

Public Liability Insurance (Act) (Commercial) Policy Wordings

Public Liability Insurance (Act) Policy (Commercial) Policy Wording

1. OPERATIVE CLAUSE

Whereas the Insured Owner, named in the Schedule hereto and carrying on business described in the said Schedule, has applied to MAGMA GENERAL INSURANCE LTD. (hereinafter called the Company) for the indemnity hereinafter contained and has made a written proposal and declaration which shall be the basis of this contract and is deemed to be incorporated herein and has paid the premium and statutory contribution towards the Environment Relief Fund as per the provisions of the Public Liability Insurance Act and the rules framed thereunder.

NOW THIS POLICY WITNESSETH that subject to the terms, exceptions and conditions contained herein or endorsed hereon, the company will indemnify the insured owner against the statutory liability arising out of accidents occurring during the currency of the policy due to handling hazardous substances as provided for in the said act and the rules framed thereunder.

2. DEFINITIONS

- a) "Act" unless otherwise specifically mentioned shall mean the Public Liability Insurance Act, 1991 as amended from time to time.
- b) "Accident" is defined as an accident involving a fortuitous or sudden or unintentional occurrence while handling any hazardous substance resulting in continuous, intermittent or repeated exposure to death of, or injury to any person or damage to any property but does not include an accident by reason only of war or radio-activity.
- c) "Handling" in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation by vehicle, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance.
- d) "Hazardous Substance" means any substance or preparation which is defined as hazardous substance under the Gazette Notification issued by central government under PLI Act 1991 and as amended from time to time, and exceeding such quantity as may be specified.
- e) "Owner" means a person who owns, or has control over handling any hazardous substance at the time of accident and includes:-
 - (i) in the case of a firm, any of its partners;
 - (ii) in the case of an association, any of its members, and
 - (iii) in the case of a company, any of its directors, managers, secretaries or other officers who is directly in-charge of and is responsible to the company for the conduct of the business of the company.
- (f) "Turnover" shall mean –
 - i) Manufacturing units – Entire Annual Gross Sales Turnover including all levies and taxes

of manufacturing units handling hazardous substances as defined in the Public Liability Insurance Act 1991.

For the purpose of this insurance, the term “Units” shall mean all operations being carried out in the manufacturing complex in one location.

- ii) Godown/warehouse owners – Total Annual rental receipts of premises handling hazardous substances as defined in the Public Liability Insurance Act, 1991
- iii) Transport Operators – Annual freight receipts
- iv) Others – Annual gross receipts

(g). ‘Vehicle’ means any mode of surface transport other than railways.

3. EXCLUSIONS

This Policy does not cover liability:

- (1) arising out of willful or intentional non-compliance of any Statutory Provisions.
- (2) in respect of fines, penalties, punitive and/or exemplary damages.
- (3) arising under any other legislation except in so far as is provided for in Section 8 Sub-Section (1) and (2) of the Act.
- (4) arising out of damage to property owned, leased or hired or under hire purchase or on loan to the Insured or otherwise in the Insured’s control, care or custody.
- (5) 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.
- (6) directly or indirectly caused by or contributed to by
 - a) ionizing radiations or contamination by radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
 - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4. CONDITIONS

1 The Insured Owner shall give written notice to the Company as soon as reasonably practicable of any claim made against the Insured Owner or any specific event or circumstance that may give rise to a claim. The Insured shall immediately give to the Company copies of notice of application(s) forwarded by the Collector and all such additional information and or assistance that the Company may require.

- 2 No admission, offer, promise or payment shall be made or given by or on behalf of the Insured owner under this policy without the written consent of the Company.
- 3 The Company shall not be liable for any claims for relief made after five years from the date of occurrence of the accident.
- 4 The Insured Owner shall keep a record of annual turnover, and at the time of renewal of insurance declare such turnover and all other details as may be required by the Company. The Company shall at all reasonable times have full rights to call for and examine such records.
- 5 If at the time of happening of any accident, resulting in a claim under this policy, there be any other insurance covering the same liability, then the Company shall not be liable to pay or contribute more than its ratable proportion of such liability.
- 6 This Policy may be cancelled by the Insured Owner by giving 30 days notice in writing to the Company in which event the Company will retain premium at short period scale subject to there not having occurred an accident during the policy period which may give rise to a claim(s), failing which no refund of premium shall be allowable.
- 7 This Policy may also be cancelled by the Insurer by giving 30 days notice in writing to the Insured Owner in which event the Company shall be liable to repay on demand a rateable proportion of the premium for the unexpired term from the date of cancellation.
- 8 If the Company shall disclaim liability to the Insured Owner 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 competent court of law, then the claim for all practicable purposes shall be deemed to have been abandoned and shall not thereafter be recoverable hereunder or be made the subject matter of any suit.
- 9 The Company shall not be liable to make any payment in respect of any claim if such claim shall be in any manner fraudulent or supported by any person on behalf of the Insured and/or if the insurance has been continued in consequence of any material mis-statement or non-disclosure of any material information by or on behalf of the Insured. In such a case, if the Company pays any amount to the claimant due to any statutory provisions, such amount shall be recoverable from the Insured.
- 10 The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been assigned in the Act and the Rules framed thereunder or this Policy shall bear such specific meaning.
- 11 This contract shall be governed and construed in accordance with the laws of India.

“The parties to the contract may mutually agree and enter into a separate Arbitration Agreement to settle any and all disputes in relation to this policy. Arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996.”
- (1) In the event of any payment under this Policy, the Company shall be subrogated to all of the Insured’s rights of recovery to the extent of such payments against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights and ensure that nothing is done to prejudice such rights and provide the Insurers with whatever reasonable co- operation

and assistance they might require.

However, it is specifically agreed that the Insurer will not exercise its rights of subrogation against any employee of the Insured unless the aforesaid payment has been caused by or contributed to in any way by the fraud, dishonesty or malicious intent of any such employee.

12 In the event of any recovery being made, it is specifically understood that the recovered funds shall be applied in the following order:

- 12.1 The Company shall be reimbursed to the extent of any payment it has made under this Policy.
- 12.2 The Company shall be reimbursed for the actual costs and expenses it has incurred in perusing the recovery.
- 12.3 The Insured shall be entitled to reimbursement in respect of its losses only after the payment of 12.1 and 12.2 and only to the extent of any recovered funds that might remain.
