

ADVANCE LOSS OF PROFIT INSURANCE POLICY

WHEREAS the insured named in the Schedule hereto had made to **Liberty Videocon General Insurance Company Limited.**, (hereinafter called ‘the Company’) a written proposal by completing a Proposal Form which together with any other statements made in writing by the insured for the purpose of this Policy, is deemed to be incorporated herein.

NOW THIS POLICY OF INSURANCE WITNESSETH

that subject to and in consideration of the Insured having paid to the Company, the premium mentioned in the said Schedule and subject to the terms, exclusions, provisions and conditions contained herein or endorsed hereon, the company shall indemnify the Insured named as Principal in respect of loss of gross profit actually sustained due to the reduction in turnover and the increased cost of working as defined in this policy, if at any time during the period of insurance stated in the Schedule to the insured contract works or any part thereof suffer loss or damage covered under Material Damage Policy, unless specifically excluded, thereby causing an interference in the construction work resulting in a delay of commencement of and/or interference with the insured business, hereinafter referred to as “the delay”.

The amount payable as indemnity hereunder shall be:

- in respect of loss of gross profit: the sum obtained by applying the rate of gross profit to the amount by which the actual turnover during the indemnity period falls short of the turnover which would have been achieved had the delay not occurred;
- in respect of increased cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in turnover which, without such expenditure, would have taken place during the indemnity period, but not exceeding the sum obtained by applying the rate of gross profit to the amount of the reduction in turnover thereby avoided.

If the annual sum insured hereunder is less than the sum obtained by applying the rate of gross profit to the annual turnover, the amount payable shall be reduced proportionately.

Period of insurance

The period of insurance shall be the period stated in the Schedule of the policy, terminating on the date specified in the Schedule or on any earlier date when the material damage cover ceases.

Scheduled date of commencement of the insured business

The date stated in the Schedule to this Policy or any revised date upon which the business would have commenced had the delay not occurred.

Indemnity period

The period during which the results of the business are affected in consequence of the delay, beginning on the scheduled date of commencement of the insured business and not exceeding the maximum indemnity period stated in the Schedule to this Policy.

Time excess

The period stated in the Schedule to this Policy for which the insurers are not liable. The corresponding amount shall be calculated by multiplying the average daily value of loss sustained during the indemnity period by the number of days agreed upon as time excess.

Turnover

The amount of money (less discounts allowed) paid or payable to the Insured for accommodation rented or other services rendered in the course of the insured business conducted at the premises.

Annual turnover

The turnover which, had the delay not occurred, would have been achieved during the 12 months after the scheduled date of commencement of the insured business.

Annual gross profit

The amount by which the value of the annual turnover and the value of closing stock exceeds the value of the opening stock and the amount of the specified working expenses. The value of the opening and closing stock shall be calculated in accordance with the insured's normal accounting methods, due provision being made for depreciation.

Specified working expenses shall be any variable costs, e.g. costs incurred for the acquisition of goods, materials as well as for supplies and services (unless required for the upkeep of operations) and any expenditure for turnover tax, purchase tax, licence fees and royalties, etc., insofar as such costs are dependent on turnover.

Rate of gross profit

The rate which, had the delay not occurred, would have been earned on the turnover during the indemnity period.

SPECIAL EXCLUSIONS

The Insurers shall not be liable for:

1. loss of gross profit and/or increased cost of working due to any delay caused by or resulting from

- 1.1. loss or damage covered under material damage policy by way of endorsement, unless it has been specifically agreed in writing;
- 1.2. earthquake, volcanic eruption, tsunami, unless it has been specifically agreed in writing;
- 1.3. loss of or damage to surrounding property, construction machinery, plant and equipment;
- 1.4. loss of or damage to operating media or feedstock, shortage, destruction, deterioration of or damage to any materials necessary for the insured business;
- 1.5. any restrictions imposed by a public authority;
- 1.6. non-availability of funds;
- 1.7. alterations, additions, improvements, rectification of defects or faults or elimination of any deficiencies carried out after the occurrence;
- 1.8. loss of or damage to items taken over or taken into use by the Insured or for which cover under material damage Policy has ceased;
2. any loss due to fines or damages for breach of contract, for late or non completion of orders, or for any penalties of whatever nature;
3. loss of business due to causes such as suspension, lapse or cancellation of a lease, licence or order, etc. which occurs after the date of actual commencement of the business;
4. loss of or damage to construction work of a prototype nature, unless specifically agreed by endorsement.

PROVISIONS APPLYING

Memo 1 – Extension of period

Any extension of the period of insurance under material damage Policy shall not automatically lead to an extension of the period of insurance stated in the Schedule to this policy.

Any extension of the period of insurance under this Policy shall be requested in writing as early as possible by the Insured, stating the circumstances leading to the need for extension, and shall have effect for this Policy only if specifically agreed upon in writing.

Any alteration of the scheduled date of commencement of the insured business shall be reported and shall have effect for this policy only if specifically agreed upon in writing.

Memo 2 – Basis of loss settlement

In calculating the rate of gross profit and annual turnover, the following points shall in particular be taken into consideration:

- a) the results of the insured business for the 12-month period after commencement,
- b) variations and special circumstances which would have affected the insured business had the delay not occurred,
- c) variations and special circumstances affecting the insured business after commencement, so that the final figures represent as closely as may be reasonably practicable the results which the insured business would have obtained after the scheduled date of commencement had the delay not occurred.

Memo 3 – Return of premium

If the Insured declares (certified by the Insured's auditors) that the gross profit earned during the accounting period of twelve months following the commencement of the insured business or the date on which but for the delay the business would have commenced was less than the sum insured thereon, a pro rata return of premium not exceeding one third of the premium paid shall be made in respect of the difference.

If any loss or damage has occurred giving rise to a claim under this Policy, such return shall be made in respect only of so much of said difference as is not due to such damage.

SPECIAL CONDITIONS APPLYING

1. The Insured shall present the Insurers with updated progress reports at intervals stated in the Schedule to this Policy.
2. In the event of any material change in the original risk such as
 - changes of the envisaged progress programme
 - alteration, modification or addition to any item of work
 - departure from prescribed construction methods
 - changes in the Insured's interest (such as discontinuation or liquidation of the business or its being placed in receivership) taking place, the Policy shall be void unless its continuance be agreed by memorandum signed by the Insurers.
3. In the event of any occurrence, which might cause a delay and give rise to a claim under this Policy:
 - a) the Insured shall immediately notify the Insurers by telephone or telegram and send them written confirmation thereof within forty-eight hours of the occurrence;

b) the Insured shall do and concur in doing and permit to be done all such things as may be reasonably practicable to minimize or establish the extent of any interference with the construction work so as to avoid or diminish any delay resulting therefrom;

c) the Insurers and every person authorized by the Insurers shall, without prejudice to any party insured by this Policy, have access to the construction site where such loss or damage has occurred for the purpose of direct negotiation with the responsible contractor or subcontractor in order to establish the possible cause and extent of the loss or damage, its effect on the insured interest, to examine the possibilities for minimizing any delay in the scheduled commencement of the insured business, and if necessary to make any reasonable recommendations for the avoidance or minimization of such delay.

This condition shall be evidence of the leave and licence of the Insured to the insurers so to do. If the Insured or anyone acting on his behalf hinders or obstructs the insurers during any of the above-mentioned acts or does not comply with such recommendations of the Insurers, all benefits under this Policy shall be forfeited.

4. In the event of a claim made under this Policy, the Insured shall at his own expense deliver to the Insurers not later than thirty days after the delay or within such further period as the Insurers may allow in writing a written statement setting forth particulars of his claim. Furthermore, the Insured shall at his own expense produce and furnish to the Insurers such books of account and other business books, e.g. invoices, balance sheets and other documents, proofs, information, explanations or other evidence as may reasonably be required by the Insurers for the purpose of investigating or verifying the claim together with – if required – a statutory declaration of the truth of the claim and of any matters connected therewith.

5. The indemnity shall be payable one month after final determination of its amount.

Notwithstanding the above the Insured may, one month after the Insurers have been duly notified of the loss and have acknowledged their liability, claim as advance payment(s) the minimum amount(s) payable under the prevailing circumstances.

The Insurers shall be entitled to postpone payment

a) if there are doubts as to the Insured's right to receive payment, until the necessary proof is furnished;

b) if, as a result of any loss or damage or any delay in the anticipated commencement of the insured business, police or criminal investigations have been initiated against the Insured, until the completion of such investigations.

The Insurers shall not be liable to pay interest on indemnity moneys withheld other than interest for default.