

General Terms and Conditions for Pre-shipment Risk Insurance GT&C P

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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The General Terms and Conditions of Pre-shipment Risk Insurance (GT&C P) 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 P 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 P 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 production costs incurred by the policyholder for the supply of goods and services defined in the export agreement with the foreign debtor up to the maximum amount set out in the insurance policy. The defined maximum amount may not exceed the value of the export order.
 - 1.2 Any production costs shall comprise of all individual costs and overheads incurred in a commercial production process in order to supply the agreed goods and services, and which can be attributed directly to the insured export transaction.
 - 1.3 Insured costs shall not include
 - The policyholder's imputed profit
 - SERV's expenses and insurance premiums
 - Expenditures that contravene Swiss or foreign regulations
 - Claims for damages or contract penalties
 - 1.4 Where subcontractors are used, the contractual price paid by the policyholder to the subcontractor, rather than the subcontractor's own production costs, shall constitute the relevant costs.
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2. Policy Currency

- 2.1 The currency used in the insurance policy shall be the Swiss francs (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 coming into force of the export contract.
- 3.2 Liability shall end when the goods are despatched. The time of despatch indicating the end of liability is that time at which the goods are handed over to a haulage contractor, carrier or warehouse facility.
- 3.3 In the event of partial delivery, liability shall end for those production costs attributable to the partial delivery. This creates scope for further production costs within the maximum amount defined in the insurance policy (revolving utilisable maximum amount).
- 3.4 If collateral is required as security for the economic risks, such shall be in place before the risk begins. Otherwise, liability for the economic risks pursuant to section 4.4 shall not commence until the collateral is lodged.

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- 3.5 If a transaction is financed by a linked buyer credit for which buyer credit insurance exists, liability for the economic risks pursuant to section 4.4 shall not commence until the credit agreement comes into force and all collateral and approvals required therefore are in place.
- 3.6 If anything occurs to increase the risk SERV may declare at any time that its liability for production costs not yet incurred by the policyholder at the time of the declaration is excluded if production continues.
- 3.7 The insurance shall be extinguished with the final (partial) delivery. The same shall apply if the rights to benefit under the insurance policy are assigned without approval from SERV required under section 15.1.
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4. Insured Risks

4.1 Political risk

4.1.1. The insurance shall cover the risk that the continued production and despatch of goods may be rendered impossible or no longer reasonable for the policyholder as a direct consequence of political causes.

4.1.2. Political causes means unforeseeable, extraordinary measures of foreign states, war or warlike events, revolution, annexation, civil unrest abroad as well as domestic government measures (export prohibition).

4.2 Transfer risk and payment moratorium

4.2.1. The insurance shall cover the risk that the continued production and despatch of goods may be rendered unreasonable for the policyholder due to deterioration in international payment transactions threatening the fulfilment of the buyer's obligations under the export contract.

4.2.2. A payment moratorium shall render continued production and despatch unreasonable when foreign debtors are prevented by an official or legal prohibition on payments from fulfilling their payment obligations when such become due.

4.3 Force Majeure

4.3.1. The insurance shall cover the risk that the direct consequences of force majeure may render the continued production and despatch of goods impossible or no longer reasonable for the policyholder.

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

4.3.3. 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.

4.4 Economic risks

- 4.4.1. The insurance shall cover the risk that continued production and despatch of goods is rendered unreasonable by the insolvency of the foreign debtor, or its definitive refusal of acceptance, or other serious breach of its contractual obligations.
- 4.4.2. In the event that the foreign debtor gives notice to terminate the contract, the insurance covers the risk that the policyholder's contractual or legal claims for payment of cancellation costs are not satisfied when due.

5. Occurrence of Insured Event

- 5.1 The insured event shall occur if the policyholder stops production or halts despatch of the manufactured goods as a result of circumstances which increase the level of risk or as a result of an insured risk occurring, and when SERV has not received notification within a waiting period of 3 months that production and despatch have recommenced. The waiting period shall commence when SERV is informed in writing of the suspension of production and despatch.
- 5.2 The same shall apply in the event that SERV declares a suspension of liability as a result of circumstances which increase the level of risk or as a result of an insured risk occurring pursuant to section 3.6, and when it does not lift this suspension within the waiting period of 3 months.

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 prove at its own expense the effectiveness of the export contract and the existence of the collateral listed in the insurance policy. It must also prove the causal connection between the insured risk and the loss incurred.
- 6.3 If the effectiveness of the export contract or the existence of the documented collateral is disputed by the foreign debtor or guarantor, SERV can request that proof of the effectiveness of the export contract or the existence of the collateral is furnished by means of a ruling from the competent court.
- 6.4 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 made by foreign debtors.
- 7.2 Any payment made by a guarantor surety or third party, and any other pecuniary benefits accruing to the policyholder in connection with the occurrence of the insured event shall be set off against the loss.

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- 7.3 Such pecuniary advantages include in particular any payment by the foreign debtor provided this is not linked to partial deliveries or has been reimbursed by claims under the payment guarantee.
- 7.4 Proceeds generated by an alternative realisation of the value of the goods and services shall be included in the calculation if the production costs attributable to these goods and services are covered by the insurance. The realisation costs qualifying for a contribution pursuant to section 10 shall be deducted from such proceeds.
- 7.5 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 manufactured goods, any claims against the foreign debtor and any collateral 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 goods and services be disposed of differently if the associated production costs are covered by the insurance.
- 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.

11. Policyholder 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 when entering into or performing the export contract.
- 11.3 In the processing of the export transaction 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 any material breach of obligations by the debtor, any circumstances that increase risk or occurrences of insured events without delay. Circumstances that increase risk shall be assumed, in particular, if the debtor is more than 1 month in arrears with payment, makes a request for an extension or there is any other evidence of a general deterioration of the financial situation of the debtor or guarantor.
- 11.5 The policyholder shall not manufacture goods or perform services 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. Any instructions from SERV to this end must be followed immediately. The policyholder shall pursue another method of realizing the value of goods and services the costs of which are covered by the insurance, only if SERV agrees to such an alternative.
- 11.7 In the event that SERV declares a suspension of liability pursuant to section 3.6, the policyholder shall ensure that such suspension of liability shall also be enforced in relation to its subcontractors if their contract prices form part of the insured production costs.
- 11.8 In the case of an insured event, the policyholder shall notify SERV in writing of any defences or objections raised by foreign debtor or guarantors challenging the effectiveness of the export contract or the existence of the collateral listed in the insurance policy.
- 11.9 SERV shall be informed at any time on request as to the particulars and the execution status of any export transaction as well as any other circumstances that could be material to the pre-shipment risk insurance.
- 11.10 The policyholder shall grant SERV or any authorised representative access to the books, records and other documents that could be material to the pre-shipment risk insurance.
- 11.11 The policyholder shall treat as confidential any information that it may gain in connection with the SERV's decision as to the creditworthiness of the foreign debtor or guarantor.

12. Exclusion of Indemnification

- 12.1 In the event of any breach of the obligations imposed upon the policyholder under the policy, including the integral GT&C P, as well as under SERVG or SERV-V, no indemnification shall be paid if SERV establishes that the policy would not have been accepted, or not accepted with the same extent of cover, 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.
- 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 The 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 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.

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, as well as any realisation or enforcement proceeds or any other pecuniary gains obtained in connection with the insured event (recoveries), and shall pay a 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 recovery in foreign currencies shall be converted at the Swiss National Bank's reference rate on the day the 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.

14. Premiums

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

15. Assignment of Rights under Insurance

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

16. Cancellation of Insurance Policy

- 16.1 SERV may cancel the insurance policy if
- 16.1.1. the policyholder provides material grounds that render a continuation of the insurance 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.

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.