

General Terms and Conditions for Supplier Credit Insurance GT&C S

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	5
6.	Conditions for Indemnification	5
7.	SERV's Option Right	6
8.	Calculation of Indemnity	6
9.	Conversion of Foreign Currency Receivables	7
10.	Payment of Indemnity	7
11.	Transfer of Indemnified Receivables	7
12.	Legal Action and Costs	7
13.	Debt Rescheduling and Restructuring	8
14.	Policyholder Obligations	8
15.	Exclusion of Indemnification	9
16.	Recovery and Repayment of Indemnity	10
17.	Premiums	10
18.	Assignment of the Insured Receivables	10
19.	Cancellation of Insurance Policy	10
20.	Concluding Provisions	10

The General Terms and Conditions of Supplier Credit Insurance (GT&C S) 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 S shall be governed by the Swiss Export Risk Insurance Act (SERVG) and the Swiss Export Risk Insurance Ordinance (SERV-V). This GT&C S 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.

1. Object and Scope of Insurance

- 1.1 The insurance shall cover payment of the policyholder's claims under the export contract as consideration for the supply of goods and services performed (principal claim) up to the maximum amount stated in the insurance policy.
 - 1.2 The insurance shall also cover any claims that, under the terms of the export contract or for any other legal reasons, may take the place of the claims originally agreed as a consideration.
 - 1.3 Contractual claims for the reimbursement of ancillary financing costs, interest receivable up to, and any contractually agreed or statutory default interest as from, the date on which an insured principal claim falls due until the occurrence of the insured event shall be included within the maximum amount stipulated therefore in the policy
 - 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 on despatch of the goods, or in the case of services performed abroad, on commencement of the services. Liability in respect of claims for reimbursement of ancillary financing costs shall commence upon such becoming due.
- 3.2 Liability for partial deliveries of goods or partial rendering of services, shall commence only for the proportionate claim acquired by the policyholder upon each partial delivery or partial rendering of services.

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- 3.3 The relevant despatch date for the commencement of liability shall be when the goods are handed over to a forwarding agent, carrier or warehouse keeper.
- 3.4 Where the export transaction is at the same time also covered by pre-shipment risk cover, liability shall commence upon expiry of the liability for the insured production risks (uninterrupted cover).
- 3.5 Where collateral is required to cover the credit risk, this must be available before the risk commences. Otherwise, liability for the credit risk in accordance with section 4.4 commences only when the collateral has been furnished.
- 3.6 Where a transaction is financed by a linked buyer credit for which buyer credit insurance exists, liability for the credit risk in accordance with section 4.4 shall not commence until the credit agreement comes into force and all the required collateral and approvals required therefore are in place.
- 3.7 If circumstances arise that lead to an increase in risk, SERV may declare at any time that its liability for receivables from future supplies of goods and services that were not yet performed when the policyholder received the declaration is excluded.
- 3.8 SERV's liability shall end upon payment of the insured debt. The same shall apply where an insured debt is assigned without approval from SERV as required under section 18.1.

4. Insured Risks

- 4.1 Political risk
- 4.1.1. The insurance shall cover the risk that payment of an insured debt will be rendered impossible on the due date as a direct consequence of political causes.
- 4.1.2. The insurance shall also cover the loss of enforceable claims for payment in respect of goods and services that have already been supplied, where political causes prevent the policyholder from performing the contract in full. The same applies where despatched goods are lost, confiscated or damaged for political reasons before the risk has passed to the buyer, and there was no possibility of insuring these perils with private insurance companies on acceptable market terms before the risk commenced.
- 4.1.3. Political causes means unforeseeable exceptional measures of by 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 debt becomes due as a result of restrictions on international payment transactions

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- 4.2.2. A payment moratorium shall give rise to the insured non-payment of a debt where 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 of the payment of an insured debt being rendered impossible, when due, as a direct result of force majeure.
- 4.3.2. The insurance shall also cover the loss of enforceable claims for payment in respect of goods and services that have already been supplied, where force majeure prevents the policyholder from performing the contract in full. The same applies where despatched goods are lost or damaged as a direct result of force majeure before the risk has passed to the buyer.
- 4.3.3. Force majeure shall include events such as whirlwinds, flooding, earthquakes, volcanic eruptions, flood tides and nuclear accidents outside Switzerland. 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 debt not being paid when due, as a result of the foreign debtor's unwillingness or inability to pay.
- 4.4.2. Where, contrary to the terms of the contract, documents triggering payment are not issued or not taken up, this shall be deemed to be non-payment of the insured debt.
- 4.4.3. Where debts are to be paid from a linked buyer credit and, contrary to the terms of the contract, the foreign buyer or borrower prevents the credit from being disbursed, this shall be deemed to be non-payment of the insured debt.

5. Occurrence of Insured Event

- 5.1 Claims for indemnification shall be paid upon expiry of a waiting period of 3 months from the occurrence of an insured risk.
- 5.2 If the joint liability of third parties (collateral security) is documented in the insurance policy, claims for indemnification shall only be paid where an insured risk in accordance with section 4 has occurred also in relation to the security, and the three-month waiting period has expired.

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.

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- 6.2 The policyholder shall prove, at its own expense, the existence, due date and legal enforceability of the insured debt and of the collateral security 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 incurred.
- 6.3 If the claim for indemnification, or any security provided with respect to it, is disputed by the foreign debtor, SERV may demand that evidence of the debt be furnished in the form of a ruling from a court of the competent jurisdiction.
- 6.4 No indemnity shall be paid until the existence, due date and legal enforceability of a claim that is to be indemnified have been proven beyond reasonable doubt.

7. SERV's Option Right

- 7.1 If the entire balance of the insured debt becomes due immediately because of contractual or legal provisions, SERV shall still be entitled to indemnify in accordance with the payment terms and due dates originally agreed and documented in the insurance policy.
- 7.2 SERV may also pay claims for indemnification at any time before those due dates, including any breakage costs that are also insured.

8. Calculation of Indemnity

- 8.1 SERV shall determine the amount of the indemnifiable claims, taking into account any payments made by the foreign debtor or guarantor eligible for set-off.
- 8.2 If the policyholder has several outstanding claims from its business relationship with the foreign debtor, payments shall be set off as follows:
- 8.2.1. Non-earmarked payments of the debtor shall be set off against insured and uninsured debts in the order that they fall due.
- 8.2.2. If insured and uninsured debts fall due at the same time, these shall be set off on a pro rata basis.
- 8.2.3. If payments from the debtor are earmarked for uninsured debts that are due later than insured debts, the payment shall be applied in full to insured debts with an earlier due date. The policyholder may rebut the presumption that it exerted influence on the debtor's repayment instructions.
- 8.2.4. In all other cases the debtor's repayment instructions remain decisive.
- 8.3 Payments by a guarantor, surety or third party, as well as any pecuniary gains accruing to the policyholder in connection with the occurrence of an insured event, shall be set off in accordance with section 8.2.
- 8.4 The insured debt remaining after such payments have been set off shall be multiplied by the insured percentage specified in the insurance policy.

9. Conversion of Foreign Currency Receivables

- 9.1 Foreign currency receivables that are to be indemnified shall be converted at the Swiss National Bank's reference rate on the date of the occurrence of the insured event (indemnity conversion rate).
- 9.2 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.
- 9.3 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.
- 9.4 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.

10. Payment of Indemnity

- 10.1 SERV shall make payment of any indemnity within thirty days of its written acknowledgement of the insured event.
- 10.2 Any costs incurred in making payment to an account located outside Switzerland shall be borne by the policyholder.

11. Transfer of Indemnified Receivables

- 11.1 Upon payment of the indemnity, the insured debts, ancillary claims and collateral security in the amount of the indemnity paid shall pass to SERV.
- 11.2 The policyholder shall carry out any legal acts necessary for the subrogation of claims or transfer of security if so requested by SERV.
- 11.3 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.

12. Legal Action and Costs

- 12.1 Notwithstanding any transfer of rights pursuant to section 11, the policyholder shall remain responsible for taking any measures to recover assets and mitigate losses.
- 12.2 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.
- 12.3 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.

13. Debt Rescheduling and Restructuring

- 13.1 SERV shall be entitled to enter into debt rescheduling agreements with the debtor country in respect of insured debts, including the policyholder's uninsured percentage. In so doing, it may also include uninsured ancillary claims and uninsured portions of only partially insured debts. The policyholder, its legal successors or reinsurers shall accept such agreements as also being valid in relation to themselves, even without their consent.
- 13.2 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 shares of the debt included therein. 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 debts or shares of debt included.
- 13.3 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 incurred by the policyholder as a result of early repayments accepted by SERV shall not be reimbursable.
- 13.4 The above principles shall apply likewise to restructuring agreements with private debtors.
- 13.5 SERV may, upon request, also include uninsured debts in a debt restructuring agreement. It may also make this dependent upon the payment of additional premiums.
- 13.6 SERV shall forward any incoming payments under a debt rescheduling or restructuring agreement to the policyholder on a pro rata basis in proportion to the insured percentage.
- 13.7 Recoveries in foreign currencies shall be converted at the Swiss National Bank's reference rate on the date payment is received by SERV.

14. Policyholder Obligations

- 14.1 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 in such circumstances.
- 14.2 The policyholder shall be obliged to comply with any legal provisions in Switzerland or abroad when entering into or performing the export contract.
- 14.3 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.
- 14.4 In case of loan transactions, the policyholder shall send the repayment schedule to SERV on its own initiative once the starting point has been determined.
- 14.5 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 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.

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- 14.6 The policyholder shall not perform deliveries and services without the written approval of SERV if any circumstances that increase risk have arisen since the policy was accepted.
- 14.7 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.
- 14.8 In the event of a loss, the policyholder must advise SERV in writing of any defences or objections that the foreign debtor or guarantor raises against the defaulted debt.
- 14.9 SERV shall be informed at any time and on request as to the particulars and execution status of any export transaction, as well as about any other circumstances that could be material to the supplier credit insurance.
- 14.10 The policyholder shall grant SERV or any authorised representative access to the books, records and other documents that could be material to the supplier credit insurance.
- 14.11 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.
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15. Exclusion of Indemnification

- 15.1 In the event of any breach of the obligations imposed upon the policyholder under the policy, including the integral GT&C S, 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.
- 15.2 Indemnification shall not be excluded if the policyholder establishes that the breach of obligations was not its fault.
- 15.3 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.
- 15.4 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.
- 15.5 Any further claims by SERV based on the policyholder's breach of its obligations shall remain unaffected.

16. Recovery and Repayment of Indemnity

- 16.1 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.
- 16.2 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.
- 16.3 In the case of recoveries pursuant to section 16.1, interest must be paid on any claim for repayment from the date the payment was received. In the case of repayments pursuant to section 16.2, 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.

17. Premiums

- 17.1 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.

18. Assignment of the Insured Receivables

- 18.1 The insured receivable may only be assigned jointly with the claim under the insurance policy. Assignment shall require the written consent of SERV. SERV may make its consent dependent on the fulfilment of specific obligations.
- 18.2 Any assignment of rights shall have no effect on the legal relations between SERV and the policyholder.

19. Cancellation of Insurance Policy

- 19.1 SERV may cancel the insurance policy if
- 19.1.1. The policyholder provides material grounds that render a continuation of the policy unreasonable for SERV, or
- 19.1.2. 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.
- 19.1.3. The policyholder may cancel the insurance policy at any time without notice.

20. Concluding Provisions

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