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## **GENERAL INSURANCE CONDITIONS D**

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### **For Insurance of an Export Buyer Credit Against the Risk of Non Payment**

These General Insurance Conditions are effective from 1 April 2021.

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## Article I. – Basic Provisions

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### 1.1 Insurance

- 1.1.1 The Insurer provides the Insurance in accordance with Act No. 58/1995 Coll. and the Civil Code as insurance against export credit risks. There is no legal entitlement to insurance. The Insurer is not obliged to sign an Insurance Contract with an applicant for Insurance. The conclusion of an Insurance Contract in every specific case is subject to the Insurer's sole discretion.
- 1.1.2 These General Insurance Conditions regulate the conditions of the Insurance for Export Financing Cases, in which the Public Borrower or the Bank acts as the Borrower and/or Another Bound Person, and as well as for other Export Financing Cases. Insurance according to these General Insurance Conditions is concluded as insurance against loss and damage.

### 1.2 Application of the General Insurance Conditions

- 1.2.1 The provisions of these General Insurance Conditions apply to Export Financing Cases in which the Borrower or the Bank acts as the Public Borrower and/or Another Bound Person, with the exception of Article 17. The provisions of these General Insurance Conditions, including Article 17, apply to other Export Financing Cases. Paragraph 3.3.1 (a) does not apply to Export Financing Cases in which the Borrower acts as the Public Borrower.
- 1.2.2 The provisions of Sections 2791, 2792, 2794, and 2805 of the Civil Code shall not apply to Insurance according to these General Insurance Conditions.
- 1.2.3 These General Insurance Conditions form an inseparable part of the Insurance Contract.

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## Article II. – Definition of Terms

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### 2.1 Definitions

For the purpose of these General Insurance Conditions and the Insurance Contract, the following terms shall have the following meaning:

**“Bank”** A bank or a branch of a bank, regardless of its registered office or place of registration, subject to the authorization procedure of the home country and the supervision of the home authorities;

**“Waiting Period”** The period set out in paragraph 11.3.1 (b);

**“Another Bound Person”** A person specified in the Insurance Contract who is bound to pay (all or some) of the obligations from the Credit Contract or Credit Documentation on behalf of the Borrower if he does not perform in a due and timely manner, or a person specified in the Insurance Contract who provides any guarantee for any obligation of the Borrower or Another Bound Person in relation to the Export Financing Case;

**“Borrower”** A person who has concluded, as the debtor (the borrower), a Credit Contract with the Insured (as the lender) and who has the obligation to pay a debt (Credit) pursuant to the Credit Contract;

**“Credit Documentation”** Contracts, declarations, and other deeds or documents concluded or issued by the Insured, the Borrower, the Importer, Another Bound Person, or third parties, related to the Credit or Credit Contract, including, but not limited to, establishing or regulating the existence of the Insured party's receivables from the Credit Contract or securing the Insured Receivable; For the avoidance of doubt: documentation designated as Credit Documentation in the Insurance Contract shall always be deemed to constitute Credit Documentation;

**“Importer”** A foreign entity that performs import from the Czech Republic pursuant to the Export Contract;

**“OECD Consensus”** The Organization for Economic Cooperation and Development (OECD) document “Arrangement on Officially Supported Export Credits”, as amended;

**“Check”** Evaluation of the documentation presented and verification of compliance with obligations on the basis of the documentation presented;

**“Short-term Insurance Risk”** Insurance risk of receivables due in less than two years;

**“Local Costs”** Costs in the Importer's Country as defined by the OECD Consensus, and within the scope set by it;

**„Monitoring”**

- (i) Continuous monitoring of the development of the Borrower and Another Bound Persons on the basis of current financial and non-financial information;
- (ii) Evaluation of internal and external influences during the credit relationship established by the Credit Contract of which the Insured finds out and which could result in a threat to the repayment of the Credit;

for the purpose of timely identification of problems that increase or could potentially increase the Insured party's creditor risk or the Borrowers credit risk;

**“Indirect Buyer Credit”** A credit relationship based on a Credit Contract where the Borrower and the Importer are different persons;

**“Civil Code”** Act No. 89/2012 Coll., Civil Code, as amended;

**“Beneficiary”** A person for whom the right to indemnification payment has arisen due to an insurance loss;

**“Notification of a Threat of an Insurance Loss”** Currently applicable form designated as “Notification of a Threat of an Insurance Loss” provided on the Insurer's website – [www.egap.cz](http://www.egap.cz);

**“Insurer”** Exportní garanční a pojišťovací společnost, a.s., a corporation having its registered seat on Vodičkova 34/701, post code 111 21, Prague 1, Company Identification No.: 45279314, registered in the Commercial Register maintained by the City Court in Prague, Section B, insert 1619;

**“Insurance Contract”** A contract concluded between the Insurer and Policyholder on the basis of which Insurance is arranged;

**“Policyholder”** The Insurer’s contractual partner that is designated as the Policyholder in the Insurance Contract;

**“Insurance”** Insurance of receivables from the Credit Contract against the risk of non-payment due to political or combined political and non-marketable commercial risks or the risk of non-payment due to non-marketable commercial risks;

**“Insured”** Bank, a branch of a foreign bank or financial institution, regardless of the place of its registered seat or registration, which (as the lender) concluded a Credit Contract with the Borrower for the purpose of Export financing;

**“Insured”** Receivables Receivables that constitute the subject of Insurance pursuant to the Insurance Contract;

**“Export Impact Assessment”** The assessment specified in detail in paragraph 4.4.1;

**“Post”** Postal or courier service operator;

**“Legal Opinion”** The legal opinion:

- a) Of a law-firm chosen with the Insurer’s consent or
- b) Of another person approved by the Insurer (e.g., the Policyholder’s legal department, the legal department of the Borrower or Another Bound Person, if they are the Bank, or relevant state administration authority if they are a Public Borrower).

The Insurance Contract can set requirements as to the contents of the Legal Opinion;

**“Export Financing Case”** The export financing case to which the Insurance relates and which includes relations among the entities involved, regulated pursuant to the Credit Contract, Credit Documentation, Export Contract, Insurance Contract, and contract between the Insured and the Exporter;

**“Re-financing Costs”** Costs of the Insured related to the re-financing of the Insured Receivable during the Waiting Period, the conditions of which are set out by the Insurance Contract;

**“Situation Report”** A report containing primarily information about a check of the state of Credit security and the Borrower’s creditworthiness, information about communication with the Borrower and the Insured party’s proposals as to the resolution of the situation at hand;

**“Credit Contract”** A contract concluded between the Insured (as the lender) and the Borrower (as the borrower) for the purpose of providing money to the Borrower to finance Exports or for another purpose set out in paragraph 5.2.1 a);

**“Export Contract”** Is a contract on the export of goods or services concluded between the Exporter and the Importer;

**“Self-insured Retention”** A portion of the Beneficiary on losses, which are covered by the Insurance Contract expressed in percentage points;

**“Starting Point of Credit”** Starting Point of Credit as defined in the OECD Consensus;

**“Credit”** Credit, or, more precisely, financial funds paid out pursuant to the Credit Contract, which constitute the subject of Insurance;

**“Public Borrower”** A person authorized to carry out state power or public administration which cannot be legally declared as incapable of fulfilling its obligations, other persons are considered to be private Borrowers;

**“General Insurance Conditions”** These General Insurance Conditions “D” for insurance of an export buyer credit against the risk of non payment, ;

**“Enforceability”** The validity, legal applicability and enforceability of the performance obligation to the person obliged to perform that obligation within the meaning and in line with the purpose of the Credit Contract and Credit Documentation, as confirmed by the Legal Opinion referred to in paragraph 4.2.6; Enforceability is not the factual recoverability of an obligation at the time of default or the lodging of a claim with respect to the obligation;

**“Exporter”** The person who performs Export, either a natural person having his permanent residence in the Czech Republic or a legal entity having its registered seat in the Czech Republic, who/which is an entrepreneur pursuant to the Civil Code, or a Foreign Company;

**“Export”** Delivery of goods or provision of services or delivery of goods and provision of services to the Importer pursuant to the Export Contract for the purpose of their use outside of the Czech Republic;

**“Foreign Entity”** A natural person who does not have his permanent residence in the Czech Republic or a legal entity that does not have its registered seat in the Czech Republic;

**“Foreign Company”** A legal entity with its registered seat abroad which is controlled by a legal entity that has its registered seat in the Czech Republic and that is an entrepreneur pursuant to the Civil Code, by means of holding, directly or indirectly, more than a 50% interest in the registered capital of the company, by controlling the simple majority of voting rights related to a share in the registered capital of the company or by being able to appoint the majority of the members of the Board of Directors, Supervisory Board, or another similar managing body of the Company;

**“Act No. 58/1995 Coll.”** Act No. 58/1995 Coll., on Insuring and Financing of Export with State Support and on Amending Act No. 166/1993 Coll., on the Supreme Audit Office, as amended as amended;

**“Insurance Act”** Act No. 277/2009 Coll., on the Insurance Business, as amended;

**“Country of Another Bound Person”** Country of the registered seat of Another Bound Person;



**“Borrower’s Country”** Country of the registered seat of the Borrower;

**“Importer’s Country”** Country of the registered seat of the Importer;

**“Insurer’s Country”** The Czech Republic;

**“Policyholder’s Country”** Country of the registered seat of the Policyholder;

**“Country of the Insured”** Country of the registered seat of the Insured;

**“Request for Insurance of Export Buyer Credit against the Risk of Non-payment”** The currently applicable model “Request for Insurance of Export Buyer Credit against the Risk of Non-payment”, including its appendices, provided on the Insurer’s website – [www.egap.cz](http://www.egap.cz).

Any terms not defined in this article or elsewhere in the General Insurance Conditions shall have the meaning attributed to them by Act No. 58/1995 Coll., or, if they are not defined by that Act, by the Civil Code and other generally binding legal regulations..

## 2.2 Interpretation

- 2.2.1 Unless otherwise indicated in the text, references to articles, parts, paragraphs, subparagraphs and points shall be references to the provisions of the General Insurance Conditions.
- 2.2.2 If there are several entities on the part of the Policyholder or the Insured, e.g., in the case of club or syndicated financing, those entities are bound to fulfil the obligations imposed on the Policyholder or the Insured by the Insurance Contract or the General Insurance Conditions jointly and severally, unless the Insurance Contract stipulates otherwise. In the case of club or syndicated financing, the roles of the creditor and the agent pursuant to the applicable Credit Contract are set out in the Insurance Contract.
- 2.2.3 Unless otherwise stated below or in the Insurance Contract, it shall be assumed that every time the General Insurance Conditions use the term Policyholder or Insured, they mean each individual entity compliant with the definition of the terms.
- 2.2.4 Unless otherwise stated below, the term Insured Receivable or Insured Receivables as specified above shall be understood to include all Insured Receivables, any one of them, and any part thereof.
- 2.2.5 Should the Insurer grant an instruction to the Insured, in particular pursuant to paragraph 10.5.1 (b) and paragraph 13.1.1 (d) of these General Insurance Conditions, the Insurer shall be responsible for the consequences of the decision from that time on.
- 2.2.6 In the event that the provisions of the Insurance Contract deviate from the provisions of the General Insurance Conditions, the provisions of the Insurance Contract shall apply.

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## **Article III. – Subject of Insurance**

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### 3.1 Receivables from the Credit Contract, Re-financing Costs

- 3.1.1 The subject of insurance are receivables of the Insured from the Borrower from the Credit Contract, in particular receivables from the payment of the Credit principal, interest on the principal of the Credit for each interest period, fees for resource reservation and fees following from the Credit Contract specified in the Insurance Contract. If, according to the Credit Contract, the Borrower is obliged to pay the financial funds provided back in the form of instalments, each instalment shall be considered to constitute a separate Insured Receivable for the purpose of Insurance.
- 3.1.2 Pursuant to the conditions and to the extent set out in the Insurance Contract, the subject of insurance also includes Re-financing Costs and receivables from the payment of financial funds that have been or will be used for paying insurance premiums pursuant to the Insurance Contract, or a portion of premiums.
- 3.1.3 The insured receivables shall not include the right to lost profit of the Insured or receivables from the payment of default interest, a contractual penalty, claims to damages and costs (unless they are fees specified in paragraph 3.1.1 above) and other receivables and claims of the Insured arising from the Credit Contract, that are of the nature of sanctions.

### 3.2 Insurance Risks

- 3.2.1 An insurance risk is the risk of loss due to partial or complete non-payment of an Insured Receivable as of its due date and during the Waiting Period, if set, due to one or several of the causes stated in parts 3.3 or 3.4 of this Article.
- 3.2.2 An Insurance Contract can also be concluded solely for political risk insurance pursuant to part 3.4 of this article.

### 3.3 Commercial Risk

- 3.3.1 The causes representing commercial risks shall be understood as:
- a) Insolvency of the Borrower, in particular decision on insolvency or denial of an insolvency petition due to the lack of the Borrower's assets, or other circumstances to which the laws of the Borrower's Country grant the same or similar legal effects as to insolvency (financial insolvency); or
  - b) The Borrower's refusal to pay the Insured Receivable made without a legal reason (protracted default).

### 3.4 Political Risk

- 3.4.1 The causes representing political risks shall be understood as any of the following circumstances:
- a) General moratorium on payments declared by the government of the Borrower's Country or the country of Another Bound Person or an institution of any country through which the payment is made;

- b) Political events or economic difficulties occurring in a country other than the Insurer's Country or legislative or administrative measures adopted in a country other than the Insurer's Country that prevent or delay the transfer of funds paid as a settlement of the Insured Receivables;
- c) Legal regulations adopted in the Borrower's Country or in the country of Another Bound Person, declaring payments in a local currency to constitute due fulfilment of the obligation to pay the Insured Receivables, regardless of the fact that due to currency rate fluctuation, the payments, once converted to the currency in which the Insured Receivables are to be paid, do not suffice to cover the entire due Insured Receivable as at the date of the transfer of the funds;
- d) Any other measures or decisions of the government or public authority of a country other than the Insurer's Country or of an international organization that make it impossible to pay the Insured Receivables back in line with the set conditions;
- e) Any measures or decisions of a government or a public authority of the Insurer's Country or the Policyholder's Country, or the Country of the Insured, including measures and decisions of European Union institutions, if the Policyholder's Country or the Country of the Insured is an European Union member state, which concern trade and/or payments between a Member State and third countries, unless its effects are otherwise covered by the relevant government;
- f) Cases of force majeure occurring in a country other than the Insurer's Country, i.e., a war (including civil war), expropriation, revolution, unrest, civil unrest (rebellion), cyclone, flood, earthquake, volcanic eruption, flood wave, or nuclear catastrophe; and
- g) Non-payment of the Insured Receivable or default on the payment of a Insured Receivable by a Public Borrower.

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## **Article IV. – Conditions of Insurance**

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### 4.1 Request for Insurance

- 4.1.1 The applicant for Insurance shall present a request for Insurance to the Insurer pursuant to Act No. 58/1995 Coll.
- 4.1.2 A request for insurance pursuant to the previous paragraph, 4.1.1, shall be made exclusively by means of a Request for Insurance of Export Buyer Credit against the Risk of Non-payment.

### 4.2 Commencement of Insurance

- 4.2.1 The Insurance shall commence upon the payment of the insurance premiums defined in the Insurance Contract, but no earlier than on the day of effectiveness of the Insurance Contract.
- 4.2.2. The Insured shall ensure that the following conditions are met no later than at the time of the commencement of Insurance:

- a) The conclusion of a valid Credit Contract corresponding to the conditions set out in the Insurance Contract and/or demanded in writing by the Insurer; and
  - b) The conclusion of an Export Contract.
- 4.2.3. The Insured shall ensure that the following conditions are met prior to the date of first Credit draw-down pursuant to the Credit Contract:
- a) The conclusion of a valid and Enforceable Credit Documentation containing or corresponding, among other things, to all essentials stated in the Insurance Contract or required by the Insurer pursuant to the Insurance Contract;
  - b) The presentation of a confirmation or declaration issued by the Borrower and Exporter no earlier than as at the date of the conclusion of the Credit Contract, as to the fact that they are not insolvent and that to their best knowledge, they are not threatened by insolvency;
  - c) An Enforceable Credit Contract has taken effect; and
  - d) The drawing up of a Legal Position pursuant to paragraph 4.2.6 and its presentation to the Insurer.
- 4.2.4. The Insurer and the Policyholder may agree in the Insurance Contract to modify the conditions stated in paragraphs 4.2.2 and 4.2.3, such that some may be ruled out in part or in their entirety, and additional conditions may be stipulated.
- 4.2.5. The Insured shall inform the Insurer in writing without undue delay of the fulfilment of each of the conditions stipulated in paragraphs 4.2.2 and 4.2.3.
- 4.2.6. The Insured shall have a Legal Opinion drawn up, which shall verify:
- a) The validity of the Credit Contract;
  - b) The enforceability of the Borrower's obligations from the Credit Contract according to the situation as at the date of the Legal Opinion;
  - c) The validity of Credit Documentation; and
  - d) The enforceability of the Borrower's obligations and the obligations of Other Bound Persons from Credit Documentation, according to the situation as at the date of the Legal Opinion.
- 4.3 Combating corruption in international trade
- 4.3.1 In providing Insurance, the Insurer shall assess compliance with the conditions for combating corruption in international trade with respect to a specific Export in line with the obligations of the Czech Republic.
- 4.3.2. If the Importer, Exporter, or a person acting on behalf or for the Importer or the Exporter in arranging the Export Contract, has breached the provisions of international law norms and customs by which the Czech Republic is bound (e.g., Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Communication of the Ministry of Foreign Affairs No. 25/2000, Collection of International Agreements)), or the

provisions of Section 331 to 334 of Act No. 40/2009 Coll., the Criminal Code, as amended, or the provisions of Act No. 69/2006 Coll., on the Execution of International Sanctions, as amended, the Insurer may refuse to insure the risk of the non-payment of the Credit under the Credit Contract pursuant to these General Insurance Conditions.

#### 4.4 Environmental impact of the Export and impact of Export on the social area

- 4.4.1 In the case of an Export with a potential environmental impact or a potential impact on the social area, the Insurer reserves the right to request that an Assessment of the impact of the Export and the related part of the project on the environment and on the social area (Export Impact Assessment) be presented. The contents, essentials, and conditions for the drawing up of an Export Impact Assessment have been set by the Insurer in line with international rules and stated on the Insurer's website – [www.egap.cz](http://www.egap.cz)
- 4.4.2 The Insurer shall not conclude the Insurance Contract until the Policyholder has presented to it an Export Impact Assessment, provided it had requested its presentation in line with the previous paragraph. Should the Export Impact Assessment show an adverse impact of the export project or a part thereof on the environment or an adverse impact on the social area, including human rights, the Insurer may refuse to enter into an Insurance Contract, even if an Insurance Promise Contract had been concluded.
- 4.4.3 The Insurer may request for the Policyholder to present monitoring reports concerning adherence to the Export Impact Assessment conditions, conclusions, and recommendations. Details shall be regulated by the Insurance Contract.
- 4.4.4 The Insured shall ensure that the Exporter is contractually bound to:
- a) Duly, completely, and truthfully complete the questionnaire concerning the impact of the Export on the environment and the social area in line with the instructions and in the extent and form stated by the Insurer, as provided on the Insurer's website – [www.egap.cz](http://www.egap.cz),
  - b) Adhere to the limits and recommendations set in the Export Impact Assessment during the implementation of the export project;
  - c) In the event of major changes in the environmental impact of the Export and its impact on the social area, to again duly, completely, and truthfully complete the Questionnaire concerning the impact of the Export and in the event of a change of essential information stated in the Questionnaire concerning the impact of the Export, to proceed in line with paragraphs 4.4.1 and 4.4.2;
  - d) Reflect major changes pursuant to the (new/modified) Export Impact Assessment in the Export Contract;
  - e) If the Export and the related parts of the project are classified in category A in line with the process set by the Insurer and set out on the Insurer's website – [www.egap.cz](http://www.egap.cz) – to publish the assessment or its summary such that the said document be available to the public at least 30 days prior to the commencement of Insurance;
  - f) Grant its consent with the publication of basic information about the Export and projects classified in category A and category B.

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## **Article V. – Credit Contract**

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### 5.1 Conclusion of a Credit Contract

5.1.1 A Credit Contract must not be in violation of the General Insurance Conditions, the Insurance Contract, or of the international rules embodied in the OECD Consensus. The Credit Contract must not be in violation of the Export structure pursuant to the Export Contract.

### 5.2 Contents of the Credit Contract

5.2.1 In the Credit Contract or in the Credit Documentation, the Insured shall always arrange the following with the Borrower:

- a) As the sole purpose of the draw-down of the Credit only the financing of the Export up to its value, if the Export Financing Case with other than Short-term insurance risk occurs the financing of no more than 85% of the value of the Export and, if the Insurance Contract so stipulates, also the financing of Local Costs, insurance premiums and capitalized interest until the first Credit repayment to the extent set by the Insurance Contract;
- b) Security on the Insured Receivables pursuant to paragraph 5.3.2 (e);
- c) The right of the Insured to stop Credit draw-down without undue delay, to call the Credit due or to demand premature repayment of the Credit by the Borrower in cases when this is customary in relation to export buyer credit;
- d) The Borrower's undertaking to perform obligations from the Credit Contract regardless the state of performance of obligations from the Export Contract; and
- e) in the event that it is not an Export Financing Case with Short-Term Insurance Risk, the obligation of the Borrower to pay or ensure the payment of at least 15% of the value of the Export no later than by the date designated as the Starting Point of Credit.

5.2.2 The Credit Contract and Credit Documentation must be concluded such that they, in line with the governing law, do not restrict any rights, claims, and steps that must be taken by the Insured and the Insurer and do not make their exercise more onerous or prevent or delay the re-payment of the Insured Receivables or be otherwise disadvantageous for the Insured. In the case of club or syndicated financing, the rights, claims and requisite steps of the Insured may be limited by the need to obtain consent of other members of club or syndicated financing.

5.2.3 The Credit Contract and Credit Documentation must comply with at least the minimum standards and conditions set by the Insurance Contract and these General Insurance Conditions (in particular in paragraph 5.2.1).

### 5.3 Obligations of the Insured in relation to the Credit Contract and Credit Documentation

5.3.1 The Insured shall agree the Credit Contract and Credit Documentation in line with the essential set out in paragraphs 5.2.2 and 5.2.3.

5.3.2 Furthermore, the Insured shall:

- a) Proceed, in arranging the Credit Contract and Credit Documentation and throughout the term of the credit relationship established by the Credit Contract, including the enforcement of any claims established by the Credit Contract, with professional care and due caution, taking into account the nature of the Credit, Borrower, Importer, and Exporter and international trade usage;
- b) Choose or verify a purposeful set-up of contractual relations between the Insured, the Borrower, the Importer, the Exporter, and Other Bound Persons, including the structure of the Export Financing Case, and to effectively and thoroughly monitor the implementation of that set-up of contractual relations and structure of the Export Financing Case such that the Insured Receivables are paid to the maximum extent possible;
- c) Ensure that the Credit Contract and Credit Documentation contain a precise and legally binding identification of the contractual entities, to agree on a clause on the choice of governing law that allows the Insured to effectively claim its rights, and to regulate conflict resolution;
- d) Ensure one's rights arising from the Credit Contract in the event that the Borrower does not fulfil its obligations in a due and timely fashion, i.e., in particular, exercising professional care and due caution;
- e) Contractually ensure the establishment of a valid, effective and Enforceable security on the Insured Receivables, always at least to the extent set out in the Insurance Contract; and
- f) Unless the Insurance Contract stipulates otherwise, to ensure that the Insured Receivables, are freely transferrable (assignable) to the Insurer, and in establishing warranties and guaranties, proceed such that the warranties and guaranties not be prejudiced by any subsequent potential transfer of rights from them to the Insurer.

5.3.3 The Insured shall adhere to the conditions of the Credit Contract, Credit Documentation, and legal regulations applicable in the Borrower's Country or in the country through which any payment under and in connection with the Credit Contract and Credit Documentation was (or was to be) made.

5.4 Check of the purpose for which the Credit has been drawn

5.4.1 The Insured shall Check the purpose for which the Credit has been drawn by the Borrower and in line with that, shall ensure that the Credit is not drawn in violation of the purpose agreed in accordance with paragraph 5.2.1 (a) of this Article, and, unless the Insurance Contract provides otherwise,

- (i) for the purpose of paying the purchase price advance (or any other advance payments) under the Export Contract,
- (ii) for the purpose of paying for the Borrower's tax obligations, or
- (iii) for the purpose of the payment for goods the ownership of which the Importer acquired on the basis of a legal title other than the Export Contract.

The drawdown of the Credit for refinancing of payments made by the Borrower for deliveries under the Export Contract is possible only to the extent and under the conditions set out in the Insurance Contract and provided that prior to such drawdown of the Credit the goods or services in question were delivered to the Importer and Exporter confirmed in writing that he has received the refinanced payment from the Borrower, unless the Insurance Contract provides otherwise.

- 5.4.2 The Insurance Contract may stipulate an obligation for the Insured to make contractual arrangements at its expense with an independent inspection company for a factual check of the purpose of the draw-down.

#### 5.5 Other obligations of the Insured in connection with the Credit Contract

- 5.5.1 The Insured shall contractually ensure that the Exporter or, depending on the delivery conditions, the Importer, arrange for due insurance of the subject of Export (against theft, destruction, loss, etc.), until those risks transfer pursuant to the delivery conditions agreed by and between the Exporter and Importer in the Export Contract.

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## Article VI. – Insurance Promise Contract

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### 6.1 Conclusion of an Insurance Promise Contract and its contents

- 6.1.1 An Insurance Promise Contract may be concluded by the Insurer with an applicant for Insurance, particularly in cases when an Export Contract has not yet been agreed.
- 6.1.2 In an Insurance Promise Contract, the Insurer undertakes to enter into an Insurance Contract once the agreed conditions are met and within the agreed time-period, and to ensure the reservation of the required insurance capacity.

### 6.2 Basic obligations of the Insurer in connection with the Insurance Promise Contract

- 6.2.1 The Insurer shall conclude an Insurance Contract with an applicant for Insurance once the conditions stipulated in the insurance promise contract are met. This shall not prejudice the provisions of paragraph 4.4.2 and paragraph 6.2.2.
- 6.2.2 The Insurer shall not be obliged to enter into an Insurance Contract if a fundamental change has occurred in the conditions and circumstances, that increases the risks involved in the Insurance, on the basis of which conditions and circumstances the Insurer had proceeded in concluding the insurance promise contract, in particular a significant worsening of the financial situation of the Borrower or applicant or a significant worsening of the riskiness of a country related to the implementation of the Credit Contract or Export Contract.

### 6.3 Basic obligations of an applicant for insurance in connection with the Insurance Promise Contract

- 6.3.1 An applicant for insurance shall pay the fee specified in the insurance promise contract for the provision of an insurance promise.



- 6.3.2 For the term of the insurance promise contract, the applicant for insurance shall be appropriately bound by the obligations set out in the General Insurance Conditions, similar to an Insured party.
- 6.3.3 Should the provisions of the insurance promise contract diverge from the provisions of the General Insurance Conditions, the provisions of the insurance promise contract shall apply.

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## **Article VII. – Insurance Contract**

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### 7.1 Conclusion of an Insurance Contract and its contents

- 7.1.1 The Insurer concludes the Insurance Contract with the Policyholder subject to the approval of the Insurance by the appropriate bodies of the Policyholder or subject to compliance with the conditions of the insurance promise contract, if agreed. This shall not prejudice the provisions of paragraphs 4.4.2 and 6.2.2.
- 7.1.2 The Insurance Contract shall define, among other things, the essentials prescribed by the Civil Code and the conditions for the commencement and termination of Insurance in relation to the Credit Contract, the amount of Self-insured Retention, the identification of the person of the Borrower, and other essentials.
- 7.1.3 The acceptance of an offer for an Insurance Contract with an amendment or divergence, even one that does not materially change the conditions of the offer, pursuant to Section 1740 (3) of the Civil Code, shall be ruled out.

### 7.2 Obligations of the Insured in connection with the Insurance Contract

- 7.2.1 The Insured shall provide to the Insurer any and all information required for the conclusion of the Insurance Contract, including the submission of a Request for Insurance of Export Buyer Credit against the Risk of Non-payment pursuant to paragraph 4.1.2, as well as any other cooperation required for the conclusion of the Insurance Contract.

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## **Article VIII. – Insurance Premiums**

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### 8.1 Insurance Premiums

- 8.1.1 Unless the Insurance Contract stipulates otherwise, the Policyholder shall pay the agreed insurance premiums in a lump sum, at the time specified in the Insurance Contract.
- 8.1.2 The amount of premiums shall be negotiated in accordance with the scope of the risk insured, an assessment of the character and risks involved in the relevant Export Financing Case, the duration and amount of the Credit provided (including its draw-down and repayment) and the Self-insured Retention amount. The exchange rate stated in the Insurance Contract shall be used for conversion from an- other currency for the purpose of determining the premium amount, and otherwise the exchange rate published by the Czech National Bank as at the date of the conclusion of the Insurance Contract shall be used.
- 8.1.3 The agreed premium amount includes the possible increase or decrease of the insurance risk and shall remain un- changed throughout the term of the Insurance.

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## **Article IX. – The Insured Party’s Self-insured Retention**

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### 9.1 The Insured Party’s Self-insured Retention

- 9.1.1 Self-insured Retention shall amount to 5% of the outstanding amount of the Insured Receivable as at the date of the issuance of a decision on indemnification payment, unless the Insurance Contract stipulates otherwise.
- 9.1.2 No other insurance may be agreed to cover the risks arising from the set Self-insured Retention amount and the Beneficiary shall participate in the agreed Self-insured Retention amount up to at least one half of its amount.

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## Article X.

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### 10.1 General obligations

10.1.1 The Insured undertakes to perform its obligations with due dispatch and without any other reservations, in line with the Insurance Contract and any other contractual stipulations related to the Export Financing Case and in line with generally binding legal regulations and standards applicable to insurance.

### 10.2 Obligations to inform and to provide documents

#### 10.2.1 The Insured shall:

- a) Inform the Insurer about the following important events and circumstances of the Export Financing Case:
  - i) The Credit Documentation taking effect; this shall not prejudice the provisions of paragraph 4.2.6;
  - ii) The Starting Point of Credit; and
  - iii) Compliance or failure to comply with the obligations set out in the Insurance Contract;
- b) Upon request, present to the Insurer the Credit Contract and the Export Contract, Credit Documentation and other requisite documentation, including all of its changes and amendments, which are available to the Insured; for the avoidance of doubt: the Insurer, the Policyholder, and the Insured understand that the Insurer is in no way liable for the contents of those documents;
- c) Inform the Insurer of having arranged concurrent insurance with another insurer against the same or similar risk in relation to the Export Financing Case; this shall not prejudice the provisions of paragraph 9.1.2,
- d) Inform the Insurer of a refutation or challenging of any obligation (or a part thereof) of the Borrower or any obligation (or a part thereof) of Another Bound Person, related to the Export Financing Case;
- e) Inform the Insurer about any and all circumstances known to the Insured or which come to its attention and which may result in the occurrence of an insurance loss or an increase in its scope, in particular about:
  - i) Non-compliance with the obligations set out in the Credit Contract, Export Contract, and Credit Documentation by the Borrower, Another Bound Person, or other parties to those contracts;
  - ii) A significant worsening of the financial situation of the Borrower, any Other Bound Person, and, until the successful completion of the Export, also of the Exporter;
  - iii) A change in the classification of the Insured Receivables;

iv) Any use of funds from the Credit in violation of the purpose of the Credit pursuant to paragraph 5.2.1 (a); and

v) Legal, regulatory, and political measures;

f) Inform the Insurer about any and all measures taken to avert, prevent the occurrence, or reduce the scope of the consequences of an insurance loss.

10.2.2 The obligations to inform and to provide documents pursuant to paragraph 10.2.1 shall be met by the Insured without undue delay, but no later than by the deadlines set in the Insurance Contract.

### 10.3 Obligation to check and monitor

10.3.1 Throughout the term of the Export Financing Case, the Insured shall carry out the following continuously, but no less than at the interval set in the Insurance Contract:

a) Check compliance with the obligations set out in the Credit Contract and Credit Documentation by the Borrower, Other Bound Persons, and other parties to those contracts;

b) Carry out Checks of the purpose for which the Credit has been draw within the meaning of paragraph 5.4.1 and in connection with the achievement of the purpose of Export, carry out a Check of compliance with the Export time-schedule.

10.3.2 Furthermore, in cases when it is, given the circumstances, required or purposeful according to the Insured to avert, prevent the occurrence of an insurance loss or reduce the scope of its consequences, the Insured shall carry out inspection calls on the Borrower or organize control days on the Borrower's premises, unless the Borrower makes it impossible, and shall inform the Insurer about the outcomes of those checks without undue delay; the Insurer may request to take part in such checks, at its own expense.

### 10.4 Regular assessment and analysis of the Export Financing Case

10.4.1 The Insured shall provide to the Insurer, at the interval set in the Insurance Contract, written reports assessing the Export Financing Case, containing at least:

a) description and overview of the development of the Export Financing Case in the previous time-period;

b) description and an overview of material information known to it with respect to the economic situation of the Borrower and all Other Bound Persons that could have an impact on the repayment of the Insured Receivables, and a description and overview of the fulfilment of other conditions and circumstances concerning the Export Financing Case stated in the Insurance Contract.

## 10.5 Duty to prevent

### 10.5.1 The Insured shall:

- a) Carry out all purposeful measures to avert, prevent the occurrence, or reduce the scope of the consequences of an insurance loss, including, but not limited to, doing the following:
  - i) Proceeding with professional care and due caution in administering the Export Financing Case, at least in the manner in which it proceeds in long-term financing cases;
  - ii) Choosing specific solutions of current problems in the Ex- port Financing Case in line with the interests of the Insured and the Insurer, including an interruption (suspension) or stopping of Credit draw-down such that the Insured Receivables are paid to the maximum possible extent, and if it is purposeful or required by the Insurer, to draw up a Situation Report;
  - iii) Making its claims in a due and timely manner, and thoroughly claiming performance of the due Insured Receivable in line with the resolution of current problems chosen pursuant to paragraph (ii) above;
  - iv) In the event of a failure to pay an Insured Receivable as at its due date or in the case of information about the submission of an insolvency petition or a petition for commencing similar proceedings, or the entry into liquidation or information about the adverse economic situation or insolvency of the Borrower or Another Bound Person, to exercise in a due and timely fashion all of its rights required to avert or mitigate any damage that threatens, in line with the above;
- b) Take any and all of the steps stated in paragraph (a) above with respect to the Borrower or a third person by itself, with the exception of cases when the Insurer has instructed so or when the Insurer determines that the Insurer's prior consent or prior instruction will be required for the taking of a specific measure. This shall not prejudice the provisions of paragraphs 10.6.1 and 13.1.1 (d).

## 10.6 Other obligations of the Insured

### 10.6.1 The Insured shall not, without the prior written consent of the Insurer:

- a) Agree on a change in the conditions of the Credit Contract with the Borrower which may have an impact on the occurrence of an Insurance loss or on its course, or increase the scope of its consequences or which may have an adverse impact on the rights of the Insured from the Credit Contract; the following changes of the Credit Contract shall always require prior written consent of the Insurer:
  - i) Increase of the Credit amount or extension of the Credit repayment date, as well as an increase or extension of individual Credit instalments;
  - ii) Extension of the Credit draw-down period by more than 6 months;
  - iii) Change in the Credit currency;

- iv) Change in the scope of security on the Credit, with the exception of a top-up of security and recurrent security top-up (e.g., pledge of receivables or inventory stock);
- v) Change in other parameters of the Export Financing Case which are set in the Insurance Contract;
- b) Exercise its right pursuant to the Credit Contract that allows it to call due Insured receivables from the Borrower that are not yet due (debt acceleration) in the event that the Borrower is at default with the performance of its obligations;
- c) Exercise its right to withdraw or otherwise terminate the Credit Contract;
- d) Assign the Insured Receivables (or any of them) to a third person, set up a pledge to the Insured Receivables, or to otherwise encumber the Insured Receivables.

#### 10.7 Obligations of the Policyholder

- 10.7.1 Should the Insured become a person separate from the Policyholder after the conclusion of an Insurance Contract, the Policyholder shall contractually ensure that every Insured is bound in the Insurance Contract to the Insurer to fulfil the obligations set for the Insured in the Insurance Contract.
- 10.7.2 If the conditions stipulated in paragraph 10.7.1 are not met within 3 months of the day when the Insured became a person separated from the Policyholder or if the Insurer has not given its prior consent with the assignment of the Insured Receivable concerned, the Insurance shall terminate.

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## **Article XI. – Termination of Insurance and Insurance Loss**

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### 11.1 Termination of Insurance

#### 11.1.1 Insurance shall terminate:

- a) In the cases set out by legal regulations;
- b) In the cases set out in the Insurance Contract;
- c) Upon the ceasing to exist of the Insured Receivables in full;
- d) Upon the communication of the contents of the Insurer's decision to the Insured and the Beneficiary concerning indemnification payment for the last Insured Receivable, if an insurance loss occurs.

11.1.2 The Insurance shall not terminate upon the withdrawal of the Insured from the Credit Contract. This shall not prejudice the provisions of paragraphs 10.6.1 (c) and 14.1.1 (a) (i). The Insurance shall also not terminate upon the notification of a refusal to grant an indemnification payment (unless otherwise agreed in the Insurance Contract).

11.1.3 The termination of Insurance shall not prejudice those provisions of these General Insurance Conditions which, due to the expression of will or due to their nature, are intended to survive the termination of the Insurance, in particular the provisions of Article 13 pertaining to the rights and obligations of the Insured and the Insurer in connection with the recovery, handling, and assignment of the Insured Receivables, and the provisions of article 14.4 pertaining to the relinquishment obligations of the Insured and the Beneficiary.

### 11.2 Definition of an insurance loss

11.2.1 An insurance loss is a partial or full non-payment of an Insured Receivable as at its due date and during the Waiting Period, if any, if the non-payment is due to one or several of the causes set out in part 3.3 or part 3.4.

### 11.3 Date of the occurrence of an insurance loss

#### 11.3.1 An insurance loss shall occur:

- a) In the case of insolvency (paragraph 3.3.1.a) on the day when the Insured informs the Insurer about the existence of a cause that represents a risk, by delivering a completed Notification of a Threat of an Insurance Loss and documents, at the same time, that it has registered its receivables in a due and timely manner in insolvency proceedings or in proceedings pursuant to paragraph 3.3.1 (a). The Insured shall be entitled to consult with the Insurer or a person appointed by the Insurer as to the steps that may be required for the due registration of an Insured Receivable; and
- b) In the event of protracted default (paragraph 3.3.1.b) and political risks (part 3.4), with the expiration of Waiting Period of six months from the day when the Insured has informed the Insurer of the existence of a cause that represents a risk by delivering a completed Notification of a Threat of an Insurance Loss. The Insurer may reduce the Waiting Period set in this paragraph by a unilateral declaration and may, should the Policyholder request it, extend the Waiting Period.

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## **Article XII. – Indemnification Payment**

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### 12.1 Borrower's Default and Notification of a Threat of an Insurance Loss

- 12.1.1 In the case of the Borrower's default on the payment of an Insured Receivable, the Insured shall send to the Borrower a written notice within 10 business days of the due date, and shall inform the Insurer in writing about the default on the payment of the receivable without delay.
- 12.1.2 The Insured shall deliver a completed Notification of a Threat of an Insurance Loss pursuant to paragraph 11.3.1, with a reference to paragraph 3.1.1, to the Insurer for each Insured Receivable (Credit instalment) within 3 months of the occurrence of the Borrower's default for the causes stated in paragraphs 3.3 or 3.4.
- 12.1.3 The Insured shall, within 2 months of the occurrence of the Borrower's default described in paragraphs 3.3 or 3.4 or of the receipt of the Insurer's request, submit a Situation Report. The Insurer may extend the deadline for the presentation of a Situation Report based on a well-grounded request of the Insured.

### 12.2 Obligation to provide indemnification payment and the payment of salvage costs

- 12.2.1 The obligation of the Insurer to pay an indemnification payment shall arise upon the occurrence of an insurance loss. This shall not prejudice the Insured party's rights stated in paragraph 14. The Insurer shall not be obliged to provide an indemnification payment during the Waiting Period.
- 12.2.2 The Insurer shall not provide an indemnification payment unless the amount of all outstanding Insured Receivables exceeds CZK 200,000, converted at the Czech National Bank rate applicable as at the date of the completion of the investigation of the insured event, unless the Insurance Contract stipulates otherwise. The Insurer shall inform the Insured and the Beneficiary to that effect.
- 12.2.3 The Insurer shall not be obliged to provide an indemnification payment if the Insured delivers a Notification of a Threat of an Insurance Loss to the Insurer later than 3 months after the day on which the Borrower's default due to causes specified in paragraphs 3.3 or 3.4 occurred. Should the Insured extend, with the Insurer's prior written consent, the due date of the Insured Receivable for the Borrower, the newly agreed due date shall be deemed decisive for the purpose of the submission of a Notification of a Threat of an Insurance Loss; otherwise, the originally agreed due date shall be deemed decisive for the purpose of the submission of a Notification of a Threat of an Insurance Loss.
- 12.2.4 The Insurer shall reimburse the Insured for effectively, efficiently, and purposefully expended salvage costs incurred in averting the occurrence of an immediately threatening insurance loss or in mitigating the consequences of an insurance loss that has already occurred. The Insurer shall reimburse salvage costs amounting to no more than 0.1% of the aggregate amount of the outstanding Insured Receivables, but no more than CZK 300,000. This shall not prejudice the obligations of the Insured set out in particular in paragraphs 10.2.1 (f) and 13.1.1 (d). Salvage costs over the limit set out in this paragraph will be reimbursed by the Insurer only if the Insurer has approved them in advance. The Insured is



obliged to request reimbursement of the salvage costs incurred and duly substantiate them with an accounting document, no later than 2 months from the date of their expenditure, otherwise the Insurer will not be obliged to reimburse these costs to the Insured. The Insurer will reimburse the Insured for salvage costs within 30 days of their proper billing and documentation by the Insured. The salvage costs will be reimbursed by the Insurer to the Insured after deducting the Self-insured Retention of the Insured. The Insurer participates in the costs associated with proving the hedging instruments or the legitimacy of the Receivable according to the previous paragraph only in the case if the Insured in court proceedings proves the legitimacy of the Insured Receivable or if the Insured Receivable has been denied on the basis of an obviously discriminatory conduct of the insolvency practitioner or a court.

### 12.3 Investigation of an insurance loss

12.3.1 The Insurer shall commence and carry out, without undue delay of having received a Notification of a Threat of an Insurance Loss, investigations required to confirm the Insured party's claim and to ascertain the scope of the Insurer's obligation to perform. If possible and unless the parties agree otherwise, the Insurer shall complete the investigation within 3 months of the date of the occurrence of the insurance loss in cases specified in paragraph 11.3.1 (a), and within 1 month of the date of the occurrence of the insurance loss in cases specified in paragraph 11.3.1 (b). If the Insurer is unable to complete its investigation by the deadline for completing its investigation, it shall inform the Insured and the Beneficiary thereof, and of the reasons preventing it from completing its investigation, by the end of the deadline; upon the delivery of the notice to the said person, the time-period referred to above shall be extended by another month. The time-period referred to in the previous sentence may be extended no more than three times. The Insurer shall state the results of its investigation in its decision on an indemnification payment and shall inform the Insured and the Beneficiary of the contents of the decision and its rationale, whereby the investigation of the insured loss is completed.

12.3.2 For the purpose of investigating an insured loss and ascertaining the amount of the outstanding Insured Receivable, the Insured shall document, by presenting the requisite documents, deeds, and other evidence, any and all facts decisive for the occurrence and amount of the claim to an indemnification payment, in particular compliance with the conditions set in paragraphs 4.2.2, 4.2.3, and potentially also in paragraph 4.2.4, the occurrence of the insured loss and the reason of its occurrence, the legitimacy of the claim from the Borrower, the amount of the outstanding Insured Receivable, and documents of the payment of insurance premiums. Furthermore, the Insured shall present a valid Insurance Contract or insurance policy and all other documents and information requested by the Insurer.

### 12.4 Amount and due date of the indemnification payment

12.4.1 Unless otherwise agreed by the Policyholder and the Insurer, the Insurer shall proceed in determining the amount and the due date of the payment of the indemnification payment on the basis of the due date of each Insured Receivable. Should the Insured call the Insured Receivables or a part thereof pre- maturely due (Credit acceleration) pursuant to the applicable provision of the Credit Contract or due to the Borrower's default, or should the Insured Receivables become prematurely due for any other reason, no such changes shall

be effective with respect to the Insurer and they shall be disregarded by the Insurer in the determination of the amount and date of the payment of the indemnification payment.

12.4.2 The Insurer shall not be obliged to provide an indemnification payment in the event of a dispute between the Insured and the Borrower concerning the performance of the Credit Contract or the legitimacy of the Insured Receivable, until such time as the dispute has been finally decided in favour of the Insured; the Insurer shall decide on the payment of an advance on the indemnification payment or of the indemnification payment within 30 days of the Insured party's request, unless it assesses the dispute as legitimate on the part of the Borrower.

12.4.3 An indemnification payment shall be set in the amount of the outstanding Insured Receivable amount as at the date of the issuance of the decision to pay an indemnification payment, increased by the Re-financing Costs to the extent set in the Insurance Contract, reduced by:

- a) Any and all payments received by the Insured as the payment or coverage of damage arising from an unpaid Insured Receivable prior to the date of the issuance of a decision to pay an indemnification payment;
- b) The amount of receivables that may be set off against the Insured Receivables in line with the law, which the Insured acknowledged as justified or which were finally granted in judicial or arbitration proceedings, unless the Insurance Contract stipulates otherwise; and
- c) The agreed Self-insured Retention amount.

12.4.4 Unless the Insurance Contract stipulates otherwise, the indemnification payment shall be paid out in Czech crowns. Amounts in other currencies shall be converted at the Czech National Bank rate applicable as at the date of the issuance of the decision to pay an indemnification payment.

12.4.5 The indemnification payment shall be due within fifteen days of the completion of the investigation pursuant to paragraph 12.3.1.

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## **Article XIII. – Transfer of Rights and Recovery of Receivables**

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13.1 Obligations of the Insured in the recovery and handling of the Insured Receivables

13.1.1 The Insured shall:

- a) Proceed with professional care and due caution in recovering and handling the Insured Receivables;
- b) Recover the Insured Receivables in a due and timely manner, to duly participate in judicial or other proceedings that have been or will be commenced for the recovery of the Insured

Receivable, perform any and all tasks and take any other steps it is entitled to take as the creditor, and inform the Insurer without undue delay of any and all facts concerning the proceedings, the Insured Receivables, and the Borrower;

- c) In the event of insolvency proceedings or proceedings to which the legal order of the Importer's country attributes similar legal effects, register the Insured Receivables in it in a due and timely manner;
- d) In the course of the recovery of the Insured Receivables, consult at the Insurer's request all steps with the Insurer and abide by any written instructions given by the Insurer;
- e) Enable the Insurer to make any claims, in particular claim to damages, that belong to the Insured;

13.1.2 The Insured shall be liable for the reduction of the possibility to collect or to legally recover the Insured Receivables due to their late claiming in court or before another appropriate body.

### 13.2 Assignment and recovery of an Insured Receivable

13.2.1 At the request of the Insurer, the Insured shall, without undue delay, and if the Insurer's request precedes the day of the indemnification payment concerning the Insured Receivable no later than on the day of the indemnification payment, contractually assign to the Insurer free of charge, or otherwise transfer in a way effective with respect to the Borrower, the Insured Receivable and any related claims from the Borrower or claims from the Exporter related to the Insured Receivable, with the exception of the coverage of risks transferred to other persons pursuant to Article 9. At the same time, the Insured shall assign or otherwise transfer to the Insurer any and all rights related to those claims, in particular rights from pledges, warranties, guarantees or other forms of security, for exercise of which the Insured is obliged to provide the Insurer without delay, no later than 15 days after the assignment, all necessary documents and full cooperation. The Insured is obliged to inform the Borrower and any other obligated persons about the assignment and the fact that all performances for the assigned receivables, rights and claims are to be made on the Insurer's account. If the Insured receives such performance, he undertakes to immediately inform the Insured about it and transfer it to his account within 10 days. The assignment contract pursuant to this paragraph is concluded on the proposal of the Insurer.

13.2.2 In order to ensure the expediency of the recovery of Insured Receivables or for the simplification of the legal steps taken with respect to the Borrower, the Insurer may authorize the Insured or a person appointed by it to recover any Insured Receivables and related claims from the Borrower or from persons providing security on the Insured Receivable or the relevant financial claims.

### 13.3 Obligations of the Insured in connection with the assignment and recovery of Receivables

13.3.1 The Insured shall, regardless of the assignment of claims, always enable the Insurer to recover payments from an Insured Receivable from the Borrower. To that end, the Insured shall provide to the Insurer without undue delay Credit Documentation and other

documents related to the Insured Receivable and to provide the necessary cooperation to the Insurer.

- 13.3.2 Payments made to the Insured by the Borrower or a third person as a settlement of the Insured Receivable and related claims (e.g., default interest, contractual penalties, damage claims and claims to salvage costs paid by the Insurer) after the Insurer had paid the indemnification payment and before the Insured assigned the Insured Receivable and other claims pursuant to Article 13.2 of the General Insurance Conditions to the Insurer, shall belong to the Insurer following the deduction of a proportionate amount attributable to the Self-insured Retention amount and any proportionate amount corresponding to the reduction of the indemnification payment or partial exclusion from the Insurance pursuant to paragraph 14.1.1 (c) to (e) and paragraph 14.3. The Insured shall inform the Insurer about any such payments without delay and shall pay them out to the Insurer within 5 business days of having received them.
- 13.3.3 Should the Insurer decide to recover a receivable through a third person or to assign a receivable to a third person, the Insured shall, at the Insurer's request, take any and all steps without delay that the Insurer asks it to take, in particular to issue a power of attorney for the recovery and collection of the Insured Receivable for the Insurer or a third person or assign the Insured Receivable to the Insurer or third person pursuant to Article 13.2.

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## **Article XIV. – Exclusions from Insurance, Refusal, Reduction of Indemnification, Relinquishment Obligation of the Insured**

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### 14.1 Exclusions from Insurance

14.1.1 The obligation of the Insurer to indemnify shall not arise (exclusions from Insurance):

- a) Should any of the following occur without the prior written consent of the Insurer:
  - i) The circumstances specified in paragraph 10.6.1 occur;
  - ii) During the term of the Insurance, the Insured and the Borrower become economically or personally related persons, when one person participates, directly or indirectly, in the control or the registered capital of the other person; this shall not apply to a connection that has occurred due to the realization of security set in the Credit Contract or Credit Documentation. Participation in registered capital means the holding of shares or an interest representing at least 10% of the registered capital of the person concerned;
- b) If the Insured Receivable was denied in insolvency or similar proceedings and not accepted subsequently, or if the Insured Receivable was not accepted by a court decision, provided that the Insured Receivable was not denied as a result of apparently discriminatory action of the insolvency administrator or the court;
- c) If the Credit was drawn for a purpose other than that those stated in paragraph 5.2.1 (a), or in the Insurance Contract, in the amount corresponding to the amount of the Credit drawn for a purpose other than that stated in paragraph 5.2.1 (a) or in the Insurance Contract;
- d) In the event that Local Costs were financed in the Export country of destination in an extent that is in aggregate higher than is set in the Insurance Contract; in that case, the Insurer shall not be obliged to pay out indemnification to the extent that corresponds to the amount by which the scope of the financing of Local Costs exceeded the scope stated in the Insurance Contract;
- e) If any of the conditions set in paragraph 4.2.2 (or any conditions agreed pursuant to 4.2.4 that expand on those conditions) have not been met,

14.1.2 The application of an exclusion shall not prejudice the Insurer's rights set in Articles 14.3 and 14.4. The Insurer may, with a view to the circumstances of the Export Financing Case, decide at its sole discretion to pay out indemnification in full or in part even in the event that any of the exclusions stated above occurs.

### 14.2 Right to refuse to pay indemnification

14.2.1 The Insurer has the right to refuse to pay indemnification:

- a) If the Insured or the Beneficiary, when making a claim for indemnification, knowingly states untrue or grossly distorted information as to the scope of the insurance loss or withholds essential information concerning the insurance loss;

- b) If the cause of the insured loss was a circumstance of which it only learned after the occurrence of the insurance loss and which it could not ascertain when arranging the Insurance or a change thereof, due to the intentional or negligent provision of untrue or incomplete information in answering the Insurer's written inquiries for the Insured, and if it would not have entered into the Insurance Contract or would have concluded it subject to different conditions had it known of the fact at the time of the conclusion of the contract;
- c) In other cases, set by the Civil Code.

#### 14.3 Right to reduce indemnification

##### 14.3.1 The Insurer has the right to reduce indemnification if

- a) The breach of the obligation set in the Insurance Contract or the applicable provisions of legal regulations governing Insurance has had a material impact on the occurrence of an insurance loss, its course, or an increase in the scope of its consequences, or on the ascertaining or determination of the indemnification, proportionately to the impact of the breach on the scope of the Insurer's obligation to pay;
- b) The Insured or the Beneficiary waived the Insured Receivables or rights arising from Credit Documentation or if it did not claim the receivables or exercise the rights in a due and timely fashion, or if it frustrated the transfer or assignment of its claims to the Insurer, up to the amount that the Insurer could have otherwise obtained; and
- c) Any of the conditions set in paragraph 4.2.3 (or any conditions agreed pursuant to 4.2.4 that expand on those conditions) have not been met, proportionately to the impact of that failure to meet the conditions on Insurer's obligation to pay.
- d) In other cases, set by the Civil Code.

#### 14.4 Relinquishment obligation of the Insured and the Beneficiary

##### 14.4.1 The Insured shall, upon the Insurer's written request:

- a) Return to the Insurer any indemnification already paid out if the Insured or the Beneficiary waived any of the Insured Receivables or rights arising from the Credit Documentation or failed to claim those receivables or rights in a timely manner, or otherwise frustrated the transfer or assignment of its rights to the Insurer, if the consequences of that action only became manifest after the payment of indemnification, up to the amount that the Insurer could have otherwise obtained;
- b) If the Insured Receivable or a part thereof was denied by an effective court or other decision or in insolvency proceedings or similar proceedings against the Borrower's assets, the Insured undertakes to return to the Insurer indemnification proportionate to the denied portion of the Insured Receivable; this provision shall not apply if the Insured proves in subsequent court proceedings that the Insured Receivable was justified or if the Insured

Receivable was denied as a result of apparently discriminatory action of the insolvency administrator or the court; and

- c) Return to the Insurer any indemnification received if it was paid out on the basis of incomplete or untrue information or without an actual right to indemnification or if that right subsequently ceased to exist or it turned out that circumstances pursuant to Articles 14.1 to 14.3 had occurred.

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## **Article XV. – Export Contract and Obligation of the Exporter**

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### 15.1 Export Contract and Obligation of the Exporter

15.1.1 The Insurer shall not conclude an Insurance Contract before it has entered into a direct contractual relationship with the Exporter, in which the Exporter will be bound to perform, in particular, the following obligations:

- a) Declare that the agreed conditions of the Export Contract do not diverge from the General Insurance Conditions, with the exception of Export Financing Cases with Short-Term Insurance Risk, nor from the OECD Consensus;
- b) Comply with the obligations set by legal regulations applicable in the Czech Republic and in the Importer's Country;
- c) Perform the Export Contract in a due and timely manner, with the exception of cases and only for the time for which the Exporter was unable or grossly restricted in the performance of its obligations by the failure of the Importer or a third person to meet their obligations in a due and timely manner, or by the effects of external circumstances independent of the Exporter;
- d) Adhere to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions – Communication of the Ministry of Foreign Affairs No. 25/2000, Collection of International Agreements);
- e) Not enter into any agreements or contracts with the Importer or the Borrower related to the Export Contract, about which the Exporter demonstrably knows that they can restrict or rule out the rights of the Insured against the Borrower from the Credit Contract;
- f) Pay damages – penalty to the Insurer in the amount and subject to the conditions set in a direct contractual relationship between the Insurer and the Exporter.

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## **Article XVI. – Special Provisions**

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### 16.1 Indirect Buyer Credit

16.1.1 If the subject of Insurance is Indirect Buyer Credit, the Insured shall agree in the Credit Contract on the obligation of the Borrower to contractually ensure the performance of the obligations of the Importer from the Insurance Contract, for example the performance of the conclusions or the recommendation from the Export Impact Assessment or a similar document (EIA).

### 16.2 Short-term Risk Insurance

16.2.1 Short-term risk insurance shall be governed by the provisions of the General Insurance Conditions, and the Insurance Contract shall modify or rule out the application of such provisions whose contents only applies to insurance of long-term insurance risks.



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## **Article XVII. – Special Provisions for cases in which the Public Borrower nor the Bank does not act as a Borrower or other Obligated Person**

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17.1 Special provisions for cases in which the Public Borrower or the Bank does not act as a Borrower or Other Obligated Person

17.1.1 The provisions of this Article 17 shall apply together with other provisions of the Insurance Conditions in Export Financing Cases in which an entity other than a Public Borrower or the Bank acts as the Borrower and/or Another Bound Person.

17.1.2 For the purposes of these Insurance Conditions and the insurance contract, the following definitions shall apply:

**“Confirmation protocol”** A protocol drawn up on the basis of the currently applicable model protocol designated as *“Confirmation Protocol”*, including any appendices, provided on the Insurer’s website – [www.egap.cz](http://www.egap.cz) – on the basis of which the scope of background documents relevant for Insurance pursuant to paragraph 17.1.3 will be confirmed;

**“Monitoring”**

- (i) Continuous monitoring of the development of the Borrower and Another Bound Persons on the basis of current financial and non-financial information;
- (ii) Evaluation of internal and external influences during the credit relationship established by the Credit Contract of which the Insured finds out and which could result in a threat to the repayment of the Credit;
- (iii) Continuous monitoring of the existence and scope of security on the Credit, the scope of which shall be set in the Insurance Contract;

For the purpose of timely identification of problems that increase or could potentially increase the Insured party’s creditor risk or the Borrowers credit risk;

The definition of „Monitoring“ in Article 2 shall not apply.

17.1.3 When concluding the Insurance (including changes to the Insurance), the applicant for Insurance is obliged to draw up a Confirmation Protocol in cooperation with the Insurer and to sign this Confirmation Protocol, which will confirm the scope of documents relevant to the Insurance, together with the Insurer. From the information and documents provided to the Insurer by the applicant for Insurance, only the information and documents specified in the Confirmation Protocol and in the Request for Insurance of Export Buyer Credit against the Risk of Non-Payment will be considered legally relevant.

17.1.4 In addition to the information and documents listed in the Confirmation Protocol, the Insurer may, at its discretion, use any other information and documents.

17.1.5 In Article 5.3.2, the text of point (f) shall not apply.

Within the obligations specified in Article 5.3.2, unless the Insurance Contract stipulates otherwise, the Insured shall ensure that the Insured Receivables, including all of the security provided on them, are freely transferable (assignable) to the Insurer and when establishing pledges, warranties, guarantees or other forms of security, proceed such that the security not be prejudiced by any subsequent potential transfer of rights from them to the Insurer.

17.1.6 The Insured is obliged within the obligations pursuant to Article 7.2.1, to provide the Insurer with all information necessary for concluding the Insurance Contract and processing the Confirmation Protocol pursuant to Article 17.1.3.

17.1.7 The Insured is obliged within the obligations specified in Article 10.2.1 letter e) to inform the Insurer also of a substantial change in the security of the Insured Receivables.

17.1.8 The Insured is obliged to perform Monitoring for the entire duration of the Export Financing Case on an ongoing basis, but at least within the interval specified in the Insurance Contract within the control and monitoring obligations pursuant to Article 10.3.1, either individually or contractually through a third party; in the event of a reduction in the scope of security according to the Credit Documentation, the Insured is obliged to require the Borrower to provide adequate additional security for the Insured Receivables; in this connection, the Insured is entitled to request a consultation with the Insurer.

17.1.9 The written report, which the Insured is obliged to provide to the Insurer within the interval specified in the Insurance Contract pursuant to Article 10.4.1, shall also contain a description and overview of significant negative changes in the scope of securing the Insured Receivables.

17.1.10 As part of the Regular Assessment and Analysis referred to in Article 10.4, the Insured is obliged to submit a credit analysis of the Borrower and all Other Obligated Persons and significant risks arising from the Credit Contract in interval (if not specified, at least once a year), in the manner and to the extent specified in the Insurance Contract, unless the Insurance Agreement provides otherwise.

17.1.11 The Insured may not, without the prior consent of the Insurer, as stated in Article 10.6.1 a), make or arrange a change in other parameters of the Export Financing Case, which are stipulated in the Insurance Contract or which are considered legally relevant for the conclusion of the Insurance within the meaning of paragraph 17.1.3.

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## Article XVIII. – Concluding Provisions

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### 18.1 Payment method

18.1.1 Any and all payments paid pursuant to and in relation to the Insurance and the Insurance Contract shall be made as cashless payments on the basis of a settlement (invoice) unless otherwise agreed, within the time-period set by the General Insurance Conditions, the Insurance Contract, or in the settlement.

18.1.2 Mutual financial obligations of the Insurer and Policyholder or the Insured shall be payable in Czech crowns, unless the Insurance Contract stipulates otherwise. The exchange rate set in the General Insurance Conditions or agreed in the Insurance Contract shall be used for conversions from other currencies, or otherwise the exchange rate set by the Czech National Bank applicable as at the date on which the relevant payment was made.

### 18.2 Termination of the Insurance Contract

18.2.1 The Insurer may terminate the Insurance Contract in writing if:

- a) The Insured party's banking license or another relevant authorization has been with-drawn, the Insured has been put under receivership, a court has ruled on the insolvency of the Insured, or an insolvency petition has been denied due to the lack of the Insured party's assets;
- b) It is stipulated in the Insurance Contract;
- c) If it is stipulated by the Civil Code or other legal regulations;

18.2.2 The termination period shall run from the day of the delivery of the termination notice to the other party and shall run for 6 weeks, unless legal regulations provide otherwise.

### 18.3 Delivery method

18.3.1 Documents shall be delivered in person or by Post by a regular or registered mailing to the mailing address stated in the Insurance Contract or to a mailing address notified by the other party in writing.

18.3.2 If an e-mail address is provided for communication in the Insurance Contract or in the Notification of a Threat of an Insurance Loss, any notice, communication, confirmation, or any other notification shall be understood as duly made by the other party if it is sent to the appropriate e-mail address. If the address of a person other than the direct addressee has been provided to the other party as the mailing address, this other party shall not be liable for any consequences arising from a delay in the passing of correspondence between that person and the direct addressee.

18.3.3 Should the addressee refuse to take delivery of a document, the document shall be deemed delivered on the day when the addressee refused to take delivery of it.

18.3.4 If the addressee was not present and the document sent by Post by registered mail was deposited by the delivery officer at the Post Office, the document shall be deemed delivered on the last day of the depositing period, even in cases when the addressee did not find out about the document being deposited. If the last day of that time-period falls on a Saturday, Sunday, or holiday, the last day of the time-period shall be the next business day.

A document sent by Post shall also be deemed delivered on the day on which the shipment is returned as undeliverable for any other reason.

#### 18.4 Provision of information and its protection

18.4.1 Any and all information that the parties to the Insurance contract and the Insured provide to one another in connection with the conclusion and performance of the Insurance Contract, must be provided in writing and, unless otherwise agreed, delivered in the manner specified in part 3 of this Article.

18.4.2 Any and all information that the parties to the Insurance Contract have provided to one another in any form in connection with the conclusion of the Insurance Contract and the performance of obligations arising therefrom, is confidential. The party to which that information was provided may not provide it to a third person without the consent of the other party or use it for any purpose other than the purpose for which it was provided, unless binding legal regulations stipulate otherwise (e.g., the Act on the Insurance Business). The parties may provide that information to their professional advisors (including auditors, legal representatives, accountants or tax advisors) to the necessary degree. Furthermore, the contractual parties may share this information and any requisite documents pertaining to facts arising from the Insurance Contract with their controlling person.

18.4.3 The Insurer is entitled to communicate facts concerning the Insurance and Insured Receivables to reinsurance companies and reinsurance intermediaries, even during the Insurance. The Insurer is entitled to communicate facts concerning the Insurance and Insured Receivables to another third party only under similar conditions and to a similar extent that the Insured is allowed by the Banking Act in the event that the Borrower falls into arrears. Policyholder, i.e. the Insured is entitled to provide, to the extent necessary, information on the facts arising from the Insurance Contract to the Borrower, Another Bound Persons, the Importer or the Exporter.

18.4.4 The Insurer also may provide the information and requisite documents pertaining to the facts arising from the Insurance Contract to other third persons to the extent required for ensuring the stability and security of the Insurer, if this is required by obligations imposed on the Insurer by legal regulations, in particular the obligation to act with professional care and to proceed with caution in the execution of its activities.

18.4.5 The Insurer shall keep any and all documents entrusted and provided to it in line with the Insurance Contract, and is entitled to verify the truthfulness and precision of the documents presented and all data and information stated by the Policyholder and the Insured, while respecting legal regulations on bank and business secrets.

#### 18.5 Governing law and conflict resolution

18.5.1 The Insurance Contract and these General Insurance Conditions shall be governed by the laws of the Czech Republic.

18.5.2 Any and all disputes arising from the Insurance, the Insurance Contract concluded, and in connection with it, shall be decided by the competent courts of the Czech Republic.

#### 18.6 Joint Provisions

18.6.1 Any relations not regulated by the Insurance Contract or by the General Insurance Conditions shall be governed by the applicable provisions of the Civil Code.

18.6.2 The Czech version of the General Insurance Conditions and Insurance Contract shall be decisive.

18.6.3 Should any of the provisions of the General Insurance Conditions or of the Insurance Contract become invalid, seeming, uncertain, or inapplicable, even in part, due to a change of legal regulations, even in part, this shall not make the remaining provisions invalid, seeming, uncertain, or inapplicable.

18.6.4 In line with the provisions of Section 1801 of the Civil Code, the Insurer and the Policy-holder, which is an entrepreneur, hereby diverge from the provisions of Sections 1799 and 1800 of the Civil Code on contracts concluded by adhesion. This shall rule out the invalidity of these General Insurance Conditions or the Insurance Contract due to its divergence from the said provisions governing contracts concluded by adhesion, in particular the invalidity of:

- a) Any clauses that refer to any conditions outside of the body of the Insurance Contract, with the contents of which the Policyholder was not acquainted, and the Policyholder's knowledge of their meaning is not proven;
- b) Any clauses that can only be read with particular difficulties or clauses that are incomprehensible for a person of average intellect, even if this causes harm to the Policyholder and their meaning was not sufficiently explained to the Policyholder; and
- c) Any clauses that are particularly disadvantageous for the Policyholder without a reasonable reason, in particular, if the Insurance Contract and the General Insurance Conditions seriously and without a particular reason diverge from usual conditions agreed in similar cases.