

# COMMERCIAL CRIME INSURANCE

In consideration of the payment of **premium**, **RQBE** shall provide indemnity in accordance with and subject to the terms of this **policy**.

## 1. Insurance Cover

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Subject to payment of the **premium** and the provisions of this **policy**, in reliance upon the statements made and information contained in the **proposal form** and the **schedule**, all of which are part of, and shall form the basis of, this insurance, **RQBE** shall indemnify the **insured** for their **loss** sustained for either:

- A: fraud or dishonesty committed by any **employee** (acting alone or in collusion with others); or
- B: a **fraudulent act** committed by **any other person**;
- Which:
- 1 is committed with the principal intent to cause the **insured** to sustain such **loss**, and
  - 2 is first discovered by the **insured** during the **policy period**.

## 2. Definitions

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2.1 **Any other person** means any natural person who:

- (i) is not a director, officer, partner, trustee or **employee** of any **insured**; and/or
- (ii) does not have and does not provide services under any contract for services, written or implied, with any **insured**; and/or
- (iii) is not in collusion with any **employee**.

2.2 **Associated company** means any company in which the **policyholder** owns any amount which is less than or equal to 50% of the issued and outstanding voting shares, including joint ventures, either directly or indirectly through one or more of its **subsidiary companies**, and in which the **policyholder** retains **management control**.

Cover for any **associated company** shall only apply in respect of **loss** arising out of any act covered under this **policy** committed whilst such entity is an **associated company** of the **policyholder**. However upon written request by the **policyholder**,

**RQBE** may consider, after assessment and evaluation of the increased exposure and subject to the payment of any additional premium that, granting cover for acts committed prior to the acquisition of an **associated company**. Such cover is only valid when specifically agreed in writing by **RQBE**.

- 2.3 **Computer or funds transfer fraud** means the theft of the **insured**'s:
- (i) assets under the direct or indirect control of a computer system by manipulation of computer hardware or software programmes or systems by **any other person** who does not have authorised access to such computer system by the **insured**;  
or
  - (ii) funds from an account maintained by the **insured** at a financial institution (from which the **insured** or a person or organisation authorised by the **insured** may request the transfer, payment or delivery of funds), following fraudulent electronic, telegraphic, tested facsimile, tested telex, telephone or written instructions to debit such account and to transfer, pay or deliver funds from such account and which instructions purport to have come from the **insured** or a person or organisation authorised by the **insured** to issue such instructions, but which are fraudulently transmitted, issued, or are **forged** or have been the subject of **fraudulent alteration** by **any other person**.
- 2.4 **Counterfeit** or **counterfeiting** means the imitation of an authentic negotiable instrument such that the **insured** is deceived on the basis of the quality of the imitation to believe that the said item is the authentic original negotiable instrument. Fictitious instruments which merely contain fraudulent misrepresentations of fact and are genuinely signed or endorsed are not **counterfeit**.
- 2.5 **Credit arrangement** means any credit agreement, extension of credit or hire purchase agreement, loan or transaction in the nature of a loan, lease or rental agreement, invoice, account, agreement or other evidence of debt, payments made or withdrawals from any customer's account involving items which are not finally paid for any reason.
- 2.6 **Discovered** or **discovery** means when any **insured** or any of the **insured**'s directors, partners, officers, departmental directors, senior managers or equivalent become aware or ought reasonably have become aware of any act or acts which could reasonably be foreseen to give rise to a **loss** covered by this **policy** even though the

exact amount or details of a **loss** are not known at the time of **discovery**. Such **discovery** shall constitute knowledge possessed or **discovery** made by every **insured**.

2.7 **Employee** means any natural person, other than a director or partner, who has entered into or works under a contract of service with any **insured** and whom such **insured** compensates by salary, wages and/or commissions and whom the **insured** has the right to govern and direct in the performance of such service. The term **employee** shall also mean any:

- (i) director or trustee of the **insured** whilst performing acts coming within the scope of the usual duties of an **employee** of the **insured**;
- (ii) part-time or temporary **employee** performing the duties of an **employee** under the **insured**'s supervision;
- (iii) retired employee appointed by the **insured** under a written contract whom the **insured** governs and directs in the performance of their service as an **employee**;
- (iv) student, secondee or volunteer pursuing studies, gaining work experience or performing the duties of an **employee** under the **insured**'s supervision;
- (v) ex-**employee** of the **insured**, for a period not exceeding 90 days following the formal termination of their employment with the **insured** (other than where such termination is as a result of an act covered under this policy in accordance with Exclusion 3.9(i));
- (vi) trustee, fiduciary, administrator or officer of any **plan**;
- (vii) solicitor, other than a sole practitioner, retained by the **insured** and any **employee** of such solicitor whilst performing legal services for the **insured**;
- (viii) person provided to the **insured** by an employment agency (or similar source) to perform the duties of an **employee** under the **insured**'s supervision;
- (ix) person or **employee** of an organisation to whom or which the **insured** **outsource** any administrative function;
- (x) **Employee** which the **insured** is unable to identify by name but whose act or acts have caused a **loss** covered under this policy, provided that the evidence submitted proves beyond reasonable doubt that the **loss** was due to the act of such **employee**.

Notwithstanding the above the term **employee** does not mean any person who is or acts on behalf of any external auditor, external accountant, broker, investment adviser or investment manager, factor, commission merchant, consignee, contractor or other similar agent or representative unless specifically agreed by **RQBE** and endorsed to this **policy**.

2.8 **Forgery or forged** means the signing or endorsing of the name of a genuine person or a copy of the said person's signature by **any other person** without authority and with intent to deceive. It does not include the signing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose. Mechanically or electronically produced or reproduced signatures are treated the same as hand-written signatures.

2.9 **Fraudulent act** means:

- (i) the **forgery** or **counterfeiting** or **fraudulent alteration** of any **money**, **securities** or instruction upon which the **insured** has acted or relied and shall include **incoming cheque forgery**; or
- (ii) the **forgery** or **fraudulent alteration** of any cheque or similar written promise by the **insured** to pay a veritable sum representing money drawn upon the **insured's** account at any bank at which the **insured** maintain a current or savings account;
- (iii) the fraudulent use of any corporate credit, debit or charge card issued to the **insured** or any **employee** of the **insured** for business purposes where such card is **forged** or **fraudulently altered** provided that the **insured** and the **employee** have complied fully with the provisions, conditions or other terms under which the card was issued and provided the **insured** was legally liable for such **loss**;
- (iv) **computer or funds transfer fraud**.

2.10 **Fraudulent alteration** means a material alteration to an instrument for a fraudulent purpose by **any other person** other than the person who was authorised to prepare or sign the instrument.

2.11 **Incoming cheque forgery** means the **fraudulent alteration** of, on or in:

- (i) any cheque or draft:-
  - a) drawn upon by any bank; or

- b) drawn upon by any corporation upon itself; or
- (ii) any cheque or written order or direction to pay a veritable sum representing money drawn by any public body upon itself, or in any warrant drawn by any public body which the **insured** shall receive at any of its **premises** in payment or purported payment for:
  - a) tangible property sold and delivered; or
  - b) services rendered

subject to the **insured** retaining 20% of the **loss** in addition to the Retention as specified in Item 4 of the **schedule**.

2.12 **Insured** means the **policyholder** and any of the **policyholder's subsidiary** and **associated companies** and any **plan** existing at the inception of this **policy**.

2.13 **RQBE** means Raheja QBE General Insurance Company Limited.

2.14 **Limit of indemnity** means the limit of indemnity as specified in Item 3 of the **schedule**.

2.15 **Loss** means the direct financial loss sustained by the **insured** in connection with any single act or series of related, continuous or repeated acts (which shall be treated as a single act). **loss** shall not include salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits paid by the **insured** where earned in the normal course of employment.

**Loss** does not mean any loss resulting from or amounting to:

- (i) any dealing or trading in securities, commodities, futures, options, foreign or Federal funds, currencies, foreign exchange and the like unless such loss is covered under Insurance Cover 1 (A) and results in the **employee** making improper financial gain for themselves or for any other individual or organisation intended by such **employee** to receive such benefit; or
  - (ii) any reckless or inadvertent acts; or
  - (iii) the creation of a liability to a third party other than as provided under Standard Extension 4.1.
- 2.16 **Management control** means that the **policyholder** has the right to control the day-to-day management of the relevant entity and sets security and internal control procedures, whether financial or operational.

2.17 **Money** means currency, coins, bank notes and bullion, cheques, travellers cheques, registered cheques, postal orders and money orders held for sale to the public.

2.18 **Outsource** means the retention and authorisation by the **insured** of a person or an organisation to perform a normal administrative function on behalf of the **insured**, provided that:

- (i) such function is performed under a written contract; and
- (ii) the **insured** retain the right to audit the performance of such function; and
- (iii) the **insured** can demonstrate that they have vetted the person or organisation for competency, financial stability and honesty prior to the retention and authorisation by the **insured** of such person or organisation to perform such function.

Cover in respect of any person or organisation to whom the **insured outsource** any administrative function shall apply in excess of any indemnification or valid and collectible insurance or indemnity, contractual or otherwise, available to the **outsource** entity or the **insured**.

2.19 **Plan** means any pension, employee benefit, welfare benefit, share save or share option plan or charitable fund or foundation established and maintained by the **insured** for the benefit of the past, present and future **employees** of the **insured** or their respective beneficiaries.

Cover for any **plan** shall only apply in respect of **loss** arising out of any act covered under this **policy** committed whilst such entity is a **plan** of the **insured**. However upon written request by the **policyholder, RQBE** may consider, after assessment and evaluation of the increased exposure, granting cover for acts committed prior to the acquisition of a **plan**. Such cover is only valid when specifically agreed in writing by **RQBE**.

2.20 **Policy** means:

- a) the **schedule**, this policy wording; and
- b) any endorsement attaching to and forming part of this policy either at inception or during the **policy period**; and
- c) the **insured**'s statements in the **proposal form**.

2.21 **Policyholder** means the organisation specified in Item 1 of the **schedule**.

- 2.22 **Policy period** means the period of time specified in Item 2 of the **schedule** or as extended by **RQBE**.
- 2.23 **Premises** means the interior portion of any building owned or occupied by the **insured** and in which they conduct their business.
- 2.24 **Premium** means the premium specified in the **schedule** or in any endorsement to the **schedule**.
- 2.25 **Proposal form** means the information provided by the **insured** prior to the inception of this **policy** and shall include the written proposal and any attachments to it.
- 2.26 **Schedule** means the schedule attached to this **policy** and any amendment to it authorised by **RQBE**.
- 2.27 **Securities** mean all negotiable and non-negotiable instruments or contracts, including any note, stock, bond, debenture, evidence of indebtedness, share or other equity or debt security, representing either money or property, but does not include **money**.
- 2.28 **Subsidiary company** means any company in which the **policyholder** either directly or indirectly through one or more of its subsidiaries:
- (i) controls the composition of the board of directors; or
  - (ii) controls more than half of the voting power; or
  - (iii) holds more than half of the issued share capital.
- Cover for any **subsidiary company** shall only apply in respect of **loss** arising out of any act covered under this **policy** committed whilst such entity is a **subsidiary company** of the **policyholder**. However upon written request by the **policyholder**, **RQBE** may consider, after assessment and evaluation of the increased exposure, granting cover for acts committed prior to the acquisition of a **subsidiary company**. Such cover is only valid when specifically agreed in writing by **RQBE**.
- 2.29 **Terrorism** means any act, , of any person or group(s) of persons, whether acting alone or on behalf of any organisation(s) or government(s) which from its nature or context is done for political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear

### 3. Exclusions

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**RQBE** shall not be liable to indemnify the **insured** for any **loss** directly or indirectly arising from, or related or amounting to any of the following:

#### 3.1 *Consequential Loss*

Indirect or consequential **loss** of any nature, including but not limited to any loss of income, interest and dividends not realised by the **insured** or any other individual or organisation because of a **loss** covered under this **policy**.

#### 3.2 *Credit Risks*

Loss resulting from the complete or partial non-payment of or default upon any **credit arrangement** or **loss** caused by **forgery** or the **fraudulent alteration** of assets received by the **Insured** in purported payment for property sold and delivered on credit unless such Loss is covered under Insurance Cover 1(A) or 1(B).

#### 3.3 *Directors/Partners*

**Loss** resulting directly or indirectly from any act or series of acts committed by any director or partner of the **insured**, whether acting alone or in collusion, except to the extent that at the time the relevant act is committed such director or partner is deemed to be an **employee** under Definition 2.7 (i).

#### 3.4 *Employee Acts*

**Loss** resulting directly or indirectly from any act or series of acts of any **employee** unless expressly covered under Insurance Cover 1(A) or any relevant extensions.

#### 3.5 *Extortion or Kidnap and Ransom*

**Loss** due to extortion or kidnap and ransom unless covered under Insurance Cover 1(A).

#### 3.6 *Fees, Costs and Expenses*

Fees, costs or other expenses incurred in establishing the existence or amount of **loss** covered under this **policy**, or in prosecuting or defending any legal proceeding, or for any recall costs or costs associated with a recall, except as provided under Standard Extension 4.2 (i) .

#### 3.7 *Fines, Penalties or Damages*

Fines, penalties or damages of any type for which the **insured** is legally liable, except direct compensatory damages covered under Standard Extension 4.1.



3.8 ***Fire***

**Loss** or damage caused by fire, other than **loss** of or damage to **money, securities, safes or vaults** as provided under Standard Extension 4.3.

3.9 ***Loss Sustained after Knowledge***

**Loss** caused from the time any **insured** or any of the **insured's employees** (including any director or partner) or any other individual or organisation shall have knowledge or information that such **employee** or any other individual or organisation has committed any act or acts of fraud, dishonesty, criminal damage, theft or any **fraudulent act**:

- (i) whilst such **employee** is in any **insured's** service or during the term of employment with any **insured**; or
- (ii) prior to an **employee** being employed by any **insured**, provided the act or acts involved **money, securities** or other property valued at INR \_\_\_\_\_ or more.

3.10 ***Major Shareholder***

**loss** involving any person who, at the time of committing an act which results in a **loss** covered by this **policy**, owns or controls more than 5% of the **insured's** issued share capital of any **insured**.

3.11 ***Non-violent crime***

**Loss** of and/or damage to any **money, securities** or property without the use of any force and violence other than in respect of:

- (i) **Money** and/or **securities** on the **premises** or in transit as provided under Standard Extension 4.3; or
- (ii) a **fraudulent act** committed by **any other person**; or
- (iii) **Loss** committed by an **employee** of the **insured** and covered under Insurance Cover 1 (A); or

3.12 ***Premises Damage***

Damage or destruction to any:

- (i) **Premises** or building, however caused; or
- (ii) contents and fixtures and fittings in the **premises**.
- (iii) safes or vaults unless covered under Standard Extension 4.3(i)

3.13 *Prior or Subsequent Discovery of Loss*

**Loss** the **insured discovered**:

- (i) prior to the commencement of the **policy period**; or
- (ii) subsequent to the expiry of the **policy period**.

3.14 *Profit, Loss or Inventory Computation*

**Loss**, the proof of which is dependent solely upon a:

- (i) profit and loss computation or comparison; or
- (ii) comparison of inventory records with an actual physical count.

However, where an **employee** is involved and has been identified, inventory records and actual physical count of inventory can be submitted as supporting documentation of **loss**.

3.15 *Proprietary Information, Trade Secrets and Intellectual Property*

**Loss** of or arising from directly or indirectly the accessing of any confidential information including but not limited to trade secrets, computer programmes, customer information, patents, trademarks, copyrights or processing methods.

3.16 *Radioactivity and Nuclear*

**Loss**, expense, liability or consequential **loss** of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

- (i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

3.17 *Violent crime by any individual or organisation*

**Loss** arising out of theft occasioning the use of forcible and violent means unless:

- (i) provided under Standard Extension 4.3; or
- (ii) committed by an **employee** (acting alone or in collusion with others and covered under Insurance Cover 1 (A)).

3.18 *Voluntary Exchange or Purchase*

**Loss** arising out of the voluntary giving or surrendering (whether or not such giving and surrendering is induced by deception) of **money**, **securities** or other property in any exchange or purchase, unless

- (i) such **Loss** is committed by an **employee** (acting alone or in collusion with others) and covered under Insurance Cover 1(A); or
- (ii) is as a result of a **fraudulent act** committed by **any other person**.

### 3.19 *War and Terrorism*

**RQBE** shall not be liable to indemnify the **insured** for any **loss** directly or indirectly arising from, or related or amounting to any of the following:

This **policy** excludes **loss** caused by, resulting from or in connection with any of the following;

1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, regardless of any other cause or event contributing concurrently or in any other sequence to the **loss**; or
2. any act of **terrorism**, regardless of any other cause or event contributing concurrently or in any other sequence to the **loss**.

This exclusion also applies to **loss** directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 1. and/or 2. above.

If **RQBE** allege that by reason of this exclusion, any **loss** is not covered by this **policy** the burden of proving the contrary shall be upon the **insured**.

### 3.20 *Stock held or in transit*

**Loss** of or damage to, stock whilst held or in transit.

## 4. **Standard Extensions**

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Subject to all of the terms, exceptions and conditions of this policy, cover is extended as follows:

### 4.1 *Care Custody and Control*

Cover is extended to include **loss** of **money, securities** or other property belonging to any other individual or organisation, but which is in the care custody or control of the

**insured** and for which the **insured** is liable. Such amount is part of and not in addition to the **limit of indemnity** specified in Item 3 of the **schedule**.

4.2 *Fees, Costs and Expenses*

(i) *Legal Fees*

Cover is extended to indemnify the **insured** for reasonable legal fees, costs and expenses incurred and paid by the **insured** in the defence of any demand, claim, suit or legal proceeding which the **insured** subsequently establishes results directly from a **loss** covered under this **policy**, provided that:

- (a) such indemnity is limited to INR\_\_\_\_\_ such amount being part of and not in addition to the **limit of indemnity** specified in Item 3 of the **schedule**;
- (b) **RQBE** shall not be liable to make any payment for fees, costs or other expenses (whether such fees, costs or expenses be for legal, accounting or other services) incurred by the **insured** in establishing the existence, validity or amount of any **loss** under this **policy**;
- (c) such legal fees, costs and expenses are incurred with the prior written consent of **RQBE**;
- (d) there is no duty upon **RQBE** to advance any legal fees, costs or expenses to the **insured** prior to the conclusion of the demand, claim, suit or legal proceeding;
- (e) such legal fees, costs and expenses are not recoverable from any other party.

For the purpose of this Standard Extension defence shall mean a situation whereby the **insured** is acting as a defendant in a court of law.

(ii) *Reconstitution Costs*

Cover is extended to include the reasonable cost of rewriting or amending the **insured's** software programmes or systems with the prior written consent of **RQBE** where such rewriting or amending is necessary to correct the programmes or amend the security codes following a **loss** covered under this **policy**. **RQBE's** liability for such rewriting or amending is limited to INR \_\_\_\_\_ for any single **loss** and in the aggregate and such amount is part of and not in addition to the **limit of indemnity** specified in Item 3 of the **schedule**.

(iii) *Investigative Specialist*

Cover is extended to indemnify the **insured** for the fees and expenses of an investigative specialist, to investigate the facts behind a **loss** covered under this policy and to determine the quantum of such **loss**. Such indemnity is limited to INR \_\_\_\_\_ such amount being part of and not in addition to the **limit of indemnity** specified in Item 3 of the **schedule**.

4.3 *Money or Securities—Damage, Destruction or Disappearance*

Cover is extended to include

(i) the physical **loss** of or damage to or actual destruction or disappearance of **money or securities** including damage to safes or vaults; and/or provided that this Standard Extension:

- (1) is limited to INR \_\_\_\_\_ in respect of any single **loss** as a result of physical **loss** of or damage to or actual destruction of **money or securities** caused by fire; and
- (2) is always in excess of any other valid and collectable insurance or indemnity (or would be valid or collectible except for the application of the retention amount or the exhaustion of the limits of liability), contractual or otherwise, available to the **insured**; and
- (3) is part of and not in addition to the **limit of indemnity** specified in Item 3 of the **schedule**.

4.4 *New Entities—Newly Created and Acquired*

Cover is extended to include:

- (i) any newly created **subsidiary company** or **associated company** or **plan** formed or established by any **insured** during the **policy period**; or
- (ii) any merger with, or consolidation with, or purchase of, or other acquisition of the assets of another business. Indemnity under this **policy** shall apply to acts committed from the date of such merger with, or consolidation with, or purchase of, or other acquisition of the assets of another business.

Cover in respect of both (i) and (ii) above is afforded to such **subsidiary company** or **associated company** or **plan** or assets only in respect of **loss** arising out of any act covered under this **policy** committed whilst such entity is or was a **subsidiary company** or **associated company** or **plan** of the **policyholder** and this **policy** shall

only apply in respect of such an entity for **loss discovered** after the commencement of such cover. In the event of (i) or (ii) above such new entity shall be covered hereunder provided that such entity:

- (a) has a total gross annual turnover and total number of **employees** which are less than 10% of the combined total gross annual turnover and total number of **employees** for all **insureds**; and
- (b) has not discovered any single **loss** of a type covered by this **policy** within the last 3 years which, whether insured or not and before the application of any retention, deductible or excess, was individually greater than 50% of the Retention specified in Item 4 of the **schedule**; and
- (c) conducts business activities which are comparable to the **insured's** business as most recently advised to **RQBE**; and
- (d) is governed by controls and procedures which are as effective as those most recently advised to **RQBE** by the **insured** creating or acquiring such entity.

If the new entity fails to meet the conditions set out in (a), (b), (c) and (d) above **RQBE** may agree upon written request to provide cover hereunder for acts committed on or after the date of such creation, merger, consolidation, purchase or acquisition but only upon the condition that within 90 days of the acquisition of the newly created or acquired **subsidiary company** or **associated company** or **plan** or assets, **RQBE** shall have been provided with full particulars of the newly created or acquired **subsidiary** or **associated company** and any additional **premium** and/or amendment to the **policy** has been agreed by **RQBE**.

## 5. Optional Extensions

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None.

## 6. General Provisions

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### 6.1 *Limit of Indemnity*

The payment of any **Loss** shall not reduce **RQBE's** liability for other **losses**. **RQBE's** maximum liability for any single **loss** shall not exceed the amount specified in Item 3 of the **schedule**.

6.2 *Limit of Indemnity under this Policy and Prior Insurance*

**Loss** which is covered partly by this **policy** and partly by any other policy (including policies of which this is a renewal) issued by **RQBE** to the **insured**, for which the previous discovery period has not expired, shall be limited to the larger amount of insurance under the previous policy or this **policy** and shall on no account be cumulative.

6.3 *Non Accumulation of Liability*

Regardless of the number of years this **policy** is in force and irrespective that it is or may be renewed and regardless of the number of **premiums** paid, the **limit of indemnity** as specified in Item 3 of the **schedule** shall not be cumulative from year to year or period to period.

6.4 *Retention and Other Insurance*

For each and every **loss**, cover under this **policy** will be excess of the greater of:

- (i) the Retention specified in Item 4 of the **schedule**; or
- (ii) the amount of any other valid and collectible insurance or indemnity, contractual or otherwise, available to the **insured**.

If a **loss** is covered partly under this **policy** and partly under a prior policy written by another insurer or carrier, the Retention under this **policy** applicable to the **loss** will be reduced by the retention or deductible actually applied to **loss** under such other policy.

6.5 *Single Policy*

This **policy** is a single contract of insurance and if more than one **insured** is covered this **policy** shall nevertheless be and remain a single contract of insurance for the benefit of the **insured** as joint **insured** and, accordingly, without limitation:

- (i) the **policyholder** shall act for itself and for all **insured** for all purposes under this **policy**, including but not limited to the giving and receiving of notice, the giving of notice of **loss**, the payment of **premiums** that may become due and the receipt and acceptance of any endorsements issued to form a part of this **policy**;
- (ii) payment of any **loss** under this **policy** to the **policyholder** shall fully release **RQBE** with respect to such **loss**;
- (iii) if there is more than one **insured** under this **policy** and any such entity other than the **policyholder** ceases for any reason to be covered under this **policy**,

then the remaining **insureds** shall continue to be joint **insured** for all purposes under this **policy**;

- (iv) knowledge possessed or **discovery** made by any **insured** or by any director, partner, officer, departmental director, senior manager or equivalent thereof of any **insured** shall for all purposes constitute knowledge possessed or **discovery** made by every **insured**;
- (v) **RQBE's** liability for **loss** sustained by any or all of the **insured** shall not exceed the amount for which **RQBE** would be liable had all such **loss** been sustained by any one of the **insured**.
- (vi) in calculating **loss** covered under this **policy**, where another **insured** receives a benefit corresponding or relating to such **loss**, that benefit will be set off against the value of such **loss**.

#### 6.6 *How to Give Notice and Report a Loss*

- (i) Notice of **loss** shall be given in writing to  
**Raheja QBE General Insurance Company Ltd.**  
**Commerz, 10th Floor, International Business Park**  
**Oberoi Garden City, Off Western Express Highway**  
**Goregoan (E), Mumbai 400 063**
- (ii) The **insured** shall, as a condition precedent to the obligations of **RQBE** under this **policy**:
  - a) give written notice to **RQBE** as soon as practicable but in any event no later than 60 days after **loss** is **discovered**; and
  - (b) give notice to the police; and
  - (c) provide **RQBE** with all requested information and documents and co-operate with **RQBE** in all matters pertaining to the **loss**; and
  - (d) furnish to **RQBE** affirmative proof of **loss** with full particulars within 6 months of **discovery**.

#### 6.7 *Loss Settlement*

**RQBE** may, with the **insured's** consent, settle any claim for **loss** of property with the owner. Any property for which **RQBE** has made indemnification shall become the property of **RQBE**. At its discretion, **RQBE** may pay the actual cash value or make applicable repairs or replacements.



6.8 *Basis of valuation*

In no event shall **RQBE** be liable for more than:

- (i) the actual market value, published by the Reserve Bank of India of securities, foreign funds, currencies or precious metals at the close of business on the day the **loss** was **discovered**, or, if less, the actual cost of replacing the **securities**;
- (ii) the cost of blank books, blank pages or other materials plus the cost of labour and computer time for the actual transcription or copying of data furnished by the **insured** in order to reproduce books of accounts and records;
- (iii) the cost of labour for the actual transcription or copying of electronic data furnished by the **insured**, in order to reproduce such electronic data;
- (iv) the actual cash value of other property at the time of **loss** or the actual cost of repairing or replacing the property with property or material of like quality or value, whichever is less. The actual cash value of other property if held by the **insured** as a pledge, or as collateral for an advance or a loan, shall be considered not to exceed the value of the property as determined and recorded by the **insured** when making the advance or loan, or in the absence of a record, the unpaid portion of the advance or loan plus accrued interest at legal rates.

6.9 *Recoveries*

Recoveries (except from insurance, reinsurance, sureties or indemnity), will be allocated in the following order of reimbursement:

- (i) firstly, for any costs and expenses reasonably and necessarily incurred in relation to the recovery;
- (ii) secondly, the **insured** will be reimbursed for any **loss** exceeding the **limit of indemnity** specified in Item 3 of the **schedule**;
- (iii) thirdly, **RQBE** will be reimbursed for any settlement made; and
- (iv) lastly, the **insured** will be reimbursed for **loss** equal to the Retention amount specified in Item 4 of the **schedule**.

6.10 *Subrogation*

In the event of any payment under this **policy**, **RQBE** shall be subrogated to the extent of such payment to all of the **insured**'s rights of recovery in respect of the payment. The **insured** shall execute all papers required and shall do everything necessary to secure any rights including the execution of any documents necessary to

enable **RQBE** effectively to bring suit in the name of the **insured** whether such acts shall be or become necessary before or after payment by **RQBE**.

6.11 *Policy Construction and Arbitration*

(a) Policy Construction

(i) The construction, interpretation and meaning of the provisions of this **policy** shall be determined in accordance with Indian laws.

(ii) The marginal notes and titles of paragraphs in this **policy** are included for descriptive purposes only and do not form part of this **policy** for the purpose of its construction or interpretation.

(iii) Under this **policy**, the masculine includes the feminine and the singular includes the plural and vice versa.

(b) **Arbitration**

(i) If any dispute or difference shall arise as to the quantum to be paid under this **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 hereto 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 Indian Arbitration and Conciliation Act 1996.

(ii) It is clearly agreed and understood that no dispute or difference shall be referable to arbitration as herein before provided, if **RQBE** has disputed or not accepted liability under or in respect of this **policy**.

(iii) 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 and that the Indian Courts shall have sole and exclusive jurisdiction over any such action or suit.

6.12 *Assignment*

This **policy** and any rights under it cannot be assigned without written consent of **RQBE**.

6.13 *Changes in Risk during Policy Period*

If during the **policy period** any of the following changes in risk take place, then the cover provided under this **policy** is amended to apply only to those acts committed prior to the effective date of such change in risk.

For the purpose of this General Provision changes in risk mean:

- (i) the liquidation of the **policyholder**, or the appointment of a receiver, liquidator, manager or administrator in respect of the **policyholder**; or
- (ii) the liquidation of any single **insured** or the appointment of a receiver, liquidator, manager or administrator of such **insured**; or
- (iii) the consolidation or merger of the **policyholder** with another business entity, or upon any purchase, assignment, transfer, pledge or sale of assets or shares occasioning any change in control of the **policyholder**; or
- (iv) a change of control in any **insured**; or
- (v) knowledge that an act of fraud or dishonesty or criminal damage has been committed by any **employee** of the **insured** or any director, partner, officer, departmental director, senior manager or equivalent as set out under Exclusion 3.9; or
- (vi) a **fraudulent act**, any act of theft or criminal damage committed by **any other person** as set out under Exclusion 3.9.

6.15 *Cancellation*

This **policy** may be cancelled as follows:

- (i) by the **policyholder** immediately upon **RQBE**'s receipt of a written notice. In such case, **RQBE** shall refund any unearned **premium** calculated at pro-rata of the annual **premium** except in the event of a **loss** having been **discovered** prior to the date of cancellation whereby no refund in **premium** shall be due;
- (ii) by **RQBE** following the issue of written notice to the address specified in Item 1 of the **schedule** in respect of the **policyholder** or any **insured** or any **employee** of any **insured**. Cancellation shall apply 30 days following the issue of such notice.

6.16 *Fraudulent claims*

If any claim is in any manner false, dishonest or fraudulent, or is supported by any false, dishonest or fraudulent means or devices, whether by any **insured** or anyone acting on

behalf of an **insured** or with the **insured**'s knowledge, then this **policy** shall be void and all benefits paid or potentially payable under it shall be forfeited.

6.17 *Signature and Alteration*

The insurance provided by this **policy** is operative only if this **policy** bears the signature of an authorised representative of **RQBE** and no change in or modification to this **policy** will be effective unless made by written endorsement bearing the signature of an authorised representative of **RQBE**.

6.18 *Proposal and Representation*

In granting cover to any one **insured**, **RQBE** has relied upon the statements and particulars in the **proposal** together with its attachments and other information supplied. All such statements, attachments and information are the basis of and are deemed incorporated into the contract. The **insured** shall not conceal or misrepresent any material fact or circumstance when making such representation.

6.19 *Title and Italics*

The titles of these paragraphs are for convenience only and do not lend any meaning to this contract. In this **policy**, words in italics have special meaning and are defined.