

General Terms and Conditions for Confiscation Risk Insurance GT&C C

Schweizerische Exportrisikoversicherung
Assurance suisse contre les risques à l'exportation
Assicurazione svizzera contro i rischi delle esportazioni
Swiss Export Risk Insurance



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Table of Contents

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1.	Object and Scope of Insurance	3
2.	Policy Currency	3
3.	Liability Period	3
4.	Insured Risks	4
5.	Occurrence of Insured Event	4
6.	Conditions for Indemnification	4
7.	Calculation of Indemnity	5
8.	Payment of Indemnity	5
9.	Transfer of Rights	5
10.	Legal Action and Costs	5
11.	Policy Holder Obligations	6
12.	Exclusion of Indemnification	6
13.	Recovery and Repayment of Indemnity	7
14.	Premiums	7
15.	Assignment of Rights under Insurance	7
16.	Cancellation of Insurance Policy	7
17.	Concluding Provisions	8

The General Terms and Conditions of Confiscation Risk Insurance (GT&C C) issued by Swiss Export Risk Insurance (SERV) shall apply in so far as individual regulations are not expressly excluded or amended by special provisions in the insurance policy. The applicability of the GT&C C shall be governed by the Swiss Export Risk Insurance Act (SERVG) and the Swiss Export Risk Insurance Ordinance (SERV-V) in the version valid on the date the insurance policy is issued. The GT&C C and other terms and conditions of SERV shall not grant the policyholder any rights beyond those contained in SERVG and SERV-V.

1. Object and Scope of Insurance

- 1.1 The insurance shall cover the policyholder's production costs in respect of goods owned by the policyholder and exported abroad for storage, exhibition or testing, up to the maximum amount specified in the insurance policy.
 - 1.2 Production costs are direct costs and overheads which, in a commercial production process, are required for the production or purchase of the insured goods, and that can be attributed directly to these goods. The insured production costs do not include, in particular, SERV's expense and insurance premiums, or expenditures that contravene Swiss or foreign legal regulations.
 - 1.3 If tools, machines or equipment are exported abroad in connection with the supply of goods and services under an export contract, and are subject to wear and tear there as a result of use, their market value at the time an insured risk occurs shall apply in lieu of the insured production costs.
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2. Policy Currency

- 2.1 The currency used in the insurance policy shall be the Swiss franc (CHF).
 - 2.2 Premiums and insurance benefits shall be paid in the policy currency.
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3. Liability Period

- 3.1 Liability for the insured risks shall commence with the shipment of the goods to the location where they are to be stored, demonstrated or exhibited, or the location where they are to be used.
- 3.2 The shipment relevant for the commencement of liability shall commence on the date the goods are handed over to a forwarding agent or freight carrier, but no later than the date on which the goods cross the Swiss border.
- 3.3 Liability for the production costs of insured goods shall terminate once the goods are sold or repatriated. This then creates room for additional production costs to be included in the maximum amount specified in the insurance policy (revolving utilisable maximum amount).
- 3.4 If anything occurs to increase the risk, SERV may declare at any time that its liability for production costs in respect of goods not yet shipped at the time this declaration is received by the policyholder is excluded.

3.5 The insurance shall be extinguished upon the expiry of the time limit set out in the insurance policy, unless SERV has agreed, in writing, to an application for an extension of the time limit prior to its expiry. The same shall apply if any claims under the policy are assigned without the consent required from SERV pursuant to section 15.1.

4. Insured Risks

4.1 Political risk

4.1.1. The insurance shall cover the risk of the insured goods being confiscated by foreign government agencies as a direct result of political causes, or the policyholder otherwise being deprived of its power of disposal over them, or their becoming destroyed, damaged or lost.

4.1.2. Political causes mean unforeseeable, extraordinary measures of foreign states, war or warlike events, revolution, annexation or civil unrest abroad.

4.2 Force majeure

4.2.1. The insurance shall cover the risk of the policyholder becoming permanently deprived of its power of disposal over the insured goods, or their being confiscated or damaged or lost as a result of force majeure.

4.2.2. Force majeure shall include events such as whirlwinds, flooding, earthquakes, volcanic eruptions, flood tides and nuclear accidents outside Switzerland.

4.2.3. Liability on the part of SERV for such risks shall be subject to the policyholder being unable to insure such risks with private insurance companies under normal market terms and conditions prior to the commencement of such risks.

5. Occurrence of Insured Event

5.1 An insured event shall occur if, upon expiry of a waiting period of three months from the occurrence of an insured risk, no indemnity was paid for the loss incurred.

6. Conditions for Indemnification

6.1 Requests for indemnification payments are to be made in writing and must be accompanied by all the documentation required to determine the loss incurred.

6.2 The policyholder shall bear all costs of proving the occurrence of insured damage or loss. The burden of proof shall also apply to the causal connection between the insured risk and the damage or loss incurred.

6.3 SERV can request that the policyholder submit an expert report to prove the amount of the production costs to be indemnified. In this case, SERV is obliged to first bindingly establish the cause of the occurrence of the insured event.

7. Calculation of Indemnity

- 7.1 SERV shall determine the amount of the production costs to be indemnified, taking into account payments or indemnity payments made in this regard.
- 7.2 Any payment made by a guarantor, surety or third party, in particular claims payments and other pecuniary benefits received by the policyholder in connection with the occurrence of an insured event shall be set off against the loss.
- 7.3 Proceeds generated by an alternative realisation of the value of the insured goods the production costs of which are to be indemnified, shall be also included in the calculation. The realisation costs qualifying for a contribution pursuant to section 10 shall be deducted from such proceeds.
- 7.4 The remaining insured production costs shall be multiplied by the cover ratio specified in the insurance policy.

8. Payment of Indemnity

- 8.1 SERV shall make payment of any indemnity within thirty days of its written acknowledgement of the basis and amount of the insured claim.
- 8.2 Any costs for payment into an account outside Switzerland shall be borne by the policyholder.

9. Transfer of Rights

- 9.1 Once the indemnity has been paid, ownership of the insured goods and any claims against a foreign debtor or guarantor up to the amount of the indemnification paid shall pass to SERV.
- 9.2 On SERV's request, the policyholder shall perform all legal acts necessary for the subrogation or transfer of such rights.
- 9.3 In so far as any transfer or subrogation of rights is not possible under the applicable law and SERV decides to initially forbear in relation to the required transfer or subrogation, the policyholder shall retain such rights on behalf of SERV on a fiduciary basis.

10. Legal Action and Costs

- 10.1 Notwithstanding any transfer of rights, the policyholder shall remain responsible for taking any measures to recover or sell assets and mitigate loss.
- 10.2 SERV may request that those goods be disposed of differently, for which the insured event has occurred or is at risk of occurring.
- 10.3 SERV shall contribute proportionally to all appropriate and reasonable costs and expenses incurred by the policyholder with SERV's approval after the occurrence of an insured event acknowledged by SERV and which are not part of normal business, dunning or collection activities.

10.4 In any individual case, SERV may also contribute to the costs of loss avoidance or mitigation measures taken before the occurrence of an insured event provided it has given written approval of a request for such. This shall apply in particular to the costs of any early returning of the goods and any loss caused by the different disposal of insured goods due to the risk of an insured event.

11. Policy Holder Obligations

- 11.1 The policyholder shall fully and accurately represent all material circumstances of relevance to the acceptance of the insurance and the entitlement to indemnification and shall immediately notify SERV in writing of any changes relevant to any decision by SERV to accept the insurance.
- 11.2 The policyholder shall be obliged to comply with any legal provisions in Switzerland or abroad relating to the export of the goods or when entering into and performing the export contract.
- 11.3 The policyholder shall not depart substantially from the factual content documented in the insurance policy without SERV's consent.
- 11.4 The policyholder shall report without delay any factors that lead to increased risk and of the occurrence of an insured event.
- 11.5 The policyholder shall not export any goods the costs of which are covered by the insurance, unless it has written approval of SERV, if circumstances have occurred that increase the risk since the insurance was accepted.
- 11.6 The policyholder shall take all appropriate and necessary measures required by standards of commercial diligence to avoid an insured event or to mitigate any loss. The policyholder shall immediately follow any instructions issued by SERV in this regard. The policyholder may only dispose of goods whose production costs are the object of this policy in another manner with SERV's consent.
- 11.7 SERV shall be informed at any time on request as to the particulars and the execution status of an export transaction, and any other circumstances that could be material to the confiscation risk insurance.
- 11.8 The policyholder shall grant SERV or any authorised representative access to any books, records and other documents that could be material to the confiscation risk insurance.

12. Exclusion of Indemnification

- 12.1 In the event of any breach of obligations imposed upon the policyholder under the policy, including the integral GT&C C, as well as under the SERVG or SERV-V, no indemnification shall be paid if SERV establishes that the cover would not have been accepted or not accepted with the same extent, if the policyholder had fulfilled its obligations, or that such breach of obligations has caused or is threatening to cause a loss.
- 12.2 Indemnification shall not be excluded if the policyholder establishes that the breach of obligations was not its fault.

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- 12.3 If the payment of any premium is late, the indemnification of any claim for insured events shall be excluded where the insured risk occurred prior to payment.
- 12.4 SERV may partially or wholly waive its right to exclude indemnification in consideration of the particular circumstances of a specific case. However, indemnification shall always be excluded if any infringement of Swiss or foreign laws exists when the goods are exported or the export contract was entered into or performed.
- 12.5 Any further claims by SERV based on the policyholder's breach of its obligations shall remain unaffected.
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13. Recovery and Repayment of Indemnity

- 13.1 After payment of any indemnity the policyholder shall immediately advise SERV of any incoming payments eligible for set-off and any realisation or enforcement proceeds or any other pecuniary gains obtained in connection with the insured event (recoveries), and shall transfer such proportion of such to SERV as determined by the cover ratio. The policyholder may deduct any eligible costs incurred in pursuing legal action from the recoveries received.
- 13.2 Any recoveries in a foreign currency shall be converted at the reference rate of the Swiss National Bank on the date on which payment is received by the policyholder.
- 13.3 If it transpires, after the indemnity has been paid, that the conditions for indemnification were not fulfilled or have subsequently ceased to exist, the indemnity paid must be refunded along with any reimbursed legal costs.
- 13.4 In the case of recoveries pursuant to section 13.1, interest must be paid on any claim for repayment from the date the payment was received. In the case of repayments pursuant to section 13.3, the obligation to pay interest shall commence as of the date the indemnity or cost contribution is paid out, but no later than the date on which the conditions for indemnification subsequently ceased to exist.
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14. Premiums

- 14.1 The insurance premiums and any reimbursement of premiums already paid shall be based on SERV premium rates in effect when the policy was taken out.
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15. Assignment of Rights under Insurance

- 15.1 Any assignment of rights to indemnification under the policy shall require written consent from SERV. SERV may make its consent conditional upon the fulfilment of specific conditions.
- 15.2 Any assignment of rights shall have no effect on the legal relations between SERV and the policyholder.
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16. Cancellation of Insurance Policy

- 16.1 SERV may cancel the insurance policy if

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- 16.1.1. the policyholder provides material grounds that render a continuation of the policy unreasonable for SERV, or
- 16.1.2. the policyholder breaches its obligations under the policy in any other way, in particular falling into arrears on its premium payments and SERV has consequently requested restoration of the status defined in the contract within a set period and has threatened cancellation if the situation is not remedied by the time such deadline expires.
- 16.2 The policyholder may cancel the insurance policy at any time without notice.
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17. Concluding Provisions

- 17.1 Any amendments or additions to this insurance policy shall be made in writing.
- 17.2 All notifications and declarations by the policyholder shall be submitted in writing to the registered office of SERV in Zurich.