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## **GENERAL INSURANCE CONDITIONS BF**

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### **for Insurance of a Short Term Export Supplier Credit Financed by a Bank against the Risk of Non Payment**

These General Insurance Conditions are effective from 1 January 2019

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#### **Article I. – Basic Provisions**

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1. These General Insurance Conditions “BF” (hereinafter the “Insurance Conditions”) regulate terms and conditions of insurance of receivables from an export supplier credit against the risk of non-payment resulting from political or non-marketable commercial risks (hereinafter the “insurance”). The Insurance Terms and Conditions constitute a part of the Insurance Policy. In compliance with these Insurance Terms and Conditions, the Insurance Policy is concluded in order to insure the receivables under the Export Contract, or to insure the receivables under the letter of credit which were assigned to the Insured by the Exporter without the option to have recourse to the Exporter.
2. The insurance is provided by the Export Guarantee and Insurance Corporation in accordance with the Act No. 58/1995 Coll., on Insuring and Financing of Export with State Support and on Amendment to the Act No. 166/1993 Coll., on the Supreme Audit Office, as amended and with the Act No. 89/2012 Coll., the Civil Code as amended (hereinafter the “Civil Code”).
3. The insurance covers an individual Export Contract where the length of the supplier credit extended by the Exporter to a foreign buyer is usual for a given kind of the Export Contract and the given country, and is shorter than 2 years.
4. Shall an Exporter or a person acting for the Exporter or on behalf of the Exporter violate provisions of the special law<sup>1</sup> when negotiating the Export Contract the Insurer is entitled to refuse the insurance of the risk of the non-payment of the credit extended in accordance with these Insurance Conditions.
5. The insurance according to these Insurance Conditions is concluded as an insurance against loss and damage.
6. Provisions of sections 2791, 2792 and 2805 of the Civil Code shall not be applied to insurance according to these Insurance Conditions.

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<sup>1</sup> § 331 and following of the Act No. 40/2009 Coll) Penal Code, as amended

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**Article II. – Definition of Terms**

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1. For the purposes of these Insurance Conditions and the Insurance Contract, it shall be understood that:
  - a) the **Insurer** is the Export Guarantee and Insurance Corporation,
  - b) the **Policyholder** is a person who has concluded an Insurance Contract with the Insurer; unless specified otherwise in the Insurance Contract, the Policyholder shall concurrently be the Insured,
  - c) the **Insured** is a bank, a branch of a foreign bank or a financial institution or other subject to whom the Exporter has ceded against payment its receivable from the Export Contract by a contract in writing without any option for applying recourse against the Exporter,
  - d) the **Beneficiary** is a person for whom the right for an indemnification payment has arisen from an insurance loss,
  - e) an **Exporter** is a person realizing the export, who is either a natural person having the permanent residence on the territory of the Czech Republic or a legal person having the registered seat on the territory of the Czech Republic who is an entrepreneur according to the Civil Code, or a Foreign Company,
  - f) an **Importer** is a foreign entity importing from the Czech Republic according to the Export Contract,
  - g) a **Public Importer** is an Importer who has been authorised with the execution of the state power or public administration, who cannot be legally declared as being incapable of fulfilling his obligations, especially the Ministry of Finance, the Central Bank, local self-governing bodies on all levels or other public institutions, or foreign entities having as a controlling entity the state, a local self-governing body or a public administration body,
  - h) an **Export Supplier Credit** is a time deferral between fulfilment of the obligation of the Exporter and the obligation of the Importer to pay to the Exporter for performance extended by the Exporter to the Importer pursuant to the Export Contract,
  - i) an **Export Contract** is a contract concluded by and between the Exporter and the Importer on the export of goods or services, or on the export of goods and services,
  - j) the **Export** means a delivery of goods or provision of services, or a delivery of goods and provision of services to the Importer pursuant to the Export Contract for the purpose of their use outside the territory of the Czech Republic,
  - k) a **Foreign Entity** is a natural person who has no permanent residence on the territory of the Czech Republic or a legal person who has no registered seat on the territory of the Czech Republic,
  - l) a **Foreign Company** is a legal person with the registered seat abroad who is controlled by a legal person having its registered seat on the territory of the Czech Republic and who is an entrepreneur pursuant to the Civil Code, and who participates – directly or indirectly – in the basic capital of the Company by more than 50%, or who controls the majority of voting rights related to the participation in the basic capital of the Company, or who can appoint a majority of members of the Board of Directors, Supervisory Board or Managing Board or other similar managing body of the Company,
  - m) the **Self-Retention** means a portion of the Beneficiary on losses, which are covered by the Insurance Contract expressed in percentage points.
2. The provisions of the Insurance Conditions applicable on the Importer shall apply accordingly on the Public Importer with the exception of the provisions of the Article VII., paragraph 2, letter a..

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**Article III. – Subject of Insurance**

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1. The subject of the insurance are receivables of the Insured for the settlement of obligations from the Export Contract as specified in an Insurance Contract (hereinafter the “Insured Receivables”); the Insurance Contract shall stipulate a specific type of the document which has to prove origination of a receivable of the Exporter from an Importer from the Export Contract and the proper fulfilment of obligations of the Exporter from the Export Contract and which has been accepted by the Insured.
2. When the Importer is obligated by the Export Contract to discharge his obligations from the Export Contract by the way of instalments, each of these instalments shall be considered for the purposes of the insurance as a separately insured receivable.
3. The subject of the insurance are also costs of the Insured related to the financing of insured receivables during the waiting period (re-financing costs) according to terms and conditions and in the scope stipulated in the Insurance Contract.
4. The insurance additionally covers the exchange rate risk of movement of the exchange rate of the Czech crown against the currency in which the supplier credit has been extended in case of indemnification (Article VIII., paragraph 11.)
5. Unless specified otherwise in the Insurance Contract, the insurance does not cover the receivables for the settlement of the late interest, conventional fines, claims for compensations of damages, and other receivables and claims of the Insured resulting from the Export Contract, which have penalty character.

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**Article IV. – Insurance Promise Contract**

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1. The Insurer undertakes in the Insurance Promise Contract to conclude an Insurance Contract upon fulfilment of agreed terms and conditions and in the time agreed, and to arrange for the reservation of the necessary insurance capacity.
2. The applicant for the insurance is obligated to pay a fee for the issuance of the insurance promise, which is determined in the Insurance Promise Contract.
3. The Insurer is not obligated to conclude an Insurance Contract if, according to the Insurer's opinion, a substantial change has occurred in the conditions and circumstances, which have increased the insurance risk against the level the Insurer had assumed when concluding the Insurance Promise Contract especially if a substantial worsening of the Importer's or applicant's financial situation has occurred, or if the risk classification of the country of destination of the export or country, which is related to execution of the Export Contract has worsened substantially.
4. During the validity period of the Insurance Promise Contract, the applicant is bound to adhere to obligations resulting from these Insurance Conditions in a similar way as the Insured)
5. Rights and obligations of contracting parties from the Insurance Promise contract are governed by the provisions of the Civil Code, particularly by the provisions of sections 1785 through 1788 relating to the agreement on a future contract.

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**Article V. – Insurance Contract**

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1. The Insurance Contract shall define, beside the usual essentials, primarily the commencement and expiration of the insurance, the amount of the insurance premium and of the Self-Retention, and identification of the person of the Importer.
2. The Insurance Contract has to be signed by the Insurer, the Policyholder and by the Exporter. Unless specified otherwise in the Insurance Contract, the Policyholder shall simultaneously be the Insured) The Exporter accepts by his signature his own rights and obligations, including the obligation to compensate for a damage arising for the Insurer by the payment of the indemnification in case the insurance loss has occurred as a result of non-fulfilment of obligations of the Exporter specified by these Insurance Conditions and by the Insurance Contract. Unless specified otherwise in the Insurance Contract, the Policyholder is obligated to pay the agreed insurance premium in one lump sum and in the time specified in the Insurance Contract. The amount of the insurance premium shall be negotiated in accordance with the scope of the risk insured (volume of the export), agreed payment terms, methods of securing payments, assessment of the character of the Importer and his risk rating, the risk classification of the country or territories related to performance of the Export Contract and the percentage of the Self-Retention) The negotiated amount of the insurance premium already contains a possible increase or decrease of the insurance risk and is unchangeable during the whole duration of the insurance) In this connection, the insurance risk is understood as the classification of countries in accordance with the extent of the export credit risk, or the classification of countries into individual risk categories established by the Insurer.
3. The Self-Retention amounts to 10%, unless specified otherwise in the Insurance Contract. Other insurance may not be arranged for the cover of the risk resulting from the specified Self-Retention and the Beneficiary shall be obligated to participate in the negotiated Self-Retention by at least half of its amount.
4. Mutual financial obligations between the Insurer and the Policyholder, and/or the Insured are payable in Czech crowns unless specified otherwise in the Insurance Contract. For conversion from the other currency for the purposes of determination of the amount of the insurance premium, the exchange rate specified in the Insurance Contract shall be used; otherwise, the Czech National Bank's exchange rate, which is valid on the day of signing the Insurance Contract, shall be applied.

5. The insurance premium, the fee for the provision of the Insurance Promise, the fee for the issuance of the Insurance Contract as well as other financial obligations in relation to the Insurer are to be paid on the basis of an invoice issued by the Insurer, unless specified otherwise in the Insurance Contract.
6. In case of a different modification in the Insurance Contract, the wording of the Insurance Contract shall always prevail over the wording of the Insurance Conditions.
7. Acceptance of an offer of the insurance contract with an addendum or with a deviation, although they are not substantially changing conditions of the offer pursuant to the § 1740, par. 3 of the Civil Code, is excluded.

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**Article VI. – Duration of Insurance (Insurance Period)**

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1. The insurance shall commence on the day the insurance premium has been paid, but not earlier than on the day the insured receivable has been ceded by the Exporter to the Insured, unless an earlier date was specified in the Insurance Contract, however, not prior to the date the Insurance Contract has been concluded) The Insurance Contract may specify additional conditions precedent for the inception of the insurance.
2. Beside cases, which are specified in the generally binding legal regulations, in the Insurance Contract or in other provisions of these Insurance Conditions, the insurance also expires by a full repayment of the insured receivables or, if an insurance loss has occurred, by a decision of the Insurer on the indemnification for the last insured receivable)
3. Insurance shall not expire on the day of refusal of the indemnification (unless stipulated otherwise in the Insurance Contract).

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**Article VII. – Insurance Loss**

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1. An insurance loss means a partial or full non-payment of an insured receivable on the due date, nor even during the waiting period, if the latter is specified, in the event the Importer's default results directly and exclusively from one or more causes stated in the paragraph 2 (the commercial risk) or in the paragraph 3 (the political risk) of this Article (insured peril.. It is possible to agree in the Insurance Contract on limitation of the insurance to the events specified in the paragraph 3 of this Article.
2. Causes representing the commercial risk are understood as following:
  - a) insolvency of the Importer, especially declaration of insolvency or refusal of the petition for the declaration of insolvency for the lack of the Importer's assets, or other circumstances, which are established by the law of the Importer's country as having the same or similar legal consequences as insolvency (financial insolvency),
  - b) refusal of the payment of the insured receivable by the Importer without any legal reason (protracted default).
3. Causes representing the political risk are understood as following:
  - a) administrative decisions or legal measures or interventions of authorities of a foreign country which prevent the payment of the insured receivable by the Importer without the Importer's fault or provocation,
  - b) any measures or decisions of the government of the country of the Insurer or Policyholder and /or the Insured, including the measures and decisions of the European Union bodies related to trade between a member state and third countries unless its consequences are covered in other way by the respective government,
  - c) impossibility, delay or restriction of the transfer or conversion of payments as a result of political events, legislative or administrative measures or serious economic difficulties in the Importer's country or in the country through which the payments are to be executed (especially declaration of insolvency of the country, declaration of the payments moratorium or introduction of a foreign exchange regime disallowing the conversion of the domestic currency or limiting in any other way the transfer of payments abroad or the conversion of the currency) provided the Importer has deposited an appropriate counter-value of the due amount in the domestic currency and has taken all necessary steps for the transfer of the payments or for the conversion of the currency,
  - d) other political events in the Importer's country, especially war, revolution, uprising, civil war, civil riots, general strike
  - e) natural disaster in the Importer's country,
  - f) non-payment of the insured receivable by a Public Importer.
4. In case of an insolvency, the insurance loss occurs on the day when the Insured notifies the Insurer of the existence of a cause according to paragraph 2, letter a) by means of delivering to the Insurer a filled-in Insurer's form of the Notification of a Threat of an Insurance Loss, and the Insured simultaneously provides evidence that the Insured has duly and in timely manner registered his insured receivables in the insolvency proceedings or in the proceedings according to the paragraph 2, letter a.. The Insured has the right to request from the Insurer a consultation regarding steps necessary for the proper registration of the insured receivable.
5. In case of a protracted default and of political risk, the insurance loss occurs after expiration of a waiting period of six months from the day the Insured had notified the Insurer on the existence of a cause according to the paragraph 2, letter b) or the paragraph 3, by means of delivering to the Insurer a filled-in Insurer's form of the Notification of a Threat of an Insurance Loss. The Insurer may reduce the waiting period by a unilateral decision)

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**Article VIII. – Indemnification**

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1. The obligation of the Insurer to indemnify arises upon an occurrence of the insurance loss.
2. The Insurer shall not indemnify in case the amount of the unpaid insured receivable does not exceed the amount of one hundred thousand Czech Crowns, unless specified otherwise in the Insurance Contract.
3. The obligation of the Insurer shall not arise in case the Insured delivers to the Insurer the Notification of a Threat of an Insurance Loss with a delay of more than six months after the default of the Importer has occurred from causes in accordance with the Article VII., paragraphs 2 or 3. In case the Insured had extended the tenor of the insured receivable to the Importer with the prior written approval of the Insurer, the newly agreed tenor is considered as decisive for the purposes of submitting the Notification of a Threat of an Insurance Loss.
4. Upon obtaining the Notification of a Threat of an Insurance Loss, the Insurer is obligated to initiate an investigation necessary for a confirmation of the Insured's claim and for determination of the extent of the Insurer's obligation to indemnify without unnecessary delay. The Insurer concludes the investigation, if possible or unless the parties do not agree otherwise, within one month from the date the insurance loss had occurred) The Insurer shall mention results of the investigation in the Decision on Indemnification.
5. For the purposes of the investigation of the insurance loss and determination of the amount of the unpaid insured receivable, the Insured is obligated to submit to the Insurer appropriate documentation, records, and other evidence requested by the Insurer for an assessment, which are decisive for the origination and the amount of the claim for the payment of an indemnification, especially the origination of the insurance loss and reasons for its origination, justification of the claim against the Importer, the amount of the unpaid insured receivable, the documentation of the payment of the insurance premium) Furthermore, the Insured is obligated to present a valid Insurance Contract or Insurance Certificate (Insurance Policy) together with all other documents and information, which the Insurer may request.
6. The Insurer reserves the right to verify the truthfulness and accuracy of submitted documents, and of all data and information provided by the Insured, which the Insurer considers significant or necessary for the purposes of the investigation.
7. For the purposes of establishing the amount of the unpaid insured receivable, the outstanding unpaid amount of the insured receivable as at the date of the Decision on Indemnification is determined as the basis for the indemnification payment. It is reduced by all payments received by the Insured as a settlement or as a cover of the loss from the unpaid insured receivable before the day of Decision on Indemnification) The lost profit of the Insured is not the subject of the insurance cover.
8. The amount of the unpaid insured receivable according to paragraph 7 of this Article shall be reduced by the amount of reciprocal creditable receivables of the Importer and the Insured, the justification of which has been acknowledged by the Insured, or which have been awarded to the Importer by an enforceable decision in legal or arbitration proceedings unless specified otherwise in the Insurance Contract.
9. The indemnification is set for the amount of the unpaid insured receivable determined according to the paragraph 7 of this Article, and reduced according to the paragraph 8 of this Article, and further reduced by the amount of the agreed Self-Retention)
10. Unless agreed otherwise between the Insured and the Insurer, the Insurer always starts from the original due date of individual insured receivables when determining the amount and date of the indemnification payment. If, based on the appropriate provision of the Export Contract, the Insured makes the insured receivables or their parts payable prematurely, these changes have no effect on the Insurer and the Insurer shall not consider them when determining the amount and date of the indemnification payment.
11. The indemnification is paid out in the Czech currency. Regarding the Article III., par. 2, the exchange rate of the Czech National Bank valid on the day of the Decision on Indemnification shall be applied for the calculation.
12. The indemnification is payable within fifteen days from the date of the issuance of the Decision on Indemnification)

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**Article IX. – Exclusions from Insurance, Refusal and Reduction of Indemnification**

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1. The obligation of the Insurer to indemnify shall not arise (exclusions from insurance.):
  - a) If the rights resulting from the Export Contract have been transferred to a third person without a prior written consent of the Insurer,
  - b) if, without a prior written consent of the Insurer and during the validity period of the insurance, the Insured and the Importer have become economically or personally related persons, when one person participates, directly or indirectly, in management, control, or capital stock of the other. The participation in the capital stock of the other person means holding of shares or of a portion representing at least 10% of the capital stock of the person in question,
  - c) if the receivable was denied by the insolvency receiver and if it was not subsequently approved by the insolvency receiver, or if the denied insured receivable was not accepted by a court decision; when the denial of the insured receivable had been made on the basis of an evidently discriminatory action of the insolvency receiver or of the court, in such case the Insurer shall proceed by analogy according to the Art. VII, paragraph 3, letter a.,
  - d) if the insured receivable is not in compliance with requisites specified in the legal regulation or in the commercial usage and this deficiency had a substantial influence on an occurrence of an insurance loss, its course or on an increase in the amount of its effects, or on the ascertainment or determination of the indemnification.
2. The Insurer has the right to refuse the indemnification in case the Beneficiary has knowingly stated untruthful or grossly distorted information relating to the scope of the insurance loss or withheld essential data concerning this loss when making a claim for the indemnification.
3. The Insurer has the right to reduce the indemnification in an appropriate extent if the non-payment of the receivable has been caused, directly or indirectly:
  - a) By the Insured or a person acting for the Insured or on behalf of the Insured, especially by the violation of the legal regulation valid in the Importer's country or in the country through which the payment has been (or should have been) executed,
  - b) If the Insured has violated the obligations towards the Insurer as specified in the Insurance Contract, Insurance Conditions, and in respective provisions of the generally binding regulation related to the insurance, and this violation had a significant influence on an occurrence of an insurance loss, its course or on an increase of its consequences, or on the ascertainment or determination of the amount of the indemnification.

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**Article X. – Cession of Rights**

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1. Concurrently with the partial or full payment of the indemnification, the Insurer is entitled to request the Insured to transfer, cede or otherwise surrender to him financial claims the Insured has on the Importer in a way effective towards the Importer,. Upon the Insurer's request, the Insured is obligated to transfer, cede, or otherwise convey at the same time, all rights connected with these claims, especially the rights from guarantees or other forms of security.
2. Notwithstanding the cession of claims, the Insured is always obligated to enable the Insurer to recover the insured receivable from the Importer. For these purposes, the Insured is obligated to submit to the Insurer all documents related to the receivable and to provide the Insurer with the necessary co-operation without unnecessary delay.



3. For reasons of expediency of the recovery of the insured receivables or for simplification of the legal procedures against the Importer, the Insurer may authorise the Insured or a person appointed by the Insured with the recovery of the insured receivables from the Importer, or as the case may be, from persons guaranteeing the insured receivables or pertinent financial claims. The Insurer shall undertake to reimburse the Insured for purposefully spent expenses of recovery of the insured receivable on the basis of their proper accounting and evidencing on Insured's part.
4. Payments made by the Importer or by a third person as settlements of the insured receivable after the Insurer had paid out the indemnification shall belong to the Insurer and the Insured is obligated to inform the Insurer on such payments without delay and to cede these payments to the Insurer within five days upon their receipt.
5. If rights of the Insured have not been transferred to the Insurer by a contract on cession of the insured receivable in accordance with the Art. 1 for a reason of purposefulness of recovery of the insured receivable, the Insured and the Insurer shall conclude a contract on arrangement of rights and obligations where reciprocal rights and obligations in recovery of the insured receivable shall be regulated)

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**Article XI. – Obligations of the Insured**

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## 1. The Insured is obligated to:

- a) proceed in relation to the insured receivable with due care and caution while taking into account international commercial usage and to take care of the insured receivable and of risks related thereto with a professional care as if he were uninsured,
- b) provide the Insurer with an exact and true information on own economic situation, financial and legal status and all information known to the Insured on economic situation, financial and legal status of the Importer, even without being requested to do so by the Insurer,
- c) refrain, after conclusion of the Export Contract, from concluding any subsequent contract with the Importer which would prevent, delay or restrict the settlement of the insured receivable,
- d) take legal action against the Importer on request of the Insurer leading to the settlement of the insured receivable, including submission of the proposal for initiation of legal or other proceedings against the Importer regarding the settlement of the insured receivable,
- e) take independently or by agreement with the Insurer all useful steps preventing the occurrence of an insurance loss or the increase in its extent, especially to demand his claims properly and in time, and to enforce consistently repayment of the due insured receivable; the Insured is liable for the reduced recoverability or legal enforceability of the insured receivables caused by their late presentation to the court or to other relevant authority,
- f) co-ordinate with the Insurer procedures taken in order to prevent a threat of an insurance loss to occur or to reduce its consequences, and to take all necessary steps against the Importer or a third person with a prior consent of the Insurer only; in case the Insurer does not inform the Insured on his opinion to the proposed procedure within 10 working days since receiving the request of the Insured, or the Insurer has not agreed with the Insured other deadline for giving his opinion, it is considered as if the Insurer gave his consent to the proposed procedure,
- g) inform the Insurer without delay on an agreement on conclusion of a concurrent insurance with another Insurer against the same or similar risk,
- h) participate in the insured risk in the extent of the agreed Self-Retention and not to conclude another insurance for the Self-Retention,
- i) to send to the Importer in case of the non-payment of the insured receivable a written reminder for the payment not later than five working days from the due day and to inform the Insurer of the non-payment of the insured receivable without delay,
- j) conclude, concurrently with the indemnification payment on suggestion of the Insurer, a contract on cession of the insured receivable which the Insurer indemnifies, or to conclude, in compliance with the Article X, a Contract on Arrangement of Rights and Obligations,
- k) enable the Insurer assertion of claims belong to the Insured, especially the claims for the compensation of damages, which belong to the Insured,
- l) return to the Insurer the paid-out indemnification if the Insured prevented the Insurer to carry out the rights ceded to him or refused their cession to the Insurer, or the Insured has not enabled the Insurer to carry them out properly, or if the Insured has complicated the recovery of the insured receivables for which the Insurer had paid the indemnification,
- m) return to the Insurer the paid-out indemnification if it had been paid out on the basis of incomplete or untruthful information of the Insured, or without the rightful title to the payment of the indemnification, or if such claim later ceased to exist or if it had come out that facts mentioned in the Article IX. had occurred,

- n) to register duly and in timely manner the insured receivables into insolvency proceedings in case of the insolvency proceedings (and/or similar proceedings which are established by the law of the Importer's country. The Insured has the right to request from the Insurer consultations regarding steps necessary for the proper registration of the insured receivable.
2. The Insured may not, without a prior written consent of the Insurer:
- a) Agree with the Importer on a change in conditions of the Export Contract (especially the change in due dates or amounts of individual instalments),
  - b) take advantage of his right enabling him to make due also those insured receivables from the Importer which are not due yet (debt acceleration) in case the Importer is in delay with the settlement of his obligations,
  - c) establish the right of lien on the insured receivables or to encumber these receivables in any other way,
  - d) cede the insured receivables to a third person.

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## **Article XII. – Obligations of the Exporter**

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1. The Exporter is obligated to:
- a) proceed in the process of negotiating the Export Contract with due care and caution while taking into account international commercial usage, especially to pay regard to an exact and legally binding identification of contracting parties, to agree upon a suitable clause on selection of the applicable law, and to regulate the way of solution of disputes,
  - b) comply with terms and conditions of the Export Contract and with respective legal regulations valid in the country of the Importer or in the country through which the payment is to be (or should have been) executed,
  - c) refrain from application of any provision of the Export Contract or related documentation, or from negotiation of such terms and conditions of the Export Contract which differ from international commercial usage, which restrict the rights of the Insured or possibility of their implementation and enforcement,
  - d) inform the Insurer without any delay and to refuse performance from the Export Contract upon occurrence of circumstances known to the Exporter which might lead to an origination of an insurance loss or to an increase in its extent, or which may affect obligations of the Insurer resulting from the Insurance Contract,
  - e) secure, in an appropriate way, own rights towards the Importer, Importer's guarantors and third persons and to take care that the Export Contract or other agreements with the Importer or a third person do not restrict pertinent claims of the Insurer or that they do not make their enforcement more difficult,
  - f) ensure that the subject of export is insured properly (against theft, destruction, loss, and such) until the time of acceptance of the delivery by the Importer in relation to terms of delivery negotiated by and between the Exporter and the Importer in the Export Contract,
  - g) refrain, after conclusion of the Export Contract with the Importer, from concluding any subsequent contract with the Importer which would prevent, delay or restrict the settlement of the insured receivable,
  - h) take all effective steps against the Importer on request of the Insurer leading to the settlement of the insured receivable, prevention of origination of an insurance loss or increase in its extent,

- i) co-operate with the Insurer in recovery of the insured receivable from the Importer including submission of all documentation related to the insured receivable and to performance of the Export Contract and to participation of the Exporter in legal proceedings initiated for the purposes of recovery of the insured receivable,
- j) reimburse the Insurer for property injury arising from payment of the indemnification to the Insured:
  - i) in case of an occurrence of an insurance loss in relation with the breach of obligations arising from these Insurance Conditions and from the Civil Code,
  - ii) in case the right to the indemnification of the insured receivable was refused by a final legal decision or it was awarded only partially as a result of the violation of the Export Contract by the Exporter and/or legal non-enforceability of the insured receivable caused by the Exporter,
  - iii) if the Exporter or the person acting for the Exporter or on behalf of the Exporter has violated the standards and practices of international law binding on the Czech Republic or the provisions of Sections 331 through 334 of Act No. 40/2009 Coll., the Criminal Code, as amended.

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### **Article XIII. – Rights and Obligations of the Insurer**

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1. The Insurer is obligated to:
  - a) Perform a proper investigation necessary to determine the extent of the Insurer's obligation to provide the indemnification,
  - b) state the results of the investigation in the Decision on Indemnification and to inform the Insured on its contents,
  - c) pay the indemnification within the time limit of fifteen days from the date of the Decision on Indemnification,
  - d) preserve the documents entrusted and provided to the Insurer with due care.
2. The Insurer has the particular right to:
  - a) request the payment of the insurance premium for the whole period of validity of the insurance,
  - b) request from the Exporter submission of the Export Contract, including its modifications and supplements and documentation related thereto; in doing so, the Insurer shall not become responsible for the content and form of this contract and documents,
  - c) increase the insurance premium rate and the Self-Retention in case that the Export Contract and related documents concluded or modified by the Insured had been modified without a prior consent of the Insurer,
  - d) verify the truthfulness and exactness of the submitted documents and of all data and information given by the Insured while respecting the generally binding regulation on the banking and business secrecy,
  - e) request from the Insured the proper enforcement of the claims against the Importer or third persons,

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<sup>2</sup> Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Communication of the Ministry of Foreign Affairs Nr. 25/2000, Collection of International Agreements)

- f) negotiate with the Insured, independently from acquiring the unpaid insured receivable after the payment of the indemnification, subsequent steps in recovery and collection of the insured receivable,
  - g) claim from the Insured repayment of the paid-out indemnification or compensation of damages in case that the indemnification has been provided on the basis of untruthful information, or without the rightful title to the payment of the indemnification, or if such a claim later ceased to exist or if it had come out that facts mentioned in the Article IX. had occurred.
3. When providing insurance, the Insurer evaluates fulfilment of the conditions of the fight against corruption in international trade in compliance with the obligations of the Czech Republic) If the Importer, Exporter or the person acting for them or on their behalf has violated the provisions of standards and practices of international law binding on the Czech Republic<sup>2</sup> or the provisions of Sections 331 through 334 of Act No. 40/2009 Coll., the Criminal Code, as amended, or the provisions of Act No. 69/2006 Coll., on Implementation of International Sanctions, as amended, the Insurer is entitled to refuse to insure the risk of non-payment of insured receivables in compliance herewith.

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#### **Article XIV. – Special provisions for situations when the receivable under letter of credit is the subject-matter of the insurance**

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1. Along with other provisions hereof, the provisions of this Article XIV hereof shall apply solely in the event that the subject-matter of the insurance is a receivable under the letter of credit issued by the bank as an instrument to pay the Exporter's liabilities arising from the Export Contract.
2. For the purposes hereof and of the Insurance Policy, it is understood that:
  - a) **letter of credit** is an irrevocable documentary letter of credit issued by the bank to the benefit of the Exporter as an instrument to pay the Exporter's liabilities arising from the Export Contract regulated by the Uniform Customs and Practice for Documentary Credit issued by the International Chamber of Commerce,
  - b) the **Insured** is a bank, branch of a foreign bank or a financial institution or another entity to which the Exporter had assigned for consideration an insured receivable under the Export Contract and/or receivable under the letter of credit by a written contract without the option to have recourse to the Exporter.
3. The insured event is also (or exclusively with respect to insurance of receivable under the letter of credit only) a partial or complete failure to pay the insured receivable by the maturity date or even during the course of the waiting period, if stipulated, provided that the bank issuing the letter of credit fails to pay directly and exclusively in consequence of one or more causes representing a commercial risk or causes representing a territorial risk in the way that these risks are defined herein.
4. Unless otherwise stipulated hereby, the obligation of the Insurer to indemnify shall not arise (exclusions from insurance) if the non-payment of the insured receivable had been directly or indirectly caused by:
  - a) insufficiencies relating to the form or the contents of the letter of credit or insufficiencies relating to the form or the contents of documents connected to the letter of credit (including the Contract to Assign the Receivables under Letter of Credit),
  - b) failure to fulfil the Exporter's obligations arising from the Export Contract or the failure to fulfil the terms of the letter of credit or failure to submit the documentation under the terms of the letter of credit
  - c) amendment or termination of the Export Contract, Contract to Assign the Receivables under Letter of Credit, or of the terms of the letter of credit that had been implemented without the prior written consent of the Insurer.

5. The obligation of the Insurer to indemnify shall not arise (exclusions from insurance) also in any of the following events:
  - a) the receivable under the letter of credit did not arise,
  - b) the letter of credit had not been issued by the bank as an instrument to pay the Exporter's liabilities arising from the Export Contract,
  - c) by issuing the letter of credit, the Exporter's obligation arising from the Export Contract has terminated.
6. The Insurer shall not be obliged to indemnify to the extent the receivable arising from the Export Contract had been paid by the Importer, or to the extent the payment of the receivable under the letter of credit had been made by the bank issuing the letter of credit.
7. Provided that the Insurer shall make indemnification under the Insurance Policy, unless otherwise stipulated by the Insurance Policy, the Exporter and the Insured shall be obliged to provide any payment, profit or performance under the Exporter's receivable arising from the Export Contract and not assigned to the Insured to the benefit of the Insurer up to the amount of the insurance claim and with no entitlement to any consideration.
8. Provided that the subject-matter of the insurance shall be the receivables under the letter of credit, the Exporter may not assign the remaining receivables under the Export Contract to a third party without the prior written consent of the Insurer.
9. The Exporter is obliged to pay to the Insurer the proprietary damage arising by the indemnification under the Insurance Policy in the event that the entitlement to pay the insured receivable arising to the bank issuing the letter of credit had been rejected by a final and conclusive judicial or arbitration decision or in the event that it had been adjudicated solely in part due to the Exporter's failure to fulfil the terms of the letter of credit concerning the issued letter of credit.
10. The Export Contract, Contract to Assign the Receivables under Letter of Credit, and the terms of letter of credit may be amended solely with the prior written consent of the Insurer. The Insurer may make its consent with any amendment to the Export Contract, Contract to Assign the Receivables under Letter of Credit, or the terms of letter conditional upon an amendment of the Insurance Policy, or by a change in the policy premium or the amount of the agreed co-insurance)
11. When the term Importer is used in the Insurance Policy and herein, depending on the circumstances and within reasonable scope it also means the bank issuing the letter of credit. When the term Export Contract is used in the Insurance Policy and herein, depending on the circumstances and within reasonable scope it also means the obligation between the bank issuing the letter of credit and the Exporter with respect to receivables under the letter of credit issued by the bank issuing the letter of credit and the terms of the letter of credit issued by the bank issuing the letter of credit.

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**Article XV. – Final Provisions**

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1. Relations not regulated by the Insurance Contract or Insurance Conditions are governed by the relevant provisions of the Civil Code.
2. Wordings of the Insurance Conditions and of the Insurance Contract in the Czech language are decisive.
3. The Insurer is entitled to terminate the Insurance Contract if:
  - a) The Insured has been withdrawn the authorisation for entrepreneurial activities and/or the Insured has been withdrawn the banking licence, if forced administration has been imposed on the Insured, the court has decided on insolvency of the Insured, or if the petition for declaration of the insolvency proceedings has been refused for the lack of assets of the Insured,
  - b) it is so stated in the Insurance Contract,
  - c) it is stated in the Civil Code or in other legal regulations.
4. The notice of termination must be in writing) The term of notice starts on the day of delivery of the notice of termination to other party and it lasts 6 weeks, unless stipulated otherwise by the law.
5. If some provisions of Insurance Conditions or Insurance Contract become even at least partially invalid, ineffective, apparent or non-applicable as a result of changes in legal regulation, this shall not make remaining provisions invalid, ineffective, or apparent.
6. All information provided in any form by the Parties to the Insurance Policy in connection with the conclusion of the Insurance Policy and with the performance of obligations arising therefrom is confidential) Without the consent of the Party providing the information, the Party to which the information has been provided may neither disclose such information to a third party nor use it for purposes other than for which it had been provided unless otherwise stipulated by binding legal regulations (e.g., the Insurance Act). The Parties may disclose such information in the necessary scope to their professional consultants (including auditors, legal representatives or accountants or tax advisers). Furthermore, the Parties may share such information and necessary documents concerning the facts arising from the Insurance Policy with their controlling company. Concurrently, if required by the obligation stipulated for the Insurer by legal regulations, including but not limited to the obligation to act with due diligence and to proceed with vigilance, the Insurer may disclose the information and necessary documents concerning the facts arising from the Insurance Policy to other third parties within the scope necessary to ensure the stability and safety of the Insurer. Within the scope necessary for this purpose, the Insurer's rights include but are not limited to the provision of information and necessary documentation to reinsurance companies and reinsurance agents in order to conclude a reinsurance contract and perform the rights and obligations arising therefrom) The Insurer may disclose the facts concerning the insurance and insured receivables solely under similar conditions and to a similar extent the Insured is allowed by the Act on Banking with respect to cases of the debtor's default. Within the necessary scope, the policyholder, or the Insured and the Exporter, may provide the information on facts arising from the Insurance Policy to the Importer or to the bank issuing the letter of credit.
7. All disputes arising from the Insurance Policy or related thereto shall be resolved before the competent courts of the Czech Republic.
8. Insurance under these Insurance Conditions shall be governed by the rule of law of the Czech Republic.
9. In compliance with provision of the section 1801 of the Civil Code, the Insurer, the Policyholder and the Exporter who are entrepreneurs depart from relevant provisions of sections 1799 and 1800 of the Civil Code on adhesion contracts. In this way, the potential invalidity of provisions of these Insurance Conditions or an Insurance Contract for contradiction with the mentioned provisions on adhesion contracts is excluded, particularly invalidity of:
  - i) clauses referring to conditions outside the wording of the Insurance Contract as such where the Policyholder and/or the Exporter were not made acquainted with their content and also knowledge of the Policyholder and/or the Exporter of their meaning will not be proven;
  - ii) clauses which can be read with extraordinary difficulties only or clauses which are unintelligible for a person of average intellect even in the case when it causes detriment to the Policyholder and/or the Exporter and its meaning has not been sufficiently explained to the Policyholder and/or the Exporter;
  - iii) clauses which are particularly disadvantageous for the Policyholder and/or the Exporter without any reasonable ground, particularly when the Insurance Contract or these Insurance Conditions differ substantially and without any particular reason from usual conditions negotiated in similar cases.