNOWN

“**Deemed Known**” means known by, or that should have been known from the standpoint of a reasonable person in the circumstances of:

- Insured; or
- any of Insured directors, members, officers or partners (whether or not an **Employee**). Officer will be deemed to include an officer’s designee.

Such injury, **Wrongful Act**, claim, **Suit** or circumstance, as applicable, will be **Deemed Known** at the earliest time when any such person described above:

- i. reports all, or any part, of the injury, **Wrongful Act**, claim, **Suit** or circumstance to the Company or any other insurer;
- ii. receives a claim for damages in connection with the injury, **Wrongful Act** or circumstance; or
- iii. becomes aware:
 - a. that the injury has occurred or has begun to occur; or
 - b. that the **Wrongful Act** has been committed or has begun; or
 - c. of any actual, alleged or threatened injury, **Wrongful Act**, claim or **Suit** in connection with the circumstance.

4.7 EMPLOYEE

“**Employee**” means the person under a contract of service or apprenticeship with the Insured.

4.8 FINANCIAL INJURY

“**Financial Injury**” means economic injury sustained by a person or organisation because their property, including software, data and other information that is in electronic form cannot be used; or is less useful and it includes only that part of economic injury, which results from **Insured’s Product** or **Insured’s Service**, or a part or phase of **Insured’s Product** or **Insured’s Service**, that has been accepted.

Insured’s Product or **Insured’s Service**, or a part or phase of **Insured’s Product** or **Insured’s Service**, will be deemed accepted only when and only to the extent that such product or service (or such part or phase) has been accepted pursuant to the acceptance criteria in effect at the time of acceptance.

But, in no event will such:

- i. product be deemed accepted unless and until possession of the product has been relinquished to perform the function or serve the purpose intended;
- ii. service be deemed accepted unless and until the service has begun.

4.9 INFORMATION AND NETWORK TECHNOLOGY PRODUCT

“**Information and Network Technology Product**” means

- i. communication, computer, electronic, Internet, information, network or website:
 - a. equipment or parts; or
 - b. programs or systems; and
- ii. software, data or other information that is in electronic form.

4.10 INFORMATION AND NETWORK TECHNOLOGY SERVICE

“Information and Network Technology Service” means analysis, design, integration, management, maintenance, processing, programming, repair or support services in connection with an **Information and Network Technology Product**.

4.11 INSURED’S PRODUCT

“Insured’s Product” means any goods or products including **Information and Network Technology Products**, created, developed, installed, leased or licensed (to others) or otherwise manufactured, sold, handled or distributed by the Insured or others trading under Insured’s name; or a person or organisation whose assets or business Insured has acquired; and containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products; or **Insured’s Service**. It includes

- i. representations or warranties made with respect to the fitness, performance, quality or use of **Insured’s Product**;
- ii. the providing of or failure to provide instructions or warnings in connection with **Insured’s Product**; and
- iii. **Insured’s Service** performed in connection with **Insured’s Product**.

4.12 INSURED CONTRACT

“Insured Contract” means a contract or agreement pertaining to Insured’s business in which Insured assume the liability of another person or organisation for **Financial Injury** sustained by a third person or organisation, that is caused by a **Wrongful Act**, to which this insurance applies, committed by the Insured or on Insured’s behalf.

4.13 INSURED’S SERVICE

“Insured’s Service” means **Information and Network Technology Services** performed by the Insured or on the Insured’s behalf (including related consulting, staffing, training and other support services) and includes

- i. representations or warranties made with respect to the fitness, performance, quality or use of Insured’s Service; and
- ii. the providing of or failure to provide instructions or warnings in connection with Insured’s Service.

4.14 INTELLECTUAL PROPERTY LAW OR RIGHTS

“Intellectual property law or rights” means

- certification mark, copyright, patent or trademark (including collective or service marks);
- right to, or judicial or statutory law recognizing an interest in, any trade secret or confidential or proprietary non-personal information;
- other right to, or judicial or statutory law recognizing an interest in, any expression, idea, likeness, name, slogan, style of doing business, symbol, title, trade dress or other intellectual property; or
- other judicial or statutory law concerning piracy, unfair competition or other similar practices.

4.15 LIMIT OF INDEMNITY

“Limit of Indemnity” means the applicable Limit of Indemnity specified in the **Policy Schedule**.

4.16 LOSS

“Loss” means

- i. damages that the Insured becomes legally obligated to pay; and
- ii. claim adjustment expenses related to a claim or **Suit**, to which this insurance applies, that seeks such damages.

But it does not include

- a. any consideration owed or paid to any Insured in connection with **Insured’s Product** or **Insured’s Service**, including any restitution or return of any charges or fees;
- b. damages, loss, cost or expense to perform any obligation assumed by or on behalf of any Insured;
- c. other damages, loss, cost or expense incurred, or agreed to, by or on behalf of any Insured, except in an agreed settlement.

4.17 MANAGED ORGANISATION

“Managed Organisation” means any organisation other than subsidiary companies whose daily activities and daily decision making is directly controlled or managed by the Insured.

4.18 OCCURRENCE

“Occurrence” means a **Wrongful Act** which results in **Financial Injury** neither expected nor intended from the Insured’s standpoint. All **Financial Injury** arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one **Occurrence**.

4.19 PERIOD OF INSURANCE

“Period of Insurance” means the period commencing from the retroactive date as shown in the **Policy Schedule** and terminating on the expiry date as shown in the **Policy Schedule**.

4.20 PERSONAL INJURY

“Personal injury” means

- libel and slander;
- arrest, detention, or imprisonment;
- discrimination, harassment or segregation;
- prosecution of any person or organisation;
- wrongful entry into, or eviction or other violation of any right of occupancy;
- invasion of other violation of any rights of privacy or publicity;
- defamation and or disparagement;

including mental injury, anguish, or shock resulting there from.

4.21 POLICY PERIOD

“Policy Period” means the period commencing from effective date and hour as shown in the **Policy Schedule** and terminating at midnight on the expiry date as shown in the **Policy Schedule**.

4.22 POLICY SCHEDULE

“Policy Schedule” means the schedule of the Insurance or any endorsement schedule provided by the Company.

4.23 POLLUTION

“Pollution” means pollution or contamination of the atmosphere or of any water, land, or other tangible property.

4.24 POLLUTANT

“Pollutant” means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditions or reclaimed. **Pollutants** shall also mean a hazardous substance as defined under the Indian Public Liability Insurance Act, 1991 or any statutory amendments made thereto or modification thereof, or any other similar law for the time being in force.

4.25 PROPERTY DAMAGE

“Property Damage” means actual, alleged or threatened physical loss of or injury to or damage to or destruction of or loss of use of tangible property.

Tangible property does not include any software, data or other information that is in electronic form.

4.26 SUIT

“Suit” means a civil proceeding in which damages, to which this insurance applies, are sought. It includes arbitration or other dispute resolution proceedings in which such damages are sought and to which the Insured must submit or does submit with consent of the Company.

4.27 WRONGFUL ACT

“Wrongful Act” means any error, unintentional omission or negligent act including all related wrongful acts and all series of continuous, repeated or related wrongful acts.

5 INDEMNITY TO OTHERS

The indemnity granted under this contract extends to cover the legal liability accruing to the following as an Insured that are not named in the **Policy Schedule** provided that they observe, fulfil and are subject to the definitions, terms, conditions and exclusions of this Policy:

1. In case Insured is an Individual

(i) Insured's spouse is Insured but only with respect to the conduct of a Business of which Insured is the sole owner;

(ii) In case of deceased Individual:

- persons or organisations having proper temporary custody of Insured's property, but they are Insureds only with respect to the maintenance or use of such property and only for acts until the Insured's legal representative has been appointed; and
- Insured's legal representatives are Insured; but they are Insured only with respect to their duties as the Insured's legal representatives. Such legal representatives will assume the Insured's rights and duties under this insurance.

2. In case Insured is a Partnership established in accordance with the laws prevailing in India, Insured's partners and their spouses are Insured but only with respect to the conduct of **Insured's business**.

3. In case Insured is a Joint Venture established in accordance with the laws prevailing in India, Insured's joint venture partners, partners and their spouses are Insured but only with respect to the conduct of **Insured's business**.

4. In case Insured is a Unincorporated Organisation, including but not limited to an association of persons or a private trust functioning in accordance with the laws prevailing in India, Insured's principal office bearers and their spouses are Insured but only with respect to the conduct of **Insured's business**.

5. In case Insured is an organization other than a partnership, joint venture or unincorporated organization, Insured's directors and officers are Insured but they are Insured only with respect to their duties as the Insured's directors or officers.

6. Insured's **Employees** are the Insured; but they are Insured only for acts within the scope of their employment or while performing duties related to the conduct of the **Insured Business**.

7. a. All Insured's subsidiary companies and all Insured's **Managed Organisations**, existing at the commencement of the **Period of Insurance** for whole **Period of Insurance** or until they cease to be Insured's subsidiary before the end of **Period of Insurance** if there is no other insurance available.

b. All Insured's subsidiary companies and all Insured's **Managed Organisations**, that became Insured's after commencement of the **Period of Insurance**, for 30 days from becoming Insured's subsidiary or qualifying as a **Managed Organisation** (unless the **Period of Insurance**

ends sooner or they cease to be Insured's subsidiary or qualify as a **Managed Organisation** which ever shall first occur), if there is no other insurance available.

but in each case cover is limited

- c. to the **Insured Business** described in the **Policy Schedule**;
- d. to **Insured Business** operations carried out within India;
- e. to **Wrongful Act** committed in India;
- f. for any **Financial Injury** arising out of a **Wrongful Act** first committed, in whole or in part, after such acquisition is executed.

Upon receipt of written notice from the Insured describing the acquisition or formation for which Insured is requesting an extension of coverage for an additional period (up to the end of the **Policy Period**), the Company may agree to issue an endorsement to extend coverage for an additional period (up to the end of the **Policy Period**) in connection with the acquisition or formation, in accordance with the terms, conditions and additional premiums determined by the Company and the coverage may be granted upon the Insured accepting such terms and conditions and pay such premiums promptly when due.

Provided always that

- all such persons or parties shall observe, fulfil and be subject to, the terms, conditions and exclusions of this Policy as though they were the Insured except to the extent provided under sub clause 7 above, no person or organisation is an Insured with respect to the conduct of any person or organisation that is not shown as a named Insured in the **Policy Schedule**.
- No person or organisation is an Insured with respect to the conduct of any organisation:
 - 1. that is incorporated or registered outside India; or
 - 2. if, at the time of **Loss**, the securities of such organisation are, in whole or in part, listed or quoted on any investment or stock exchange outside India.

6 NOTIFICATION EXTENSION CLAUSE

Should the Insured notify the Company during the **Period of Insurance** in accordance with General Condition 17.1 of any specific event or circumstance which the Insured accept may give rise to a claim or claims which form the subject of indemnity by this Policy then acceptance of such notification means that the Company will deal with any **Claims** subsequently arising from such circumstance(s) and such claim or claims shall be considered to have been made during the **Policy Period** or the Extended Reporting Period in which the circumstances were first reported to the Company. The extension granted under this clause will be subject to the claim being made against the Insured within three (3) years from such notice to the Company.

7 EXTENDED REPORTING PERIOD

In the event of non-renewal or cancellation of this Policy, either by the Company for any reason other than for non payment of premium or by the Insured, the Company will allow a time limit not exceeding thirty (30) days from the date of expiry or cancellation of the Policy provided no insurance is in force during this extended reporting period for the same interest, for notification of claims for **Occurrences** which had taken place during the **Period of Insurance** but claims thereof could not be made during the **Policy Period**, provided, however, all claims made during the extended reporting period shall be handled as if they were made on the last day of the expiring **Policy Period** and are subject to the limits of indemnity and the terms, conditions and exceptions of the Policy.

The extended reporting period does not

- a. extend the **Policy Period** or change the scope of coverage provided;
- b. reinstate or increase the **Limit of Indemnity**;
- c. apply to claims that are covered under any subsequent insurance the Insured purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims;
- d. apply to any injury, **Wrongful Act**, claim, **Suit** or other circumstance reported, in whole or in part, to the Company or any other insurer before the beginning of the Extended Reporting Period.

8 CROSS LIABILITY CLAUSE

Where Insured comprises of more than one entity or person, each entity or person indemnified is separately indemnified in respect of claims made against any of them by any other person or party (other than the named Insured) subject to Company's total liability not exceeding the **Limits of Liability** stated in the **Policy Schedule**.

9 DEFENCE COST

Subject to all of the terms and conditions of this insurance the Company will pay all costs, fees and expenses incurred by the Insured with prior consent of the Company in the investigation, defence or settlement of any claim made against the Insured and the costs of representation at any inquest, inquiry or other proceedings in respect of matters which have a direct relevance to any claim made or which might be made against the Insured, provided such claim or claims are the subject of indemnity by the Policy. Such costs, fees and expenses are called 'Defence Cost' and it shall serve to reduce the **Limit of Indemnity** of this Policy as stated in the **Policy Schedule**. The Company's obligations hereunder end when the Company has used up the applicable **Limit of Indemnity**.

10 SUPPLEMENTARY PAYMENTS

Subject to all of the terms and conditions of this insurance the Company will pay, with respect to a claim or **Suit** to which this insurance applies

- reasonable expenses (other than defence cost) incurred by the Insured at the request of the Company to assist in the investigation, defence or settlement of such claim or claims which are the subject of indemnity by the Policy;
- interest on the full amount of a judgment that accrues after entry of the judgment and before the Company has paid, offered to pay or deposited in court the part of the judgment that is within the applicable **Limit of Indemnity**.

Such expenses are called 'Supplementary Payments' and it shall serve to reduce the **Limit of Indemnity** of this Policy as stated in the **Policy Schedule**.

Supplementary Payments do not include any fine or other penalty.

The Company's obligations hereunder end when the Company has used up the applicable **Limit of Indemnity**

11 INDEMNITY LIMITS

The Company's total liability to pay compensation, claimant's costs, fees and expenses and defence cost shall not exceed the **Limit of Indemnity** stated in the **Policy Schedule** in the form of Any One Accident (AOA) Limit and Aggregate One Year (AOY) Limit.

- Any One Accident (AOA) Limit

Any one Accident (AOA) Limit is the most the Company will pay for the sum of damages for **Loss** for **Financial Injury** arising out of any one **Occurrence**. Any such sums the Company pay will reduce the amount of the applicable Aggregate one Year (AOY) Limit available for any other payment.

If the applicable Aggregate One Year (AOY) Limit has been reduced to an amount that is less than the Any One Accident (AOA) Limit, the remaining amount of such Aggregate One Year (AOY) Limit is the most that will be available for any other payment.

- Aggregate one Year (AOY) Limit

Subject to the Any One Accident (AOA) Limit, the Aggregate one Year (AOY) Limit is the most the Company will pay for the sum of damages for **Loss** for **Financial Injury**.

Any damages the Company pay will reduce the **Limit of Indemnity**. Payments made by the Company by way of the Defence Cost and Supplementary Payments under this insurance contract will reduce the **Limit of Indemnity**. The Company's obligations hereunder end when the Company has used up the applicable Limit of Insurance.

12 CLAIM SERIES CLAUSE

For the purpose of this Policy, where a series of and/or several **Financial Injuries** are attributable directly or indirectly to the same cause, all such **Financial Injuries** shall be added together and all such **Financial Injuries** shall be treated as one claim and such claim shall be deemed to have been made at the point in time when the first of the claims was made in writing. There shall, however, be no coverage for claims made arising from one specific cause, which are made later than 3 years after the first claim of the series.

13 COMPULSORY EXCESS

The Insured shall bear, as Compulsory Excess, the amount or percentage of the **Limit of Indemnity** per any one accident so stipulated in the **Policy Schedule** attached to the Policy. This Compulsory

Excess shall be applicable to **Financial Injury** claims, inclusive of Defence Cost arising out of any one accident. The Company's liability shall attach for the claim in excess of such Compulsory Excess (and voluntary excess, if any, opted by the Insured).

14 VOLUNTARY EXCESS

In the event of the Insured opting, the Policy shall be subject to voluntary excess as mentioned in the **Policy Schedule**. This voluntary excess shall be applicable to **Financial Injury** claims inclusive of defence cost arising out of any one accident. The Company's liability shall attach for the claims in excess of such compulsory and voluntary excess.

15 LIMITATION PERIOD

It is hereby expressly agreed and declared that if the Company shall disclaim liability to the Insured for any claim hereunder and such claim shall not within 12 calendar months from the date of such disclaimer have been made the subject matter of a **Suit** in a court of law then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable hereunder.

16 EXCLUSIONS

16.1 ANTITRUST AND RESTRAINT OF TRADE

This insurance does not apply to **Financial Injury** arising out of or giving rise to or in any way related to any actual or alleged monopolisation, price discrimination, price-fixing, predatory pricing, trade conduct or violation of any law, regulation or statute relating to thereto regardless of whether this insurance would otherwise apply to all or part of any such alleged or actual injury or damage in absence of such actual or alleged conduct or violation.

16.2 ADJUSTMENT, INSPECTION, RECALL OR REPLACEMENT EXPENSES

This insurance does not apply to any damages, **Loss**, cost or expense incurred by any Insured or others for any loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- **Insured's Product;**
- any property containing or incorporating **Insured's Product;** or
- any property on which **Insured's Service** is or was performed.

This exclusion does not apply to **Financial Injury**, sustained by others, resulting from the loss of use of:

- **Insured's Product;**
- property containing or incorporating **Insured's Product;** or
- property on which **Insured's Service** was performed;

in connection with the ownership, maintenance or use of **Insured's Product** or Insured's Service.

16.3 AIRCRAFT PRODUCTS

This insurance does not apply to any **Financial Injury** arising out of or connected directly or indirectly with any aircraft product or any missile or spacecraft or aerial devise including any

- a. article, equipment, material, part or spare part installed or otherwise incorporated in, on or under any **Aircraft**, missile, spacecraft or aerial devise, or furnished or used in connection therewith;
- b. air or space communication, guidance or navigation system;

- c. ground control, handling or support equipment or tools furnished or used in connection therewith;
- d. equipment or tools furnished or used in connection with manufacturing, repairing or servicing any of the foregoing;
- e. blueprints, designs, drawings, information, instructions, manuals, maps, opinions, reports, representations, software, specifications, surveys, training aids, warnings or warranties or engineering or other data furnished or used in connection with any of the foregoing; or
- f. engineering or other advice, instruction, labour or service relating to any of the foregoing.

16.4 ASBESTOS, ASBESTOS DUST AND/OR ASBESTOS PRODUCTS

This insurance does not apply to any **Financial Injury** arising out of or connected directly or indirectly with

- 1. any actual or alleged liability whatsoever for claims in respect of **Loss** or **Losses**, directly or indirectly (exclusively or partially) caused by or resulting from or in consequence of or contributed to by or arising out of or resulting from the existence, production, processing, manufacture, sale, distribution, storage, deposit or use of or in any way involving **Asbestos, Asbestos Dust** or respirable ceramic fibres, or any material containing **Asbestos, Asbestos Dust** or respirable ceramic fibres in whatever form or quantity;
- 2. the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of **Asbestos**;
- 3. any damages, **Loss**, cost or expense arising out of any:
 - i. demand, order, request or regulatory or statutory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **Asbestos**; or
 - ii. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **Asbestos**.

16.5 BODILY INJURY

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with **Bodily Injury** regardless of whether this insurance would otherwise apply to all or part of any such alleged or actual **Financial Injury** in absence of such **Bodily Injury**.

16.6 FAILURE TO PROVIDE SUPPORT

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with any actual, alleged or threatened decision by any Insured not to provide or support or to cease to provide or support on their product or service provided by them.

16.7 CONTINUING WRONGFUL ACTS

This insurance does not apply to **Financial Injury** arising out of that part of a **Wrongful Act** that continues or resumes after the later end of the **Policy Period** of:

- i. this insurance; or
- ii. a subsequent, continuous renewal or replacement of this insurance, that:
 - a. is issued to **the Insured** by the Company or by an affiliate of the Company; and
 - b. would otherwise apply to **Financial Injury**.

16.8 CONTRACTUAL LIABILITY

This insurance does not apply to any **Financial Injury** for liability arising out of or connected directly or indirectly with liability assumed by the Insured under any agreement or contract excluding

- a. liability which would have been attached to and/or imposed on the Insured in the absence of such agreement or contract;
- b. liability arising out of contracts and agreement specified in the **Policy Schedule** and/or specifically covered by way of condition or endorsement , provided that the injury to which this contract applies is caused by a **Wrongful Act** first committed by the **Insured** or on the **Insured's** behalf after the execution of such contract or agreement.

16.9 PROPERTY DAMAGE

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with **Property Damage** regardless of whether this insurance would otherwise apply to all or part of any such alleged or actual **Financial Injury** in absence of such **Property Damage**.

16.10 DELAY IN DELIVERY OR FAILURE TO DELIVER

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with any actual, alleged or threatened delay in delivery of or failure to deliver **Insured's Product** or part or phase of **Insured's Product**.

16.11 DELAY IN PERFORMANCE OF OR FAILURE TO BEGIN SERVICE

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with any actual, alleged or threatened delay in performance of or failure to begin **Insured's Service** or part or phase of **Insured's Service**.

16.12 DELIBERATE, CONSCIOUS AND INTENTIONAL ACTS

This insurance does not apply to any **Financial Injury** arising out of or caused by the dishonest, deliberate, conscious, criminal, fraudulent or intentional or malicious conduct committed by or with the consent or knowledge of the Insured.

16.13 EMPLOYMENT PRACTICES

This insurance does not apply to any liability sustained at any time by any person (including brother, child, parent, sister or spouse of such person), whether or not sustained in the course of employment by any Insured, arising out of any employment-related act, omission, policy, practice or representation directed at such person, occurring in whole or in part at any time, including any:

1. arrest, detention or imprisonment;
2. breach of any express or implied covenant;
3. coercion, criticism, humiliation, prosecution or retaliation;
4. defamation or disparagement;
5. demotion, discipline, evaluation or reassignment;
6. discrimination, harassment or segregation;
7. a. eviction; or
b. invasion or other violation of any right of occupancy;
8. failure or refusal to advance, compensate, employ, promote or make statutory payments or other contributions;
9. invasion or other violation of any right of privacy or publicity;
10. termination of employment or change in terms or conditions of service; or
11. other employment-related act, omission, policy, practice, representation or relationship in connection with any Insured at any time.

This will apply whether the Insured may be liable as an employer or in any other capacity; and to any obligation to share damages with or repay someone else who must pay damages because of any of the foregoing.

16.14 ENHANCEMENT, MAINTENANCE OR PREVENTION EXPENSES

This insurance does not apply to any **Loss**, cost or expense incurred by the Insured or others for any:

- A. enhancement or maintenance of any property; or
- B. prevention of any **Financial Injury** to any person or organisation; or

This exclusion does not apply to **Financial Injury**, sustained by others, resulting from the loss of use of:

- **Insured's Product**;
- property containing or incorporating **Insured's Product**; or
- property on which **Insured's Service** was performed;

in connection with the ownership, maintenance or use of **Insured's Product** or **Insured's Service**.

16.15 EXPECTED OR INTENDED FINANCIAL INJURY

This insurance does not apply to any liability arising out of or connected directly or indirectly with **Financial Injury** intended by the Insured or that would be expected from the standpoint of a reasonable person in the circumstances of the Insured.

16.16 BANKRUPTCY OR INSOLVENCY

This insurance does not apply to any **Financial Injury** arising out of or connected directly or indirectly with any bankruptcy, insolvency or other financial impairment of any Insured.

16.17 GOVERNMENT CLAIMS

This insurance does not apply to any damages, **Loss**, cost or expense arising out of any claim or proceeding made by or on behalf of any governmental authority. This exclusion does not apply to **Financial Injury** sustained by a governmental authority resulting from their ownership, maintenance or use of the **Insured's Product** or **Insured's Service**.

16.18 INSURED VS. INSURED CLAIMS

This insurance does not apply to any **Financial Injury** sustained by any

- i. Insured;
- ii. person or organisation that controls, either directly or indirectly, interests entitled to vote generally in the election of the governing body of any organisation that is an Insured;
- iii. subsidiary organisation of any Insured;
- iv. member or partner of any partnership or joint venture in which any Insured has any interest;
- v. director, officer, shareholder, **Employee**, custodian of property or legal representative of any organisation described above; or
- vi. Spouse of any person described above.

This exclusion does not apply to **Financial Injury** sustained by a person or organisation described in paragraph i. above, who is an additional Insured under this insurance by an endorsement made a part of this insurance contract otherwise a third party and not a person or organisation described in subparagraphs ii, iii, iv, v, vi of above.

16.19 FINES, PENALTY AND PUNITIVE DAMAGES

This insurance does not apply to any liability arising out of or connected directly or indirectly with fines, penalties, punitive, aggravated, liquidated or exemplary damages or multiple portions of any multiplied damages award or any other damages resulting from the multiplication of compensatory damages.

16.20 INFRINGEMENT OF INTELLECTUAL PROPERTY LAW & RIGHTS (IPR)

This insurance does not apply to any actual or alleged **Financial Injury** arising out of, giving rise to or in any way related to any actual or alleged assertion or infringement or violation by any person or organisation (including any Insured) of any **Intellectual Property Law or Rights**, regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged **Financial Injury** in the absence of any such actual or alleged assertion, infringement or violation.

16.21 MAINTENANCE OF CONTRACTS OR LICENCES

This insurance does not apply to any actual or alleged **Financial Injury** arising out of, any actual, alleged or threatened failure to effect, maintain, procure or secure; or cancellation, lapse, modification, nonrenewal, revocation, suspension or other impairment of, in whole or in part at any time, any bond, insurance, lease, license, order, permit or other contract or agreement that any Insured is obligated to maintain, procure or secure in connection with **Insured's Product or Insured's Service**.

16.22 PERSONAL INJURY

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with **Personal Injury** committed by any person or organisation (including any Insured) regardless of whether this insurance would otherwise apply to all or part of any such alleged or actual **Financial Injury** in absence of such **Personal Injury**.

16.23 SEEPAGE, POLLUTION & CONTAMINATION

This insurance does not apply to any **Financial Injury** arising out of

- i. the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** and/or any contamination there from;
- ii. any damages, **Loss**, cost or expense arising out of any:

- a. demand, order, request or regulatory or statutory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **Pollutants**; or
- b. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **Pollutants**.

This exclusion applies regardless of whether or not the **Pollution** was accidental, expected, gradual, intended, preventable or sudden.

16.24 PRIOR ACTS

This insurance does not apply to any liability with respect to **Financial Injury** occurring prior to the retroactive date as mentioned in the **Policy Schedule**.

16.25 RADIOACTIVITY, IONISING RADIATION OR CONTAMINATION

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with

- a. ionising radiation, combustion or contamination by radioactivity from any nuclear fuel or weapon, medical isotope, waste or other material whether occurring naturally or otherwise;
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- c. storage, transport, assembly, disassembly, maintenance or operation of any nuclear weapon or nuclear component thereof.

16.26 UNAUTHORISED EXCESS OR SECURITY BREACH

This insurance does not apply to any actual or alleged **Financial Injury** arising out of or connected directly or indirectly with any actual, alleged or threatened security breach of, unauthorised access to or unauthorised use of:

- a. **Insured's Product**;
- b. any property containing or incorporating **Insured's Product**;
- c. any property on which **Insured's Service** is or was performed; or
- d. any **Information and Network Technology Product**;

by any person or organisation (including any Insured), regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any such actual, alleged or threatened breach, access or use.

16.27 ADDITIONAL EXCLUSIONS

This insurance does not apply to any liability arising out of or connected directly or indirectly with liability caused by, whatsoever nature directly or indirectly, resulting from or in connection with

- a) **Losses** prior to and pending at the inception of the Policy;
- b) deliberate, wilful or intentional non-compliance of any statutory requirements and/or provisions;
- c) dishonest / criminal acts of **Employees** or persons working for/on behalf of the Insured;
- d) for any claims arising outside the territorial limits as mentioned in the **Policy Schedule**.

16.28 STRIKE, RIOTS AND CIVIL COMMOTION

Any **Loss, Financial Injury**, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection Strike, riots and civil commotion regardless of any other cause or event contributing concurrently or in any other sequence to the **Loss**.

16.29 WAR, INVASION AND ACT OF FOREIGN ENEMY

This insurance does not apply to any liability arising out of or connected directly or indirectly with or occasioned by, happening through or in consequence of

- a. war, warlike action by military, invasion, act of foreign enemy, hostilities (whether war be declared or not) including any action in hindering or defending against any actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
- b. civil war, rebellion, revolution, insurrection or military or usurped power including any action by any governmental authority in hindering or defending against any of these;
- c. any act of terrorism, piracy or hijack;

regardless of whether this insurance would otherwise apply to all or part of any such damages, **Loss**, cost or expense in the absence of any of the foregoing.

16.30 WORKMEN COMPENSATION OR EMPLOYERS LIABILITY

This insurance does not apply to any liability of the Insured arising out of or connected directly or indirectly with Workmen Compensation or disability benefits or unemployment compensation law or any similar law.

17 GENERAL CONDITIONS

- 17.1 The Insured shall give written notice to the Company as soon as reasonably practicable, but not later than the expiry of Policy or applicable extended reporting period, of any claim made against the Insured (or any specific event or circumstance that may give rise to a claim being made against the Insured) and which forms the subject of indemnity under this Policy and shall give all such additional information as the Company may require. Every claim, writ, summons or process and all documents relating to the event shall be forwarded to the Company immediately they are received by the Insured.
- 17.2 The Company will have the right, but in no case the obligation, to take over and conduct in the name of the Insured the defence of any claim and will have full discretion in the conduct of any proceedings and in the settlement of any claim and having taken over the defence of any claim, may relinquish the same.
- All amounts expended by the Company in the defence settlement or payment of any claim will reduce the **Limit of Indemnity** specified in the **Policy Schedule**. In the event the Company, in its sole discretion, chooses to exercise its right pursuant of this condition, no action taken by the Company in the exercise of such right will serve to modify or expand in any manner, what the Company's liability or obligations would have been had it not exercised its rights under this condition.
- 17.3 No admission, offer, promise or payment shall be made or given by or on behalf of the Insured without the written consent of the Company.
- 17.4 The Insured shall give all such information and assistance as the Company may reasonably require. The Insured shall at all times in addition to their obligations set out in General Condition 17.1 above provide such information to and co-operate with the Company or their appointed representative.
- 17.5 The Insured shall give notice as soon as reasonably practicable of any fact, event or circumstance which materially changes the information supplied to the Company at the time when this Policy was effective, and the Company may amend the terms of this Policy according to the materiality of such change.
- 17.6 The Company may at any time pay to the Insured in connection with any claim or series of claims under this Policy, to which the **Limit of Indemnity** applies, the amount of such limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled and upon such payment and/or settlement being made, the Company shall relinquish the conduct and control of and be under no further liability in connection with such claims.
- 17.7 The Policy and the **Policy Schedule** shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the **Policy Schedule** shall bear such specific meaning wherever it may appear. The terms, conditions and exclusions of this Policy (and any phrase or word contained therein) shall be interpreted in accordance with Indian Law.

- 17.8 Where the premium is based on the Insured's estimates, the Insured shall keep accurate records and after expiry of the **Period of Insurance**, declare as soon as possible such details as the Company require. The premium shall then be adjusted and any additional premium as the case may be collected from the Insured.
- 17.9 This Policy does not cover liability which at the time of happening of any event resulting into such liability, be insured by or would, but for the existence of this Policy, be insured by, any other Policy (but not a Errors And Omission Liability Insurance) or Policies, except in respect of any **Excess** beyond the amount which could have been payable under such Policy/Policies, had this Insurance not been effected.
- 17.10 The insurance afforded by this Policy is excess over any other valid and collectable insurance available to the Insured. Valid and collectable insurance includes any self insurance plan which would be applicable to the **Loss**.
- 17.11 In the event of liability arising under the Policy or the payment of claim under the Policy, the **Limit of Indemnity** per Any One Year under the Policy shall get reduced by the extent of quantum of liability paid or to be paid in respect of such claim. Under no circumstances, it shall be permissible to reinstate the **Limit of Indemnity** to the original level, even on payment of extra premium unless specifically agreed and endorsed for.
- 17.12 On the **Occurrence** of any **Loss** within the scope of cover under the Policy, the Insured shall allow the Investigator or any agent of the Company to inspect the material items and assist and not hinder or prevent the Company or any of its agents in pursuance of their duties on happening of **Loss**.
- If the Insured does not comply with the provisions of this Clause or other obligations cast upon the Insured under this Policy, in terms of the other clauses in the Policy documents, all benefits under the Policy shall be forfeited, at the option of the Company.
- 17.13 No Claim shall be payable under this Policy unless the cause of action arises in India, unless otherwise specifically provided in the Schedule to this Policy. All claims shall be payable in India in Indian Rupees only.
- 17.14 The Company have no duty to provide coverage under this insurance unless Insured and any other involved Insured have fully complied with all of the terms and conditions of this insurance.
- 17.15 This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit the Company from providing insurance.
- 17.16 Cancellation
In case of any fraud, misrepresentation, or suppression of any material fact either at the time taking the Policy or any time during the currency of the earlier policies, Insurer may at any time cancel this policy by sending the Insured 15 days notice by registered letter, at the Insured's last known address and in such event Insurer shall refund to the Insured a pro-rata'

premium for unexpired period of Insurance subject to no claim has occurred up to date of cancellation. Insurer shall, however, remain liable for any claim which arose prior to the date of cancellation. The Insured may at any time cancel this policy by giving a written notice to the insurer and in such event Insurer shall allow refund of premium at short period rate only provided no claim has occurred up to the date of cancellation.

17.17 Reasonable Care

The Insured shall exercise reasonable care that only competent **Employees** are employed and shall take all reasonable steps to prevent **Occurrence** and to comply with all statutory or other obligations and regulations imposed by any authority and shall maintain the **Premises** and all ways, works, machinery and plant in sound condition. In the event of the discovery of any defect or danger the Insured shall forthwith cause such defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances may require.

17.18 Fraudulent/wilful act or misrepresentation of facts

The Policy shall be null and void and no benefit shall be payable in the event of untrue or incorrect statements, misrepresentation, misdescription or on non-disclosure in any material particular in the proposal form, personal statement, declaration and connected documents, or any material information having been withheld, or a claim being fraudulent or any fraudulent means or devices being used by the Insured or any one acting on his behalf or if any **Loss** or **Financial Injury** be occasioned by the wilful act or with the connivance of the Insured to obtain any benefit under this Policy.

17.19 Contribution

If at the time of the happening of any **Loss** or **Financial Injury** covered by this Policy, there shall be any Errors And Omission Liability Insurance or other insurance effected by the Insured or by any other person covering the same liability, then the Company shall not be liable to pay or contribute more than its rateable proportion of such liability.

17.20 Subrogation

In the event of payment under this Policy, the Company shall be subrogated to all the Insured's rights or recovery thereof against any person or organisation, and the Insured shall execute and deliver instruments and papers necessary to secure such rights.

The Insured and any claimant under this Policy shall at the expense of the Company do and concur in doing and permit to be done, all such acts and things as may be necessary or required by the Company, before or after Insured's indemnification, in enforcing or endorsing any rights or remedies, or of obtaining relief or indemnity, to which the Company shall be or would become entitled or subrogated.

17.21 Policy Disputes

Any dispute concerning the interpretation of the terms, conditions, limitations and/or exclusions contained herein is understood and agreed to by both the Insured and the Company to be subject to Indian Law. Each party agrees to submit to the exclusive jurisdiction of the courts of India and to comply with all requirements necessary to give such Court the jurisdiction. All matters arising hereunder shall be determined in accordance with the law and practice of such Court.

17.22 Arbitration clause

If any dispute or difference shall arise as to the quantum to be paid under this Policy (liability being otherwise admitted), such dispute / difference shall independently of all other questions be referred to the decision of a sole arbitrator to be appointed in writing by the parties to the dispute/difference or if they cannot agree upon a single arbitrator within 30 days of any party invoking arbitration, the same shall be referred to a panel of three arbitrators, comprising of two arbitrators, one to be appointed by each of the parties to the dispute/difference and the third arbitrator to be appointed by such two arbitrators. Arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

It is clearly agreed and understood that no dispute / difference shall be referable to arbitration, as hereinbefore provided if the Company has disputed or not accepted liability under or in respect of this Policy.

It is hereby expressly stipulated and declared that it shall be a condition precedent to any right of action or **Suit** upon this Policy that the award by such arbitrator/ arbitrators of the amount of the **Loss** or **Financial Loss** shall be first obtained.

17.23 Currency

Premiums, limits, **Deductible**, retentions, **Loss** and other amounts under this insurance contract are deemed to be expressed and payable in Indian Rupees currency unless specifically agreed. If judgment is rendered, settlement is denominated or another element of **Loss** is expressed in currency other than Indian Rupees, then the payment under this insurance shall be made in Indian Rupees at prevailing exchange rate on the date that the final judgment is rendered, the amount of the settlement is agreed upon or the other element of **Loss** is due, respectively.

17.24 Legal Action

No person or organisation has a right under this insurance to join the Company as a party or otherwise bring the Company into a **Suit** seeking damages from an Insured or sue the Company on this insurance unless all of the terms and conditions of this insurance have been fully complied with.

A person or organisation may sue the Company to recover on an agreed settlement or on a final judgment against an Insured obtained after an actual trial in a civil proceeding or arbitration or other alternative dispute resolution proceeding but the Company will not be liable for any damages, **Loss**, cost or expense not payable under the terms and conditions of this insurance or in excess of the applicable Limits Of Insurance.

The terms and conditions of this insurance shall be governed by and construed in accordance with the laws of India. If any person or organisation sues the Company on this insurance or as a result of a dispute arising out of, in connection with or relating to this insurance, then such legal proceeding against the Company must be brought in and determined exclusively in the courts of India.

Attached to and forming part of

Policy no. -

ENDORSEMENTS ATTACHED AT THE INCEPTION OF THE POLICY

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18.1 CONDITIONS PRECEDENT TO LIABILITY OF THE COMPANY

It is hereby understood and agreed that this insurance shall not apply to and does not cover any liability, whatsoever for any claim in respect of **Loss** or **Losses** directly or indirectly (exclusively or partially) arising out of, resulting from, or in consequence of failure of the Insured to meet the following conditions, these are the conditions precedent to the Company's liability:

1. Insured has taken required government / regulatory approvals and has followed related rules & regulations;
2. Insured maintains satisfactory details in respect of record keeping and traceability of the **Insured's Product** and Insured's Service and provide the same to the Company (as and when required by the Underwriters);
3. Insured **Products** follows Product Safety guidelines applicable to the country where the product is sold;
4. Retroactive coverage is applicable on following conditions being complied with
 - (a) no break/gap in between the insurance periods;
 - (b) no known or reported Losses for last 5 years, unless declared to the Company before inception of Policy and agreed by the Company;
 - (c) the insurance has been claims made since the retroactive date;
 - (d) Retroactive cover is restricted to limit/coverage in place during relevant **Policy Period** (but retroactive cover not exceeding this Policy coverage);
5. Insured has to notify in writing to the Company of the claims made against the Insured or any adverse incident that might lead to a claim under this Policy. This notification must be given to the Company within **Policy Period** or applicable extended reporting period.

Subject otherwise to the terms and conditions of this Policy, except for the specific terms, conditions and exclusions made applicable herein.

18.2 TERRORISM EXCLUSION CLAUSE

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes any **Financial Injury** or legal liability arising directly or indirectly as a result of or in connection with Terrorism (including, without limitation, contemporaneous or ensuing **Loss** or damage or legal liability caused by fire and/or looting and/or theft)

Definitions that apply for purpose of this exclusion:

Terrorism means any act or acts:

- i. committed for, arises out of or relates to political, religious, ideological purposes and involves a violent act or the unlawful use of force or an unlawful act dangerous to human life or tangible property, and
- ii. carried out by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s), and
- iii. appears to be intended to:
 - a. intimidate or coerce a civilian population; or
 - b. disrupt any segment of the economy of a Government, State or Country; or
 - c. overthrow, influence, or affect the conduct of any government de jure or de facto by intimidation or coercion; or
 - d. affect the conduct of a Government by mass destruction, assassination, kidnapping or hostage taking.

In any claim and in any action, **Suit** or other proceedings to enforce a claim under this Policy, the burden of proving that such claim does not fall within the Terrorism Exclusion set out above shall be upon the Insured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

Subject otherwise to the terms and conditions of this Policy, except for the specific terms, conditions and exclusions made applicable herein.

18.3 SHORT PERIOD PREMIUM SCALE

Period (Not exceeding)	Rate
1 Month	25% of the Annual rate
2 Months	35% of the Annual rate
3 Months	50% of the Annual rate
4 Months	60% of the Annual rate
6 Months	75% of the Annual rate
8 Months	85% of the Annual rate
Exceeding 8 Months	Full Annual Premium

Except as otherwise provided in this endorsement, all terms, provisions and conditions of this Policy shall have full force and effect.