

# Contractors' Plant and Machinery Insurance Policy

## - Policy Wordings

**WHEREAS** the Insured named in the Schedule hereto by a proposal and declaration, which shall be the basis of this contract and is deemed to be incorporated herein has applied to Bharti AXA General Insurance Co. Ltd. (hereinafter called the Company) for the insurance hereinafter contained and has paid the premium as consideration for such Insurance in respect of accident or damage occurring during the period of Insurance stated in the Schedule or during any subsequent period for which the Insured pays and the Company may accept the premium for the renewal of this Policy.

### Now this policy of insurance witnesseth

That subject to the terms, exceptions, exclusions, provisions and conditions contained herein or endorsed hereon, the Company will at its own option by payment or reinstatement or repair indemnify the Insured against unforeseen and sudden physical damage by any cause not hereinafter excluded to any Insured Property specified in the attached Schedule(s) whilst at the location mentioned therein necessitating its immediate repair or replacement. This Policy shall apply to the insured items whether they are at work or at rest, or being dismantled for the purpose of cleaning or overhauling, or in the course of the aforesaid operations themselves, or when being shifted within the premises, or during subsequent re-erection, but in any case only after successful commissioning. The liability of the Company for any one item of the insured property shall not exceed in the aggregate in any one Period of Insurance the Sum Insured set against such item in the attached Schedule(s). However the sum insured under such item can be reinstated after occurrence of a claim for balance period.

### Exceptions

The company shall not be liable under this policy in respect of -

- a) the Excess stated in the Schedule to be borne by the Insured in any one occurrence; if more than one item is lost or damaged in one occurrence, the Insured shall not, however, be called upon to bear more than the highest single Excess applicable to such item;
- b) loss or damage due to electrical or Mechanical breakdown, failure, breakage or derangement, freezing of coolant or other fluid, defective lubrication or lack of oil or coolant, but if as a consequence of such breakdown or derangement an accident occurs causing external damage, such consequential damage will be indemnifiable;
- c) loss of or damage to replaceable parts and attachments such as bits, drills, knives or other cutting edges, saw blades dies, moulds, patterns, pulverizing and crushing surfaces, screens and sieves, ropes, belts, chains, elevator and conveyor bands, batteries, tyres, connecting wires and cables, flexible pipes, joining and packing material regularly replaced;
- d) loss or damage due to explosion of any boiler or pressure vessel subject to internal steam or fluid pressure or of any internal combustion engine;
- e) loss of or damage to vehicles designed and licensed for general road use unless these vehicles are exclusively used on construction site;
- f) loss of or damage to Hull and machinery of waterborne vessels or crafts, however this exclusion shall not apply to Contractors Plant and machinery mounted on water borne vessels or crafts for the purpose of use for the contract work.
- g) loss or damage due to total or partial immersion in tidal waters;
- h) loss or damage whilst in transit, from one location to another location. (Public Liability will not be payable while Contractors Plant & Machineries are on Public Roads).
- i) loss or damage as a direct consequence of the continual influence of operation (e.g. wear and tear, corrosion, rust, deterioration due to lack of use and normal atmospheric conditions);

- j) loss or damage occurring whilst any insured item is undergoing a test of any kind or is being used in any manner or for any purpose other than that for which it was designed;
- k) loss of or damage to plant and/or machinery working underground;  
Note- This does not apply to Machineries used in Tunneling works.
- l) War, Invasion, act of foreign enemy, hostilities or war like operation (whether war be declared or not), Civil War, Rebellion Revolution Insurrection, Mutiny, Civil Commotion, Military or usurped power, martial law, conspiracy, confiscation, commandeering a group of malicious person or persons acting on behalf of or in connection with any political organization, requisition or destruction or damage by order of any government de jure or de facto or by any public, Municipal or Local Authority;
- m) loss or damage directly or indirectly caused by, or arising out of, or aggravated by nuclear reaction, nuclear radiation or radioactive contamination;
- n) loss or damage due to any faults or defects existing at the time of commencement of this Policy within the knowledge of the Insured or his representatives, whether such faults or defects were known to the Company or not;
- o) loss or damage directly or indirectly caused by, or arising out of or aggravated by the willful act or willful negligence of the Insured or his representatives;
- p) loss or damage for which the supplier or manufacturer is responsible either by law or under contract;
- q) consequential loss or liability of any kind or description;
- r) loss or damage discovered only at the time of taking an inventory or during routine servicing.
- s) Terrorism Damage Exclusion Warranty:

Notwithstanding any provision to the contrary within this insurance it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force of violence and/or the threat thereof, of any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purpose including the intention to influence any government and/or to put the public, or any section of the public in fear.

The warranty also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to action taken in respect of any act of terrorism.

If the Company alleges that by reason of this exclusion, any loss, damage, cost or expenses is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In any action, suit or other proceeding where the Company alleges that by reason of the provisions of exclusions (m) to (q) above any loss, destruction or damage is not covered by this Policy, the onus of proving that such loss, destruction or damage is covered shall be upon the Insured.

## Provisions

### 1) SUM INSURED

It is a requirement of this insurance that the Sum Insured shall be equal to the cost of replacement of the insured property by new property of the same kind and same capacity, which shall mean its replacement cost including freight, dues and customs duties if any and erection costs.

### 2) BASIS OF INDEMNITY

- a) In cases where damage to an insured item can be repaired the Company will pay expenses necessarily incurred to restore the damaged machine to its condition immediately prior to the accident/loss plus the cost of dismantling and re-erection incurred for the purpose of effecting the repairs as well as ordinary freight to and from a repair-shop, customs duties and dues if any, to the extent such expenses have been included in the Sum Insured. If the repairs are executed at a workshop owned by the Insured, the Company will pay the cost of materials and wages incurred for the purpose of the repairs plus a reasonable percentage to cover overhead charges.

No deduction shall be made for depreciation in respect of parts replaced, except those with limited life, but the value of any salvage will be taken into account. If the cost of repairs as detailed hereinabove equals or exceeds the actual value of the machinery insured immediately before the occurrence of the damage, the settlement shall be made on the basis provided for in (b) below.

- b) In cases where an insured item is totally destroyed the Company will pay the actual value of the item immediately before the occurrence of the loss, including costs for ordinary freight, erection and customs duties if any, provided such expenses have been included in the Sum Insured, such actual value to be calculated by deducting proper depreciation from the replacement value of the item. The Company will also pay any normal charges for dismantling of the machinery destroyed but the salvage shall be taken into account.

Any extra charges incurred for overtime, night-work, work on public holiday, express freight, are covered by this insurance only if especially agreed to in writing.

In the event of the Makers' drawings, patterns and core boxes necessary for the execution of a repair, not being available, the Company shall not be liable for the cost of making any such drawings, patterns and core boxes.

The cost of any alteration, improvements or overhauls shall not be recoverable under this Policy.

The cost of any provisional repairs will be borne by the Company if such repairs constitute part of the final repairs, and do not increase the total repair expenses.

If the Sum Insured is less than the amount required to be insured as per Provision- I herein above, the Company will pay only in such proportion as the Sum Insured bears to the amount required to be insured. Every item, if more than one, shall be subject to this condition separately.

The Company will make payments only after being satisfied, with the necessary bills and documents, that the repairs have been effected or replacement have taken place, as the case may be. The Company may, however, not insist for bills and documents in case of total loss where the Insured is unable to replace the damaged equipment for reasons beyond their control. In such a case claims can be settled on 'Indemnity Basis'.

### 3) CONDITIONS

- a) This Policy and the attached Schedule(s) shall be read together as one contract and any words and expressions to which specific meanings have been attached in any part of this Policy or of the attached Schedule(s) shall bear the same meaning wherever they may appear.
- b) If a claim is in any respect fraudulent or if any false declaration is made or used in support thereof or if any fraudulent means or devices are used by the Insured or any one acting on his behalf to obtain any benefit under this Policy, or if a claim is made and rejected and no action or suit is commenced within three months after such rejection or in case of arbitration taking place as provided therein within three months after the arbitrator or arbitrators or umpire have made their Award, all benefits under this Policy shall be forfeited.
- c) No admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company who shall be entitled if they so desire to take over and conduct in the name of the Insured the defense or settlement of any claim for indemnity or damage or otherwise and shall have full discretion in the conduct of any proceeding or in the settlement of any claim and the Insured shall give all such information and assistance as the Company may require.
- d) The due observance and fulfillment of the terms, provisions and conditions of and endorsement on this Policy in so far as they relate to anything to be done or complied with by the Insured and the truth of the statements and answers in the said proposal shall be conditions precedent to any liability of the Company to make any payment under this Policy.

### 4) MISCELLANEOUS

The Insured shall -

- a) take all practicable steps including in the case of machinery lost or stolen or willfully damaged by giving of immediate notice to the Police to recover any property lost or stolen and in the case of theft or willful damage to discover the guilty person or persons.
- b) produce or give access to any property alleged to be damaged and the Insured shall be bound to satisfy the Company by such reasonable evidence as the Company may require that the loss destruction or damage in respect of which a claim is made has actually arisen from one of the risks insured.

### 5) OBLIGATIONS OF THE INSURED

- a) The Insured shall take all reasonable steps to maintain the insured property in efficient working order and to ensure that no item is habitually or intentionally overloaded. The Insured shall fully observe the manufacturer's instructions for operating, inspection and overhaul, as well as government, statutory, municipal and all other binding regulations in force concerning the operation and maintenance of the insured plant and machinery;

- b) The Company's officials and/or their representatives shall at all reasonable times have the right to inspect and examine any property insured hereunder and the Insured shall provide the officials of the Company with all details and information necessary for the assessment of the risk.
  - c) In the event of any;
    - i) material change in the original risk,
    - ii) alteration, modification or addition to an insured item,
    - iii) departure from prescribed operating condition, whereby the risk of loss or damage increases,
    - iv) change in the Insured's interest (such as discontinuation or liquidation of the business or being placed in receivership) taking place
- The Policy shall be void unless its continuance be agreed by endorsement signed by the Company.

#### 6) DUTIES FOLLOWING AN ACCIDENT

In the event of any occurrence which might give rise to a claim under this Policy the Insured shall -

- a) immediately notify the Company by telephone or telegram as well as in writing, giving an indication as to the nature and extent of loss or damage;
- b) take all reasonable steps within his power to minimize the extent of the loss or damage or liability;
- c) preserve the damaged or defective parts and make them available for inspection by an official or Surveyor of the Company;
- d) furnish all such information and documentary evidence as the Company may require.

The Company shall not be liable for any loss or damage of which no notice and completed claims form have been received by the Company within Fourteen days of its occurrence.

Upon notification of a claim being given to the Company, the Insured may proceed with the repair of any minor damage not exceeding Rs. 7,500/- provided that the carrying out of such repairs is without prejudice to any question of liability of the Company and that any damaged part requiring replacement is kept for inspection by the Company, but in all other cases a representative of the Company shall have the opportunity of inspecting the damage before any alterations, repairs or replacements are effected. Nothing contained herein shall prevent the Insured from taking such steps as are absolutely necessary to maintain the operation of the plant.

The liability of the Company under this Policy in respect of any item of property sustaining damage, for which indemnity is provided, shall cease if the said item is kept in operation without being repaired to the satisfaction of the Company.

#### 7) OTHER INSURANCES

If at the time any claim arises under this Policy there is any other insurance covering the same loss damage or liability, the Company shall not be liable to pay or contribute more than its rateable proportion of such loss damage or liability.

#### 8) POSITION AFTER A CLAIM

- a) The Insured shall not be entitled to abandon any property to the Company whether taken possession of by the Company or not.
- b) As from the day of the loss the Sum Insured for remainder of the period of insurance is reduced by the amount of the compensation. To prevent under insurance during the remainder of the current period of insurance the amount insured must be reinstated. The premium will be calculated pro-rata from the day the repaired item is again put to work. For subsequent periods of insurance the original indemnity and premium are again in force unless circumstances justify an alteration.

#### 9) TRANSFER OF INTEREST

The insurance granted by this Policy shall cease to attach to any items described in the Schedule the interest in which shall pass from the Insured otherwise than by will or operation of law, unless the consent of the Company for the continuance of the insurance shall be obtained and signified by endorsement hereon.

#### 10) TERMINATION OF INSURANCE

This insurance may be terminated at any time at the request of the Insured, in which case the Company will retain the premium calculated at the customary

short period rate for the time the Policy has been in force. This insurance may also at any time be terminated at the option of the Company, by 15 days notice to that effect being given to the Insured, in which case the Company shall be liable to repay on demand a rateable proportion of the premium for the unexpired term from the date of the cancellation.

#### 11) RECOURSE

The Insured 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 in endorsing any right or remedies or of obtaining relief or indemnity from parties (other than those insured under this Policy) to which the Company shall be or would become entitled or subrogated upon their paying for or making good of any loss or damage under this Policy, whether such acts and things shall be or become necessary or required before or after the Insured's indemnification by the Company.

#### 12) ARBITRATION

If any dispute or difference shall arise as to the quantum to be paid under the Policy (liability being otherwise admitted) such difference shall independently of all other questions be referred to the decision of a sole arbitrator to be appointed in writing by the parties thereto 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 and 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 difference or dispute shall be referable to arbitration as herein before 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.

Insurance is the subject matter of the solicitation.

