

General Terms and Conditions for Contract Bond Insurance GT&C CB

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 Contract Bond Insurance (GT&C CB) 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 CB 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. These GT&C CB, 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 the sum guaranteed as specified in a contract bond up to the maximum amount set out in the insurance policy for each individual contract bond. The maximum cumulative amount for all insured contract bonds is limited to the value of the contract.
 - 1.2 If a contract bond includes a duty to pay interest over and above the guaranteed sum, then interest within the scope of the documented maximum amount for this contract bond will only be included in the insurance if this is expressly noted in the insurance policy.
 - 1.3 The insurance covers guaranteed sums both under direct contract bonds that are directly issued in favour of foreign buyers in the form of bid, advance payment or contract performance bonds, and under indirect contract bonds that are issued in favour of a guarantor acting as intermediary.
 - 1.4 The insurance does not cover any expenses incurred by the policyholder in connection with a contract bond, in particular any commission and fees charged by the guarantor.
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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 any indemnifications made under the policy shall be paid 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 delivery of the bond document to the beneficiary.
- 3.2 Liability shall terminate with the surrender of the bond document, lapse of the contract bond, or if the policyholder is released from its counter-guarantee by the institution issuing the bond. In the case of an unlawful claim under the contract bond, insurance cover shall terminate once the claim for repayment has been satisfied.
- 3.3 In the event that any circumstances arise that increase risk, SERV may at any time declare that it shall not assume any liability for contract bonds not yet provided to beneficiaries by the time such declaration is received.

3.4 The insurance shall be extinguished at the end of the liability period for all guaranteed sums insured. The same shall apply if any rights to indemnification under the policy are assigned without the required consent of SERV pursuant to section 16.1.

4. Insured Risks

4.1 Political risk

4.1.1. The insurance shall cover the risk of a beneficiary calling on the contract bond as a result of political events abroad. The same shall apply where a legitimate claim is made under the contract bond because the policyholder is unable to meet its contractual obligations 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 prohibitions).

4.2 Transfer risk and payment moratorium

4.2.1. The insurance shall cover the risk of the beneficiary calling on the contract bond because the policyholder is unable to perform its obligations under the contract due to difficulties with cross-border payment transactions.

4.2.2. A payment moratorium shall render performance under a contract 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 of the beneficiary calling on the contract bond because performance under the contract is rendered impossible due to force majeure or is 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 of a beneficiary unlawfully calling on the contract bond (unfair calling).

4.4.2. Liability on the part of SERV in such case shall be subject to the policyholder having a due and legally enforceable claim for repayment against a foreign debtor.

5. Occurrence of Insured Event

- 5.1 An insured event shall occur if the contract bond is called on as a result of an insured risk, payment of the insured guaranteed sum is made to the beneficiary, and no repayment was made within a waiting period of 3 months from the time the guaranteed sum was paid out.

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 bear all costs of establishing the loss of the guaranteed sum insured as well as the causal connection between the insured risk and the loss incurred.
- 6.3 If, in the event of an unfair call on the contract bond pursuant to section 4.4.1, the existence of a claim for repayment is not recognised by a foreign debtor, SERV may require the policyholder to provide proof of the existence, maturity and legal enforceability of the claim for repayment, in the form of a judgement from a court of competent jurisdiction.

7. Calculation of Indemnity

- 7.1 SERV shall determine the amount of the indemnifiable guaranteed sums, 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 an insured event, shall be set off against the loss.
- 7.3 The remaining guaranteed sum insured shall be multiplied by the cover ratio specified in the insurance policy.

8. Conversion of Foreign Currency Amounts

- 8.1 If the guaranteed sum to be indemnified is in foreign currency, it shall be converted at the reference rate of the Swiss National Bank on the date of the occurrence of the insured event (indemnity conversion rate).
- 8.2 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.
- 8.3 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.
- 8.4 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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9. Payment of Indemnity

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

- 10.1 Once the indemnity has been paid, any claims against a foreign debtor shall be subrogated and any security provided shall be transferred to SERV to the extent of the indemnity paid.
- 10.2 The policyholder shall carry out any legal acts necessary for the subrogation of claims or transfer of security if so requested by SERV.
- 10.3 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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11. Legal Action and Costs

- 11.1 Notwithstanding any transfer or subrogation of rights, the policyholder shall remain responsible for taking any measures to recover or sell assets, and mitigate losses.
- 11.2 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.
- 11.3 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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12. Policyholder Obligations

- 12.1 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.
- 12.2 The policyholder shall be obliged to comply with any legal provisions in Switzerland or abroad when entering into or performing the export contract.
- 12.3 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.
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- 12.4 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.
- 12.5 The policyholder shall not issue any contract bonds without the written approval of SERV if any circumstances that increase risk have arisen since the policy was accepted.
- 12.6 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. This includes, in the event of an identifiable fraudulent claim that the policyholder shall immediately take legal action to prevent the guaranteed sum from being paid to the beneficiary. The policyholder shall immediately follow any instructions issued by SERV in this regard.
- 12.7 In the case of an insured event, the policyholder shall notify SERV in writing of any defences or objections raised by the foreign debtor in connection with the call on the contract bond, or which are raised against a claim for repayment in the event of a fraudulent call on such.
- 12.8 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 bond insurance.
- 12.9 The policyholder shall grant SERV or any authorised representative access to the books, records and other documents that could be material to the contract bond insurance.
- 12.10 The policyholder shall treat as confidential any information that it may gain in connection with SERV's decision as to the creditworthiness of the foreign debtor or guarantor.

13. Exclusion of Indemnification

- 13.1 In the event of any breach of the obligations imposed upon the policyholder under the policy, including the integral GT&C CB, 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.
- 13.2 Indemnification shall not be excluded if the policyholder establishes that the breach of obligations was not its fault.
- 13.3 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 .
- 13.4 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 export contract was entered into or performed.

13.5 Any further claims by SERV based on the policyholder's breach of its obligations shall remain unaffected.

14. Recovery and Repayment of Indemnity

14.1 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.

14.2 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.

14.3 In the case of recoveries pursuant to section 14.1, interest must be paid on any claim for repayment from the date the payment was received. In the case of repayments pursuant to section 14.2, 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.

15. Premiums

15.1 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.

16. Assignment of Rights under Insurance

16.1 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.

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

17. Cancellation of Insurance Policy

17.1 SERV may cancel the insurance policy if

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

17.1.2. 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.

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

18. Concluding Provisions

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