

PRODUCT LIABILITY INSURANCE

1. OPERATIVE CLAUSE

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

2. INDEMNITY CLAUSE

Subject to the terms, exception and conditions contained herein or otherwise endorsed hereon, the Company will indemnify the Insured against their legal liability (other than liability as per the Public Liability Insurance Act, 1991 or any other statute of a similar or like nature that may come into force after the issue of this policy) to pay compensation for and/or arising out of Injury and/or Damage arising out of any defects in the products specified in the Schedule (including claimants' costs fees and expenses) in accordance with the law of country 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 has accepted the terms of the North American Jurisdiction Extension Clause which forms part of this Policy.

The indemnity only applies to claims, arising out of accident during the period of insurance arising out of any defects in the products specified in the Schedule, first made in writing against the Insured and notified to the Company by the Insured in writing during the Policy Period or applicable extended reporting period.

3. DEFINITIONS

For the purpose of this Policy, the following terms shall have the meaning as set forth herein under:

3.1 "Accident" means a fortuitous event or circumstance which is sudden, unexpected and unintentional including resultant, continuous, intermittent or repeated exposure arising out of the same fortuitous event or circumstance.

3.2 "Damage" means actual and/or physical damage to tangible property.

3.3 "Injury" means death, bodily injury, illness or disease of or to any person.

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

3.5 "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.

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

3.7 "Product" means any tangible property after it has left the custody or control of the Insured, which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by, or on behalf of the Insured.

4. INDEMNITY TO OTHERS

The indemnity granted extends to the Legal liability accruing to the:

4.1 Officials of the Insured in their business capacity arising out of the performance of their business or in their private capacity arising out of their temporary engagement of the Insured's employees;

4.2 The officers, committees and members of the Insured's canteen, social, sports, medical, fire fighting and welfare organisations in their respective capacities as such;

4.3 the personal representatives of the estate of any person who would otherwise be indemnified by this Policy but only in respect of liability incurred by such person.

Provided always that all such persons or parties shall observe, fulfill and be subject to the terms, conditions and exclusions of this policy as though they were the Insured.

5. NOTIFICATION EXTENSION CLAUSE

Should the Assured notify the Company during the Period of Insurance in accordance with General Condition 15.1 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 such claim or claims as if they had first been made against the Insured during the Period of Insurance.

6. EXTENDED REPORTING PERIOD

In the event of non-renewal or cancellation of this Policy, either by the Company or by the Insured, the Company will allow a time limit not exceeding 60 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 accidents 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 Limit of Indemnity and the terms, conditions and exceptions of the Policy.

The extended reporting period

- a. does not extend the Policy period or change the scope of coverage provided
- b. does not reinstate or increase the Limit of Liability
- c. does not 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

7. CROSS LIABILITY

Each person or party 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 Limit of Indemnity stated in the Schedule.

8. DEFENCE COST

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 Liability of this Policy as stated in the Schedule.

9. LIMIT OF INDEMNITY

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 Schedule. Any one Accident limit (AOA) specified in the Schedule applies to any one claim or series of claims arising from one originating cause. Aggregate one Year (AOY) limit specified in the Schedule shall represent the total amount of Company's liability during the Policy period.

10. CLAIM SERIES CLAUSE

A Claims Series Event as defined below shall be deemed to be one claim and date of loss shall be the date when the first claim of the Claims Series Event is made in writing against the Insured.

A Claims Series Event shall be defined as a series of two or more claims arising from one specific common cause which is attributable, e.g.

- to the same fault in design, manufacture, instructions for use or labelling of products
- or to the supply of the same products and/or services or to products and/or service showing the same defect.

There shall, however, be no coverage for claims arising from one specific cause which are made later than 3 years after the first claim of the series.

11. 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 Schedule attached to the Policy. This Compulsory Excess shall be applicable to both (a) death/bodily injury claims and (b) property damage claims, inclusive of Defence Costs 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).

12. VOLUNTARY EXCESS

In the event of the Insured opting, the Policy shall be subject to voluntary excess as mentioned in the Schedule. This voluntary excess shall be applicable to both (a) death/bodily injury claims and (b) property damage claims inclusive of defence costs arising out of any one accident. The Company's liability shall attach for the claims in excess of such compulsory and voluntary excess.

13. 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.

14. Exclusions

The Company shall not have any liability:

- 14.1 for costs incurred in the **repair, reconditioning, modification** or replacement of any part of any product which is or is alleged to be defective;
- 14.2 for costs arising out of the **recall** of any product or part thereof;
- 14.3 arising out of any product which with the Insured's knowledge is intended for incorporation into the structure, machinery or control of any aircraft/spacecraft;
- 14.4 arising out of deliberate, wilful or intentional non-compliance of any statutory requirements and/or provisions;
- 14.5 arising out of loss of pure financial nature such as **loss of goodwill**, loss of market share etc.;
- 14.6 arising out of **finest, penalties, punitive or exemplary** damages or any other damages resulting from the multiplication of compensatory damages;
- 14.7 directly or indirectly occasioned by, happening through or in consequence of **war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution**, insurrection or military or usurped power;
- 14.8 directly or indirectly caused by or contributed to by:
 - 14.8.1 ionising **radiation** or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - 14.8.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- 14.9 for damage to property belonging to the Insured or held in trust or in custody or control of the Insured or a person in the service of the Insured;**
- 14.10 with respect to injury and/or damage occurring prior to the retroactive date as mentioned in the Schedule;

Provided always that in the event of any injury or damage arising from continuous or continual inhalation, ingestion or application of any substance following the covered accident and where the Insured and Company cannot agree when the injury or damage occurred, then

- 14.10.1 Injury shall be deemed to have occurred when the claimant first consulted a qualified medical practitioner in respect of such injury;
- 14.10.2 Damage shall be deemed to have occurred when it first became evident to the claimant even if the cause was unknown.
- 14.11 caused by the deliberate, conscious or intentional disregard of the Insured's technical or administrative management (rules and/or policies whether express or implied) of the need to take all reasonable steps to prevent claims or any circumstances which may give rise to a claim;
- 14.12 for, or in respect of, injury to any person under the contract of employment or apprenticeship with the Insured, their contractor(s) and/or sub-contractor(s), when such Injury arises out of the execution of such contract;
- 14.13 arising out of contractual liability unless such liability would have existed in the absence of the specific contract;
- 14.14 arising out any product guarantee;
- 14.15 arising out of claims for failure of the Insured's goods or products to fulfil the purpose for which they were intended or to remedy, rectify or repair any work which is or alleged to have been defective.
- 14.16 for liabilities arising out of products which have left the custody and control of the Insured prior to retroactive date specified in the schedule;
- 14.17 for any claims where the Insured were aware or should reasonably have been aware of the circumstance or event which gave rise to the claim before the inception of this Policy;
- 14.18 for any financial loss or claim arising out of any act of negligence, error, mistake or omission in rendering or failing to render professional services, whether performed by the Insured or by others for whom the Insured is legally responsible;
- 14.19 any actual or alleged liability whatsoever, directly or indirectly caused by or resulting from or in consequence of or contributed to by or arising out of asbestosis or any related disease (including cancer) resulting from the existence, production, processing, manufacture, sale, distribution, storage, deposit or use of asbestos, asbestos products and/or products containing asbestos in whatever form or quantity;

14.20 For any claims arising outside the territorial limits as mentioned in the Schedule;

14.21 in connection with dishonest/criminal acts of employees or persons working for/on behalf of the Insured;

14.22 any actual or alleged loss of or damage to property or liability whatsoever, directly or indirectly caused by or resulting from or in consequence of or contributed to by or arising out of non-ionic radiation, including but not limited to Electro-Magnetic Fields and/ or Electro-Magnetic Interference.

14.23 Prior and pending losses;

14.24 caused by, whatsoever nature directly or indirectly, resulting from or in connection with

14.24.1 Professional Liability;

14.24.2 Mold, fungi, mildew, spore or mycotoxins of any kind;

14.24.3 Insured vs. Insured claims;

14.24.4 Advertising injury;

14.24.5 Property under care, control and/or custody of the Insured;

14.24.6 Offshore risk;

14.25 any loss on account of products discontinued or withdrawn by the Insured;

14.26 arising out of Industrial seepage, pollution and contamination, unless specifically covered;

14.27 any loss in connection with failure to provide warning or proper labelling;

14.28 any loss, damage, 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;

14.29 for any loss directly or indirectly caused by pandemic (including but not limited to Avian Influenza/ H5N1 virus, SARS etc.).

15. GENERAL CONDITIONS

15.1 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.

- 15.2 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 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.

- 15.3 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.
- 15.4 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 15.1. above provide such information to and co-operate with the Company or their appointed representative.
- 15.5 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.
- 15.6 The Company may at any time pay to the Insured in connection with any claim or series of claims under this Policy, to which an indemnity limit 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.
- 15.7 For the purpose of this Policy, where a series of and/or several bodily injuries and/or property damages are attributable directly or indirectly to the same

cause, all such bodily injuries and/or property damages shall be added together and all such bodily injuries and/or property damages 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.

- 15.8 The Policy and the 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 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.
- 15.9 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 Underwriters require. The premium shall then be adjusted and any additional premium as the case may be collected from the Insured.
- 15.10 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 Product Liability Policy) 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.
- 15.11 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.
- 15.12 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.
- 15.13 On the occurrence of any loss within the scope of cover under the Policy, the Insured shall allow the Surveyor or any agent of the Company to inspect the lost/damaged properties/premises/goods or any other 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 or damage. Insured shall not abandon the insured property/item/premises, nor take any steps to rectify/remedy the damage before the same has been approved by the Company or any of its agents or the Surveyor.

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.

15.14 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.

15.15 Cancellation

The Company may cancel this Policy by giving **thirty days' notice** in writing of such cancellation to the Insured's last known address and in such an event, the Company will return the pro-rata portion of the premium (subject to a minimum retention of 25 per cent of the annual premium) for the expired part of the Insurance.

The Policy may also be cancelled by the Insured by giving thirty days' notice in writing to the Company, in which event the Company will retain premium at short- period scale given below and provided there is no claim under the Policy during the period of Insurance. In case of any claim under the Policy, no refund of premium shall be allowed.

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

15.16 Reasonable Care

The Insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable steps to prevent accidents 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.

15.17 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 destruction or damage be occasioned by the wilful act or with the connivance of the Insured to obtain any benefit under this Policy.

15.18 Contribution

If at the time of the happening of any loss or damage covered by this Policy, there shall be any Product 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.

15.19 Subrogation

In the event of payment under this Policy, the Company shall be subrogated to all the Insured's rights of 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.

15.20 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.

15.21 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 damage shall be first obtained.

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 Company's liability:

1. Insured has taken required government / regulatory approvals and has followed related rules & regulations.
2. No goods or products are obtained by the Insured on terms which prevent the Insured exercising their rights of recovery under the ordinary process of law against their supplier or any other party.
3. Insured provides proper labeling or instructions for usage or warning on each and every product (as applicable).
4. Insured maintains satisfactory details in respect of record keeping and traceability of the insured product and provide the same to the Company (as and when required by the Underwriters).
5. Insured products follows Product Safety guidelines (FDA or CPSC or equivalent guidelines) applicable to the country where the product is sold.
6. Retroactive coverage is applicable on following conditions being complied with
 - (a) no break 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).
7. 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.

TERRORISM EXCLUSION CLAUSE: Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes any loss of or damage to Property 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.