

# General Terms and Conditions for Buyer Credit Insurance GT&C B

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 of Buyer Credit Insurance (GT&C B) of Swiss Export Risk Insurance (SERV) shall apply in so far as individual provisions are not expressly excluded or amended by special provisions in the insurance policy. The applicability of the GT&C B shall be governed by the Swiss Export Risk Insurance Act (SERVG) and the Swiss Export Risk Insurance Ordinance (SERV-V). These GT&C B as incorporated in the insurance policy and other terms and conditions of SERV shall not grant the policyholder any rights beyond those contained in SERVG and SERV-V.

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### **1. Object and Scope of Insurance**

- 1.1 The insurance shall cover claims for repayment of the credit amounts disbursed to the exporter (principal claim) under the credit agreement with the foreign borrower up to the maximum amount stated in the insurance policy.
  - 1.2 The insurance shall also include any claims that under the covenants of the credit agreement or for other legal reasons may replace the claims originally agreed as a consideration.
  - 1.3 Contractual claims for the reimbursement of ancillary financing costs, interest receivable up to maturity, and also contractually agreed or statutory default interest from the maturity of an insured principal claim up to the occurrence of the insured event shall be included within the maximum amount documented for such (ancillary claims).
  - 1.4 The insured interest receivable shall include the costs that would arise if a refinancing loan were to be repaid early ("breakage costs"), insofar as the foreign borrower is contractually obliged to reimburse these costs.
  - 1.5 Excluded from the insurance are, in particular, more extensive claims for damages, contract penalties or compound interest. The same applies to currency losses as the primary risk with insured foreign currency receivables.
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### **2. Policy Currency**

- 2.1 The contract currency in the insurance policy shall be Swiss francs (CHF), unless another contract currency is agreed in the insurance policy.
  - 2.2 Premiums and indemnifications made under the policy shall be in the contract currency specified in the insurance policy.
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### **3. Liability Period**

- 3.1 Liability for the insured risks shall commence with the disbursement of the credit. With claims for reimbursement in respect of ancillary financing costs, liability shall commence upon such costs becoming due.
- 3.2 Where collateral is required as security for the credit risk, this must be available before the risk commences. Otherwise, liability for the credit risk in accordance with point 4.4 shall commence only when collateral has been furnished.

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- 3.3 In relation to credit amounts that are disbursed to the exporter after milestones have been reached in the production phase (progress payments), a prerequisite for the commencement of liability shall be that the foreign buyer and the foreign borrower have given their agreement in writing to each such payment.
- 3.4 Where credit amounts for services incorporated in the delivery value are disbursed upon delivery before such services have been performed, liability shall commence on a pro rata basis proportional to the services that have actually been carried out.
- 3.5 In the event that any circumstances arise that increase risk, SERV may at any time declare that it shall not assume any liability for credit amounts that had not yet been disbursed at the time the policyholder received this declaration.
- 3.6 SERV's liability shall be extinguished upon settlement of the insured receivable. The same shall apply if an insured receivable is assigned without the required consent of SERV in accordance with section 19.1.
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#### **4. Insured Risks**

- 4.1 Political risk
- 4.1.1. The insurance shall cover the risk of the payment of an insured receivable being rendered impossible on the due date as a direct result of political causes.
- 4.1.2. Political causes means unforeseeable extraordinary measures of foreign states, war or warlike events, revolution, annexation or 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 associated with the possibility of sums which the foreign debtor has paid in for transfer to the policyholder not being converted into the agreed currency or not being transferred to the policyholder when the receivable becomes due as a result of restrictions on international payment transactions.
- 4.2.2. A payment moratorium shall render the insured non-payment of a receivable where the foreign debtor's payment on the due date is prevented by an official or legal prohibition on payments.
- 4.3 Force majeure
- 4.3.1. The insurance shall cover the risk of the payment of an insured receivable being prevented as a direct result of force majeure when it is due.
- 4.3.2. Force majeure shall include events such as whirlwinds, flooding, earthquakes, volcanic eruptions, flood tides and nuclear accidents outside Switzerland.

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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 Credit risk

4.4.1. The insurance shall cover the economic risk of an insured receivable not being paid when due, as a result of the foreign debtor's unwillingness or inability to pay.

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## 5. Occurrence of Insured Event

5.1 The cover shall commence upon the expiry of a waiting period of 1 month from the occurrence of an insured risk.

5.2 Where the joint liability of third parties (securities) is documented in the insurance policy, the cover shall commence only if an insured risk in accordance with section 4 has occurred also in relation to the security, and the waiting period has expired.

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## 6. Conditions for Indemnification

6.1 Any request for indemnification shall be made in writing, and shall include all those documents required to assess loss incurred.

6.2 The policyholder shall prove, at its own expense, the existence, due date and legal enforceability of the insured receivables and of the securities mentioned in the insurance policy. The obligation to produce supporting documents shall also extend to the causal connection between the insured risk and the loss that has occurred.

6.3 Where the claim for which indemnification is sought, or any security provided with respect to it, is disputed by the foreign debtor, SERV may demand that evidence of the receivables be furnished by means of a ruling from the competent court.

6.4 No indemnity may be paid until the existence, due date and legal enforceability of the claim to be indemnified has been proven beyond reasonable doubt.

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## 7. SERV's Option Right

7.1 Where, because of contractual or legal provisions, the entire balance of the insured receivables becomes due immediately, SERV shall nevertheless be entitled to pay claims in accordance with the payment terms and due dates originally agreed and documented in the insurance policy.

7.2 SERV may also pay claims at any time before those due dates, including any breakage costs also insured.

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## 8. Cover Ratio and Deductible

8.1 Unless otherwise specified in the insurance policy, the cover ratio for all the insured risks shall be a uniform 95%.

8.2 The policyholder may not insure the 5% deductible elsewhere or pass it on to the exporter.

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## **9. Calculation of Indemnity**

- 9.1 SERV shall determine the amount of the claims to be indemnified, taking account payments made by foreign debtors or guarantors eligible for set-off.
- 9.2 Where the policyholder has several outstanding claims from its business relationship with the foreign debtor, payments shall be set off as follows:
- 9.2.1. Non-earmarked payments of the debtor shall be set off against insured and uninsured receivables in the order that they fall due.
- 9.2.2. Where insured and uninsured receivables fall due at the same time, these shall be offset on a pro rata basis.
- 9.2.3. Where payments from the debtor are earmarked for uninsured receivables that are due later than insured receivables, the payment shall be applied in full to insured receivables with an earlier due date. The policyholder may rebut any presumption that it exerted influence on the debtor's redemption instruction.
- 9.3 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 an insured event, shall be offset in accordance with point 9.2.
- 9.4 The insured receivable remaining after offsetting has been carried out shall be multiplied by the cover ratio specified in the insurance policy.

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## **10. Conversion of Foreign Currency Receivables**

- 10.1 Foreign currency receivables to be indemnified shall be converted at the Swiss National Bank's reference rate on the date of occurrence of the insured event (indemnity conversion rate).
- 10.2 The indemnity conversion rate shall be limited to the level of the conversion rate defined in the policy unless, on application by the policyholder, a suspension of this conversion rate limitation is documented in the insurance policy against payment of a premium supplement.
- 10.3 The conversion rate (conversion rate defined in the insurance policy) applicable for calculation of premiums shall be the reference rate of the Swiss National Bank on the date preceding the date on which SERV reaches a definitive decision on whether to accept the insurance application.
- 10.4 Any income in a foreign currency shall be converted at the reference rate of the Swiss National Bank on the date on which the payment is received by the policyholder.

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## **11. Payment of Indemnity**

- 11.1 SERV shall establish the occurrence of the insured event within 1 month from receipt of all the documents needed for assessing the loss.

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11.2 SERV shall make payment of any indemnity within thirty days of its written acknowledgement of the insured event.

11.3 Any costs incurred in making payment to an account located outside Switzerland shall be borne by the policyholder.

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## **12. Transfer of Indemnified Receivables**

12.1 Once payment of the indemnity has been made, the insured receivables, ancillary claims and collateral shall be subrogated and transferred to SERV to the extent of the indemnity paid.

12.2 The policyholder shall carry out any legal acts necessary for the subrogation of claims or transfer of security if so requested by SERV.

12.3 In so far as any transfer or subrogation of rights is not possible under the applicable law and SERV initially forbear in relation to the required transfer or subrogation, the policyholder shall retain such rights on behalf of SERV on a fiduciary basis.

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## **13. Legal Action and Costs**

13.1 Notwithstanding any transfer of receivables under section 12, the policyholder shall remain responsible for taking any measure to recover or sell assets, and mitigate losses.

13.2 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 proceedings.

13.3 In any individual case SERV may contribute to the costs of loss avoidance or loss mitigation measures even before the occurrence of an insured event, provided it has given written approval of a request for such.

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## **14. Debt Rescheduling and Restructuring**

14.1 SERV shall be entitled to enter into debt rescheduling agreements with the debtor country in respect of insured receivables, including the policyholder's deductible. In so doing, it may also include uninsured ancillary receivables and uninsured portions of only partially insured receivables. The policyholder, its legal successors or reinsurers shall accept these agreements as being valid for them too, even without their consent.

14.2 SERV shall be entitled to agree concessions on interest rates and debt remission or debt relief of up to 100%, even to the detriment of the policyholder's included shares of the receivable. SERV may also accept currencies other than those originally agreed. The policyholder shall be bound by the conversion rate agreed in the debt rescheduling agreement in respect of all the included receivables and shares of receivables.

14.3 The settlement of losses through debt rescheduling agreements shall be governed by Article 25 of [the Swiss Export Risk Insurance Ordinance] SERV-V. Disadvantages, especially lost interest income or breakage costs that the policyholder incurs as a result of early repayments accepted by SERV shall not be reimbursable.

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- 14.4 The above principles shall apply analogously to restructuring agreements with private debtors.
- 14.5 SERV may, upon request, also include uninsured receivables in a debt restructuring agreement. It may also make this dependent upon the payment of additional premiums.
- 14.6 SERV shall forward incoming payments under a debt rescheduling or restructuring agreement to the policyholder on a pro rata basis in proportion to the cover ratio.
- 14.7 Repayments in foreign currencies shall be converted at the Swiss National Bank's reference rate on the day the payment is received by SERV.
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**15. Policyholder Obligations**

- 15.1 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.
- 15.2 The policyholder shall be obliged to comply with any legal provisions in Switzerland or abroad when entering into or performing the export contract.
- 15.3 In the processing of the credit transaction the policyholder shall not depart substantially from the factual content documented in the insurance policy without SERV's consent.
- 15.4 The policyholder shall send the repayment schedule to SERV without being requested to do so once the starting point has been determined.
- 15.5 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 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.
- 15.6 The policyholder shall not effect further disbursements of the credit without written approval of SERV if any circumstances that increase risk have arisen since the insurance was accepted.
- 15.7 The policyholder may cancel the credit agreement or stop disbursement of the credit for deliveries or services that the exporter has carried out with SERV's consent only after consulting SERV.
- 15.8 The policyholder shall take all the appropriate and necessary measures in accordance with customary duty of care of banks, to avoid an insured event or to mitigate a loss. The policyholder shall immediately follow any instructions issued by SERV in this regard.
- 15.9 In case of an insured event, the policyholder shall notify SERV in writing of any defences or objections raised by the foreign debtor or guarantor against the defaulted receivable.

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- 15.10 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 contract guarantee insurance.
- 15.11 The policyholder shall grant SERV or any authorised representative access to the books, records and other documents that could be material to the buyer credit insurance.
- 15.12 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.
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**16. Exclusion of Indemnification**

- 16.1 In the event of any breach of the obligations imposed upon the policyholder under the policy, including the integral GT&C B, 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.
- 16.2 Indemnification shall not be excluded if the policyholder establishes that the breach of obligations was not its fault.
- 16.3 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.
- 16.4 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 credit agreement was entered into or performed.
- 16.5 Any further claims by SERV based on the policyholder's breach of its obligations shall remain unaffected.
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**17. Recovery and Repayment of Indemnity**

- 17.1 After payment of any indemnity, the policyholder shall immediately advise SERV of any incoming payments eligible for set-off, and also of sales and enforcement proceeds or other pecuniary advantages obtained in connection with the insured loss (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.
- 17.2 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.

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17.3 In the case of recoveries pursuant to section 17.1, interest must be paid on any claim for repayment from the date the payment was received. In the case of repayments pursuant to section 17.2, 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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**18. Premiums**

18.1 The expense and 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.

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**19. Assignment of the Insured Receivables**

19.1 The insured receivable may only be assigned together with the claim under the insurance policy. Any assignment shall require the written consent of SERV. SERV may make its consent conditional on the fulfilment of specific obligations.

19.2 Any assignment of rights shall have no effect on the legal relations between SERV and the policyholder.

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**20. Cancellation of the Insurance Policy**

20.1 SERV may cancel the insurance policy if

20.1.1. the policyholder provides material grounds that render a continuation of the policy unreasonable for SERV, or

20.1.2. 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.

20.2 The policyholder may cancel the insurance policy at any time without notice.

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**21. Concluding Provisions**

21.1 Any amendments or additions to the insurance policy shall be made in writing.

21.2 All notifications and declarations by the policyholder shall be submitted in writing to the registered office of SERV in Zurich.