

General Terms and Conditions for Counter Guarantees GT&C CG

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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This document is intended for information purposes only and should not be interpreted as providing terms and conditions for a specific transaction. While every effort has been made to ensure its accuracy and completeness, the German language version should be considered as authoritative. SERV reserves the right to change the information contained in the document without notice.

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The General Terms and Conditions for Counter Guarantees (GT&C BG) of the Swiss Export Risk Insurance (SERV) shall apply to the extent that individual regulations are not expressly excluded or amended by special provisions in the counter guarantee. The applicability of the GT&C BG shall be governed by the Swiss Act on the Temporary Extension of the Insurance Services of SERV, the Swiss Export Risk Insurance Act (SERVG), and the Swiss Export Risk Insurance Ordinance (SERV-V) in the version valid on the date of issue of the counter guarantee. These GT&C BG and other terms and conditions of SERV do not grant the guarantor and exporter any rights beyond those contained in the Swiss Act on the Temporary Extension of the Insurance Services of SERV, SERVG, and SERV-V.

1. Object and Scope of the Counter Guarantee

By means of the counter guarantee, SERV undertakes the commitment (guarantee) to pay the financial institution issuing the bond (guarantor) a compensation up to the determined maximum amount on first written demand, provided that the guarantor provides evidence that he has made payments to the beneficiary due to the justified invocation of the documented contract bond, and declares that he has not received cover from the exporter.

2. Contract Currency

2.1 The Swiss franc (CHF) is the contract currency of the counter guarantee, unless another contract currency is agreed in the documented contract bond insurance policy.

2.2 Premiums and compensation payments shall be paid in the contract currency.

3. Liability Period

3.1 The liability under the counter guarantee begins when the contract bond comes into force, at the earliest, however, when the guarantor receives the counter guarantee.

3.2 In the event of risk aggravating factors, SERV may at all times declare in writing that liability is excluded for contract bonds that the guarantor has not yet issued when such declaration is received.

3.3 The liability of SERV under the counter guarantee expires:

3.3.1. upon return of the counter guarantee, discharge of SERV by the guarantor, or 30 days after the expiry of the contract bond;

3.3.2. if the entitlement to compensation under the counter guarantee is assigned without the consent of SERV; or

3.3.3. if a risk aggravating amendment to the contract bond has been made without the consent of SERV.

4. Occurrence of the Guaranteed Event

The guaranteed event occurs if the guarantor has made payments to the beneficiary on the basis of the formally justified invocation of the contract bond covered by the counter guarantee and has not received cover from the exporter.

5. Payment of Compensation

- 5.1 Compensation under the counter guarantee shall be paid within ten banking days of the receipt of the written demand and the necessary evidence according to the counter guarantee declaration.
- 5.2 Costs for payment into an account outside Switzerland shall be borne by the guarantor.

6. Conversion of Amounts in Foreign Currency

- 6.1 A guarantee amount to be compensated, that is not denominated in the contract currency, shall be converted at the reference rate of the Swiss National Bank on the date of occurrence of the guaranteed event (compensation conversion rate).
- 6.2 Possible recoveries in a foreign currency will be converted at the reference rate of the Swiss National Bank on the date on which the guarantor receives the payment.

7. Legal Action and Cost Contribution

Upon written request, SERV may, in addition to the compensation under the counter guarantee, proportionally contribute to all appropriate and reasonable costs and expenses that the guarantor incurs in connection with the defence against the illegitimate invocation of a contract bond and for which the guarantor has a claim for reimbursement of expenses against the exporter.

8. Obligations of the Exporter

- 8.1 The exporter shall fully and accurately present all circumstances that are material to the issuance of and possible amendment to the counter guarantee. Amendments shall be communicated to SERV in writing without delay.
- 8.2 The exporter shall prevent the demand for compensation from SERV under the counter guarantee. The exporter shall therefore grant cover to the guarantor if the contract bond is called.
- 8.3 If SERV has nevertheless made payments on the basis of the counter guarantee, the exporter is obliged to reimburse any amount he is not entitled to on the basis of the contract bond insurance cover granted by SERV. The reimbursement obligation plus five percent interest for the period since SERV made the payment to the guarantor are due immediately; the exporter may not raise any defences or objections against this. The exporter has to provide evidence that he is entitled to insurance benefits from SERV according to the provisions of the contract bond insurance.
- 8.4 The exporter continues to be subject to the terms and conditions of the GT&C CB.

9. Obligations of the Guarantor

- 9.1 The guarantor shall send SERV copies of the guarantee commission invoices without delay when such are issued.
- 9.2 The guarantor is obliged to fully and accurately present all circumstances that are material to the acceptance of and possible amendment to the counter guarantee as well as to the

entitlement to compensation by SERV. Amendments shall be communicated to SERV in writing without delay.

- 9.3 The guarantor shall treat as confidential all information that he receives in connection with the decision of SERV concerning the creditworthiness of the debtor or exporter.
- 9.4 If the guarantor has received collateral for the contract bond, he is obliged to advise SERV of this and capitalise the collateral in coordination with SERV in case of the occurrence of the guaranteed event; this does not apply to global collateral that the guarantor was provided with for the entire credit lines of the exporter. Any capitalisation proceeds shall be paid to SERV on a pro-rata basis in proportion to the cover ratio after deducting the substantiated necessary capitalisation costs, provided SERV has paid compensations under the counter guarantee.
- 9.5 The guarantor shall without delay void any claims for cover against the exporter in the amount of the compensation paid by SERV. Only if collateral exist, he shall maintain the claim for cover as long as this is necessary for the settlement from the collateral.
- 9.6 The guarantor shall charge the exporter a guarantee commission for the contract bond, which is usual in the market and calculated on the basis of the total amount of the contract bond without taking the counter guarantee of SERV into consideration.

10. Exclusion of Compensation

- 10.1 Should the guarantor breach any of his obligations under the guarantee, including those under SERVG and SERV-V, no compensation will be paid if SERV would not have issued the counter guarantee or not to the granted extent if the guarantor had fulfilled his obligations or if a guaranteed event has occurred or threatens to occur due to the breach of obligations.
- 10.2 Compensation is not excluded if the guarantor can produce evidence that the breach of obligations was not his fault.
- 10.3 Compensation is definitely excluded:
- 10.3.1 if the guarantor did not pay SERV the premium within ten bank working days after it falls due; or
- 10.3.2 if the guarantor breached legal provisions in connection with the conclusion or during the execution of the contract bond agreements.
- 10.4 Any further claims of SERV based on the guarantor's breach of obligations remain unaffected.

11. Repayment of Compensations

If it proves, after the payment of compensation, that the conditions for the demand for compensation under the counter guarantee were not fulfilled, the guarantor shall reimburse the compensation received including any reimbursed costs of legal action plus five percent interest for the period since SERV made the payment.

12. Premiums

- 12.1 The premiums and any reimbursement of premiums already paid are governed by the premium tariffs of SERV in effect when the counter guarantee was issued.
- 12.2 The guarantor is the premium payer.
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13. Assignment

- 13.1 The assignment of the entitlement to compensation under the counter guarantee is subject to the written consent of SERV. SERV may make its consent conditional upon the fulfillment of special provisions.
- 13.2 The legal relations between SERV and the guarantor remain unaffected by the assignment.
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14. Final Provisions

- 14.1 All amendments and supplements to the counter guarantee must be made in writing.
- 14.2 All notifications and declarations of the guarantor and of the exporter shall be submitted in writing to the registered office of SERV.
- 14.3 The federal administrative law of Switzerland shall apply. The Federal Administrative Court shall have sole jurisdiction over disputes in connection with the counter guarantee (Art. 35 lit. a of the Swiss Administrative Court Act).