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## **GENERAL INSURANCE CONDITIONS If**

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### **for Insurance of a Credit for Investment in Foreign Countries against the Risk of Non Repayment of the Credit**

These General Insurance Conditions are effective from 1 July 2019.

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#### **Article I. – BASIC PROVISIONS**

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1. These General Insurance Conditions “If” (hereinafter the “**Insurance Conditions**”) regulate terms and conditions of insurance of a credit extended for the investment against the risk of its non-repayment resulting from prevention of transfer of returns on the investment, expropriation, politically motivated violent damage, breach of contractual obligations and commercial risks (hereinafter the “**insurance**”). The Insurance Conditions form an inseparable part of the Insurance Contract.
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. Shall a Borrower or a person acting for the Borrower or on behalf of the Borrower violate provisions of the special law<sup>1</sup> when negotiating the Contract on a credit for investment the Insurer is entitled to refuse insurance of the risk of the non-payment of the credit extended in accordance with these Insurance Conditions.
4. Insurance according to these Insurance Conditions is concluded as an insurance against loss and damage.
5. 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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For the purposes of these Insurance Conditions and the Insurance Contract, it shall be understood that:

1. The **Insurer** is the Export Guarantee and Insurance Corporation,
2. The **Insured** is the financial institution which extends a credit for the investment which is not an Investor and is in no way economically or personally linked with the Borrower, where one person participates directly or indirectly in management, control or in the authorized capital of other person. Share in the registered capital means holding of stocks or an ownership interest representing at least 10% of the registered capital of the relevant person,
3. The **Policyholder** is a person who has concluded an Insurance Contract with the Insurer.
4. The **Beneficiary** is a person for whom the right for an indemnification payment has arisen from an insurance loss.
5. A Credit **Contract for Investment** is a contract concluded by and between the Insured (as a creditor) and the Borrower (as a borrower) for the purposes of providing loan for investment,
6. The **Borrower** is a Foreign Institution with which the Insured concluded a credit contract for Investment or an Investor with whom the Insured concluded a Credit Contract for the Investment.
7. An **investor** a person realizing an investment, who is either a legal person with the registered seat on the territory of the Czech Republic who is an entrepreneur according to the Civil Code or a Foreign Company,
8. 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.
9. A **Foreign Institution** means a legal entity with its registered office outside the territory of the Czech Republic, for the purpose of whose founding or acquisition of or an increase in the investor's share in such a legal entity or for the purpose of expanding the business of the legal entity the credit for investment is provided;
10. An **Investment** means funds or other things of monetary value or ownership rights contributed or exercised by the Investor for at least three years for the purpose of founding or acquiring or increasing the investor's share in the foreign institution or for the purpose of expanding the business of the foreign institution, and includes especially the following forms:
  - a) movable and immovable assets as well as all property rights to them like mortgages, sureties or guarantees,
  - b) shares, bonds, unsecured bonds of a company or any other forms of participations in companies,

- c) financial means,
  - d) financial claims or claims for financial settlement arising from the investment contract,
  - e) the rights from the area of intellectual property including copyright law, trademark law, patents, industrial designs, technical procedures, know-how, trade secrets, business firms (trade names) and goodwill connected with the investment,
  - f) the rights under the law or under a contractual provision, under a licence or permission issued in accordance with the law, including licences for surveying, mining, the cultivation and use of natural resources, etc.; any change in the form of the values invested has no effect on the change of the investment nature of these funds,
11. A **Credit for the Investment** is a credit for acquisition of the investment or a credit for operation of the Foreign Institution extended by the Insured.
12. **Returns** are amounts originating from an investment and include, particularly but not exclusively, profits, interest, loan interest, capital gains, participations, dividends, licence or other fees.
13. A **host country** is the country on which territory the Foreign Institution has a seat, inclusive of coastal waters and any sea or undersea areas over which the host country exercises its sovereign rights and has jurisdiction in compliance with international law.
14. **Prevention of conversion** means making impossible for an Investor to convert payments designated for the transfer from the host state as e.g. profits or other remittances from a local currency to any free convertible currency.
15. **Impossibility of a transfer of payments** means making impossible for an Investor to execute the transfer of payments in free convertible currencies to the Czech Republic as a consequence of measures of the government or of the appropriate authorities in the host or in a third country.
16. **Expropriation** means a loss of ability to dispose of an investment, particularly to further own, dispose of and operate an investment or to claim returns arising from an investment as a consequence of the dispossession, nationalization or confiscation in the host country carried out without an adequate compensation to the Investor.
17. **Politically motivated acts of violence** mean war, hostile attacks of national or foreign armed forces, civil war, revolution, rebellion, uprising and civil unrest, politically motivated terrorist attacks and sabotages resulting in a loss of assets of the Foreign Institution and of returns on the investment.
18. The **Self-Retention** is a portion of the Beneficiary on the loss covered by the insurance and expressed in percentage points.

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## **Article III. – BASIC CONDITIONS FOR INSURANCE OF A CREDIT FOR THE INVESTMENT**

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1. The credit for the investment meeting the following criteria may be insured:
  - a) the investment must represent a long-term obligation of the Investor for the period longer than 3 years,
  - b) profits of the Investor from the investment shall depend solely on performance of the Foreign Institution and on returns on the investment,
  - c) the investment must be established in compliance with the law of the host country and the Investor and the Foreign Institution have obtained necessary permits for a proper operation of entrepreneurial activities from administrative authorities of the host country,
  - d) the Investor has concluded with the Insurer the insurance of investment in foreign countries against the risk of prevention of the transfer of returns on the investment, expropriation and politically motivated violent damage for the part of the investment which is financed from sources other than the credit for the investment.
2. The insurance does not include investments into projects and activities of the foreign institution related to:
  - a) the manufacturing of goods to be used in connection with a programme of biological, chemical, or nuclear weapons or ballistic missiles or for military purposes in countries subject to an arms embargo or of goods which could be used for the purposes of violating human rights and basic freedoms,
  - b) risky or highly speculative projects, the right to judge whether the project is risky or highly speculative lies with the Insurer,
  - c) production of narcotics and psychotropic substances.
3. Such credit for the investment may be insured which:
  - a) is long-term, i.e. the period from its first drawdown to its final repayment exceeds the duration of 3 years with the exception of credits with a purpose mentioned under letter b) item iii.,
  - b) shall be utilized particularly to long-term financial needs of the Foreign Institution and/or of the Investor in connection with the investment; the purpose of the credit for the investment may be exclusively:
    - i. the making of the investment by an investor, i.e. its founding or acquisition or the acquisition of a share in an existing foreign institution,
    - ii. acquisition, incl. the expansion or modernisation of non-current tangible, intangible or financial assets of the foreign institution or the provision of additional capital for the support of the foreign institution's business expansion, or

- iii. operational financing of the Foreign Institution for purposes agreed in advance and possible to control provided return of the extended capital is ensured.

The specific purpose of the credit for the investment, or a combination of above-mentioned purposes shall be stipulated in the Insurance Contract.

4. The condition for insuring the credit for investment is partial financing from the investor's own resources. If the nature of the foreign institution's activities also requires a contribution or provision of operating capital, the investor is obliged also to contribute its own funds to the financing of the operating capital of the foreign institution. The Insured is obliged to assess the minimum necessary degree of the financing of the investment, or, possibly, the operations, and the value of the investment for the specific foreign institution shall be established following the agreement of the Insured and the Insurer.
5. The Insured shall assess adequacy of control of the Foreign Company by the Investor in accordance with the Art. II, item 8 and the final decision regarding the acceptability of the respective share shall belong to the Insurer.
6. Provided the Borrower is the Foreign Institution and parties in the insurance have not agreed in the Insurance Contract other way of security, the insurance of the credit for the investment is conditioned by the guarantee of the Investor to repay to the Insured the credit for the investment in case the Foreign Institution should not repay the credit for reasons other than political and other non-commercial risks mentioned under Article X., par. 2 of the Insurance Conditions.

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## **Article IV. – IMPACT OF THE INVESTMENT ON THE ENVIRONMENT, ITS SOCIAL IMPACT, AND THE FIGHT AGAINST CORRUPTION IN INTERNATIONAL TRADE**

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1. In investments with potential environmental and social impacts, including human rights, the Insurer reserves the right to demand that the investor submit an expert report on the impact of the investment and the related project on the environment and its social impacts, including the impact on human rights in the country of its final destination (hereinafter the "environmental impact assessment"). The content, requirements, and conditions for the preparation of the environmental impact assessment are set by the Insurer in accordance with international rules and are available on the Insurer's website – [www.egap.cz](http://www.egap.cz). In the event that the result of the environmental impact assessment is negative, the Insurer is entitled not to insure the credit for the investment.
2. The Investor shall submit the environmental impact assessment after the execution of the Insurance Promise Contract; however, by the execution of the Insurance Contract at the latest. The Insurer shall not enter into an Insurance Contract unless the environmental impact assessment is submitted to it, if the Investor requested such submission pursuant to the preceding paragraph.
3. An environmental impact assessment determining, among others, obligatory limits which have to be respected, is:

- a) an assessment presented in Czech and English, prepared by a person authorized according to legal regulations in the country of the final destination of the investment confirming that the environmental impact of the investment complies with international rules; the certificate of authorization of such person has to be enclosed to the assessment, or
  - b) an assessment presented in English, recognized by an international financial institution in the event the investment is financed by this institution, or
  - c) an assessment presented in English recognized by a foreign credit insurance company in the event the investment is a part of a project in insurance of which this foreign credit insurance company participates, or
  - d) an assessment presented in Czech and English, prepared by an expert executor contained in a list of expert executors of environmental assessments recognized by the Insurer.
4. In the event that the environmental impact assessment prepared in accordance with the Insurer's instructions reveals negative environmental and/or social impacts, including impacts on human rights, the Insurer is entitled to refuse to enter into the contract, even if an Insurance Promise Contract has been entered into.
5. The Investor is obligated:
- a) duly, fully, and truthfully fill in the questionnaire on the investment's environmental and social impact, including the impact on human rights, according to the instructions, to the extent and in the form set by the Insurer and listed on the Insurer's website – [www.egap.cz](http://www.egap.cz);
  - b) ensure the preparation of the environmental impact assessment;
  - c) publish, in the event of the investment and the related part of the project being included in Category A and in accordance with the procedure set by the Insurer and available on the Insurer's website – [www.egap.cz](http://www.egap.cz) – the assessment or a summary thereof so that the document is available to the public at least 30 days before the start of the insurance;
  - d) give its consent to the publishing of basic information about the investment and the related projects included in Category A and Category B;
  - e) adhere to the limits set in the environmental impact assessment throughout the execution of the investment, or make sure that the foreign institution adheres to such limits;
  - f) request from the person(s) preparing the expert report an assessment of the environmental and social impact of the changes, including the impact on human rights, should material changes take place or are to take place; take into account any material changes in accordance with the (new/amended) environmental impact assessment in the documents related to the investment and inform the Insurer immediately, and
  - g) submit a monitoring report to the Insurer concerning adherence to the environmental impact assessment, if the insurance contract provides so.

6. The Insurer has the right of recourse against the Investor if the insurance loss has occurred for reasons of failure to comply with conditions contained in the environmental impact assessment.
7. In providing the insurance, the Insurer assesses the compliance with the conditions of the fight against corruption in international trade for the investment in accordance with the obligations of the Czech Republic.
8. Should, in negotiating or executing the investment, the investor or a person acting on the investor's behalf breach the provisions and conventions of international law the Czech Republic is bound by (e.g. the Convention on Combating Bribery of Foreign Officials in International Business Transactions (Notice of the MFA No. 25/2000 Collection of International Contracts)), or the provisions of Sections 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 performance of international transactions, as amended, the Insurer is entitled to refuse to insure the risk of credit for the investment in accordance with these insurance conditions.

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## **Article V. – SUBJECT OF INSURANCE**

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1. The subject of insurance are receivables of the Insured from the Borrower from the extended credit for the investment, for the payment of the principal, credit interest for each interest period and fees following from the credit contract for the investment, and specified in the insurance contract (hereinafter "**insured receivables**"). In case the Borrower is obligated under the credit contract for the investment to repay the extended financial means in instalments, each of these instalments shall be understood as a separate insured receivable for purposes of the insurance.
2. The insurance additionally covers the exchange rate risk of movement of the exchange rate of the Czech crown against the currency in which the credit for investment has been extended in case of indemnification (see Art. XI., par. 12).
3. Under the conditions of and in the extent stipulated in the insurance contract, the subject of insurance shall also be expenses of the Insured related to the financing of the insured receivables during the waiting period (hereinafter "**refinancing expenses**").
4. The maximum insurance value as stated in the insurance contract shall be determined in connection with the amount of the principal, interest and insured fees from the insured credit for the investment.
5. The maximum insurance value is lowered by the amounts of the indemnification the Insured received as the indemnification under these insurance conditions, or by other amounts stated in the Insurance Contract, if applicable.
6. The insured receivables do not include an entitlement to compensation for lost profits of the Insured, and nor do they include receivables regarding the payment of default interest, contractual penalties, claims for damages and compensation for costs (unless these are fees pursuant to paragraph 1) and other receivables and claims of the Insured following from the credit contract which are sanctions in their nature.

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## **Article VI. – 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 reservation of the necessary insurance capacity.
2. The applicant for insurance is obligated to pay a fee for the provision 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 level of the insurance risk against the level the Insurer had assumed when concluding the Insurance Promise Contract, especially if a substantial worsening in the risk classification of the country related to the investment had occurred.
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 VII. – INSURANCE CONTRACT**

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1. The Insurance Contract shall define, beside the usual essentials, primarily determination, type and volume of the credit for the investment and its time flow, the amount of the insurance premium and of the Self-Retention, the length of the insured period.
2. The Self-Retention amounts to 5 % 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.
3. 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 the 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.
4. The insurance premium, the fee for the provision of the Insurance Promise Contract, as well as other financial obligations towards the Insurer are to be paid on the basis of an invoice issued by the Insurer, unless specified otherwise in the Insurance Contract.
5. In case of a different modification in the Insurance Contract, the wording of the Insurance Contract shall always prevail over the wording of these Insurance Conditions.



6. The starting point of the credit for the investment shall be agreed in the Insurance Contract in a link-up with the date of its extending and the insured period in accordance with the time flow of the credit for the investment.
7. Beside the Insurer and Policyholder, the Investor shall also sign the insurance contract as a party to insurance.
8. 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 section 1740, par. 3 of the Civil Code, is excluded.

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## **Article VIII. – INSURANCE PREMIUM**

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1. In calculating the insurance premiums, the Insurer shall take into account the territorial and commercial risks covered by the Insurance which is set out in the Insurance Contract. In particular, the Insurer shall take into account the nature and the risk rating of the Borrower, the investment project, and the risk rating of the host state.
2. Calculation of the insurance premium shall be based on an insurance premium rate having the form of a percentage from the maximum insurance value, i.e. from the total value of the principal of the credit for the investment.
3. Unless specified otherwise in the Insurance Contract, the Policyholder is obligated to pay the agreed insurance premium in one lump sum in time determined by the Insurance Contract.
4. The agreed amount of the insurance premium contains also possible increase or decrease of the insurance premium and is unchangeable during the whole duration of insurance. This does not affect the provisions of Article XVII, par. 2 letter c).

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**Article IX. – DURATION OF INSURANCE (insurance period)**

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1. The insurance shall commence on the day of the payment of the insurance premium unless an earlier date is specified in the Insurance Contract, but not earlier than on the day of the conclusion of the Insurance Contract, unless the Insurance Contract provides otherwise. The Insurance Contract may set out other conditions for the insurance to commence.
2. Beside cases, which are specified in the generally binding legal regulations, in the Insurance Contract or in other provisions of these Insurance Conditions, insurance also expires:
  - a) on the termination of the insured receivable;
  - b) on the day the Insured had transferred the rights arising from the insured credit for the investment to a third person without a prior written consent of the Insurer,
  - c) by the decision of the Insurer on the indemnification for the last insured receivable in the event of an insurance loss.
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 X. – INSURANCE LOSS**

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1. An insurance loss is a full or partial non-repayment of the insured receivable by the Borrower or by the Guarantor and/or the non-repayment of the insured receivable from the security concluded in the Insurance Contract on its due day and not even during the waiting period, caused by the full or partial loss of value of the investment; a partial or full non-execution of a transfer of dividends, returns, profits after the payment of all taxes and fees from the investment, caused directly and exclusively by one or more circumstances representing political risks stated in the paragraph 2 (insured peril). The insurance loss is also the partial or full non-repayment of the insured receivable by the Borrower or by the Guarantor, as well as non-settlement of the insured receivable from the security concluded in the insurance contract on its due date and not even during the waiting period caused directly and exclusively by one or more circumstances representing commercial risks stated in the paragraph 3 (insured peril).
2. Causes representing political and other non-commercial risks, i.e. those risks not arising from the economic or financial situation of a foreign institution but from political and economic events and measures in the host country or in a third country, which have the character of force majeure in relation to the investment, include:
  - a) **impossibility of the conversion of returns** – Insurance against the risk of impossibility of the conversion of returns on the investment denominated in a currency of the host country into a free convertible currency and impossibility of the transfer of remittances to the Czech Republic covers risks of new restrictions both of the host country and third countries which prevent the conversion and transfer of financial means from the investment; these restriction may take form of:
    - i. a new stricter regulatory limitation of the exchange of the currency of the host country to foreign countries,
    - ii. introduction of foreign exchange regulations by the authorities of the host country;
    - iii. individual decisions of a state authority restricting the conversion and/or transfer in the case of an individual payment to be transferred to the Czech Republic, based on the existing foreign exchange regime of the host country or the third country through which the conversion/transfer is to be performed; for the purposes of this paragraph, the transfer of the financial means is understood as the transfer of profits or capital gains, the repatriation of an original investment or proceeds from the sale of the investment, transfer of instalments of the principal and of the interest, of fees for extended technical assistance and other similar remittances related to the investment; the loss of the Investor and/or the Insured resulting from devaluation of the local currency is excluded from the insurance of the political risks,
  - b) **expropriation** – Insurance against the risk of expropriation covers the risk of nationalization, confiscation or dispossession of a foreign institution without a proper compensation; the expropriation also covers the expropriation caused by government acts which had deprived the Investor of basic rights connected with the investment for an uninterrupted period of at least 6 months; financial impacts arising from non-discriminatory regulating and fiscal (tax) measures of the authorities of the host country and impacts of administrative measures (primarily in the

- fiscal area) activated by actions of the Investor or by a foreign institution are excluded from the insurance,
- c) **politically motivated acts of violence** – Insurance against the risk of politically motivated acts of violence covers the risk of losses of property of a foreign institution and income from the insured investment resulting from politically motivated acts of violence; losses caused by employees of a foreign institution shall be excluded from the insurance;
  - d) **breach of contractual obligations** – Insurance against breach of contractual obligations by the host country, its regional self-governing units or by subjects controlled or administered by them, which concern purchases of inputs of the foreign institution (e.g. energy, raw materials) or sales of outputs (production of a foreign institution), provided this measure has a discriminatory character towards the foreign institution and the foreign institution is a beneficiary from these obligations, and provided this breach has caused non-fulfilment of its obligations or prevented operation of the investment for a period of at least 6 calendar months, or it has caused a loss from its operations for a duration of at least one accounting period; the insurance also covers the risk of application of unilateral discriminatory measures by the host country leading to losses from operations of the investment for a duration of at least one accounting period.
3. Causes representing commercial risks are:
- a) insolvency of the Borrower, especially declaration of insolvency or refusal of the petition for declaration of insolvency for the lack of assets of the Borrower, or other circumstances, which are established by the law of the host country as having the same or similar legal consequences as insolvency (financial insolvency),
  - b) refusal of payment of the insured receivable by the Borrower without any legal reason (protracted default) but in those cases only when this financial insolvency or protracted default have not been caused by any reason mentioned under par. 2.
4. The Insurance Contract shall always cover risks under par. 3 letters a) and b). The Policyholder may specify in the application for the insurance which types of risks pursuant to the par. 2 or their combination he wants to conclude the insurance against.
5. The Insurer decides on insurance of the risk pursuant to the par. 2, letters a) through c) on the basis of an analysis of political risks and pursuant to the par. 2, letter d) on the basis of an analysis of the investment project, respectively investment or, as the case may be, on the basis of a legal opinion on a contractual security among individual subjects participating in the investment. The insurance risk according to par. 3 shall be assessed by the Insurer on the basis of an analysis of the investment project, respectively investment including evaluation of the return and feasibility of attaining the planned results of the investment and economic situation of the Investor. The final extent of the risk cover, determined on the basis of its acceptance by the Insurer, shall be stated in the insurance contract.
6. The Risks excluded from the insurance of territorial risks pursuant to paragraph 2:
- a) Expropriation, nationalization or confiscation, provided it is an act accompanied by a full financial compensation in a free convertible currency granted by the government or by any public institution of the host country. When the Investor does not fulfil his obligation pursuant

to the Art. XV., par. 1, letter l) of the Insurance Conditions, and when this had as a result the insurance loss,, this circumstance shall be evaluated by the Insurer as the protracted default in accordance with the Article X., par. 3, letter b) of the Insurance Conditions,

- b) Confiscation, if it concerns an act which is a consequence of a criminal act
- c) Behaviour by the Investor that is in breach of the laws of the host state
- d) Decisions or measures of the Czech Republic.

The above exclusions from the territorial risk insurance do not affect the insurance of commercial risks pursuant to Article 3.

7. The insurance loss occurs after expiry of the waiting period in duration of six months from the day the Insurer has received a Notification of a Threat of an Insurance Loss on a form of the Insurer, inclusive of specified annexes and documents, provided one of the circumstances according to the par. 2 or 3 has evidently occurred. During this period, the Insured is obligated to take every effective measure to avert the threat of an insurance loss.

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## **Article XI. – 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 loss does not exceed the value of three hundred thousand Czech Crowns, unless specified otherwise in the insurance contract.
3. The obligation of the Insurer to indemnify 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 occurrence of one of the circumstances stated in the Article X., par. 2 and 3.
4. Upon obtaining the Notification of a Threat of an Insurance Loss, the Insurer is obligated to initiate, without unnecessary delay, an investigation necessary for a confirmation of the Insured's claim and for determining the extent of the Insurer's obligation to indemnify. 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 purposes of the investigation of the insurance loss and of determination of the amount of the loss, 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 it, justification of the claim, amounts of individual claims of the Insured, and 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. The Notification of a Threat of an Insurance Loss has to contain all necessary information. The Insured is obligated to enable the Insurer the inspection and copying of all documents necessary for the acceptance of an insurance loss and for the calculation of an amount of a loss.
8. The loss mentioned in the Notification of a Threat of an Insurance Loss shall represent:
  - a) the unpaid insured receivable of the Insured from the credit for the investment up to the maximum insurance value stated in the Insurance Contract lowered in accordance with Article V, par. 5,
  - b) non-refundable expenses of administrative procedures, arbitrations, consultancy services, and such, incurred with a preliminary written consent of the Insurer, or based on his instructions. The above-mentioned expenses shall be considered as a loss also in the event when steps leading to their occurrence resulted in restoration of the rights of the Insured to the investment or resulted in obtaining payments, instalments and such, provided these expenses exceed the amount of CZK 10,000.
9. For the purposes of determination of the amount of a claimed damage, the basis for the calculation of an indemnification shall be established as an outstanding amount of the insured credit for the investment as of the date of the Decision on Indemnification, increased by refinancing costs mentioned under Article V., par. 3 in the extent stipulated in the Insurance Contract and reduced by any payments received by the Insured as a settlement or as a cover of losses from the claimed damage before the day of the Decision on Indemnification.
10. The indemnification shall be determined as the amount of the effective loss determined pursuant to paragraphs 8 and 9 and reduced by the amount of the agreed Self-Retention of the Beneficiary. In case the effective loss is higher than the maximum insurance value, the indemnification shall be set at the maximum insurance value reduced by the amount of the Self-Retention.
11. Unless agreed otherwise between the Insured and the Insurer, the Insurer, when determining the amount and date of the indemnification payment, follows from the original due date of individual insured receivables. In the event, the Insured makes insured receivables payable prematurely on the basis of respective provisions of the Credit Contract as a result of default of the Borrower (acceleration of the credit), or these receivables become prematurely repayable for any other reason, these changes are not effective in relation to the Insurer and the Insurer shall not take them into account when determining the amount and date of the indemnification payment.
12. The indemnification shall be paid out in the Czech currency. Regarding Article V., 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 from the foreign currency.
13. The indemnification is payable within fifteen days from the date of the issuance of the Decision on Indemnification.

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## **Article XII. – EXCLUSIONS FROM INSURANCE, REFUSAL AND REDUCTION OF THE 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 insured credit for the investment have been transferred without a prior written consent of the Insurer,
  - b) in case of a dispute between the Insured and the Borrower over breach of the credit contract for the investment or over justification of the insured receivable, until an enforceable decision solving the dispute is made to the benefit of the Insured; the Insurer shall decide on the payment of an advance on the indemnification or on the payment of the indemnification within 30 days of the request of the Insured in case the dispute had been considered unjustified by the Insurer,
  - c) Should the Insured or a person acting on its behalf breach the provisions and conventions of international law the Czech Republic is bound by (e.g. the Convention on Combating Bribery of Foreign Officials in International Business Transactions (Notice of the MFA No. 25/2000 Collection of International Contracts)), or the provisions of Sections 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 performance of international transactions, as amended.
2. The Insurer has the right to refuse the indemnification:
  - a) in case the Beneficiary has knowingly stated untruthful or grossly distorted data relating to the scope of the insurance loss or has withheld essential data concerning this loss when making a claim for the indemnification,
  - b) in other cases stipulated by the Civil Code.
3. The Insurer has the right to reduce the indemnification in an appropriate extent if the non-repayment of the insured receivable has been caused, directly or indirectly:
  - a) by any action of the Insured or persons acting on its behalf or in its name which impedes, delays, or restricts the repayment of the insured receivable,
  - b) by the application of any provision of the credit contract for investments or related contracts and documentation which restricts the rights of the Insured or the possibility of exercising and enforcing such rights,
  - c) by any following agreement between the Insured and the Borrower made after the date of the conclusion of the Credit Contract for the Investment, which prevents, delays or restricts the settlement of the insured receivable,

- d) 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 regulations 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 an amount of the indemnification,
- e) in other cases stipulated by the Civil Code.

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### **Article XIII. – 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 financial claims related to the insurance loss for which the Insurer paid the indemnification in a way effective towards the Borrower. 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 settlement of the insured credit for the investment. For this purpose, the Insured is obligated to submit to the Insurer all documents related to the credit for the investment, 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 which have arisen from an insurance loss or for simplification of the legal procedures against the Borrower, the Insurer may authorize the Insured or a person appointed by the Insured with the recovery of the insured receivables from the Borrower or as the case may be, from persons guaranteeing the insured receivable 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 Borrower or by a third person as settlements of the insured receivable from an insurance loss 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. By paying the indemnification and provided there was no preceding cession of the receivable which had arisen from an indemnification on a contractual basis, the Insurer acquires the right to yields from securities, collaterals, insurance contracts etc., or to sums paid in foreign countries and related to the investment.
6. Provided the rights of the Insured have not been transferred to the Insurer by a contract on cession of an insured receivable in accordance with the par. 1 for a reason of purposefulness of recovery of the receivable, the Insured and the Insurer shall conclude a contract on arrangement of rights and obligations regulating reciprocal rights and obligations in recovery of the insured receivable.



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## **Article XIV. – RIGHTS AND OBLIGATIONS OF THE INSURED**

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1. The Insured has the right to:
  - a) the indemnification resulting from the occurrence of an insurance loss provided the Insured is simultaneously a Beneficiary,
  - b) request the Insurer to perform the proper investigation necessary to determine the extent of the Insurer's obligation to provide the indemnification, to state the results of investigation in the Decision on Indemnification and to inform the Insured on its contents,
  - c) the payment of the indemnification within the time limit of fifteen days from the date of the Decision on Indemnification.
  
2. The Insured is obligated to:
  - a) inform the Insurer without delay on an agreement on a concurrent insurance with another Insurer against the same or similar risk,
  - b) participate in the insured risk in the extent of the agreed Self-Retention and not to conclude another insurance for the Self-Retention, to mention in the application for the insurance all facts known to him which could have influence on assessment of the risk,
  - c) when applying for the insurance, to submit to the Insurer following analyses prepared by the Insured:
    - an analysis of the investment project, respectively investment including the evaluation of the return and feasibility of attaining the planned results of the investment project, respectively investment and
    - evaluation of economic situation of the Investor; the Insured may perform this duty via third person, however the Insured is responsible for such analysis as if it were prepared by the Insured himself,
  - d) condition drawing of the credit for the investment by submission by the Borrower of purposefulness of the drawdown of the respective part of the credit, to keep documented records of the purposefulness of the drawing of the credit and to take all necessary measures for eliminating of the possibility that the Borrower would draw the credit for other purpose than was stipulated,
  - e) in negotiating the credit contract, to proceed with due care and diligence, at least in the same way as he proceeds in cases of long-term financing,
  - f) not to agree with the Investor in the credit contract or in another agreement on such a provision as would restrict the rights of the Insured or the possibility of their exercise and enforcement,

- g) take individually, or by agreement with the Insurer, all reasonable steps aimed at 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 reduced recoverability or legal enforceability of the insured receivables caused by their late presentation to court or to other relevant authority,
- h) co-ordinate with the Insurer any steps 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 third persons with a prior consent of the Insurer; 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 if he does not agree with the Insured any other deadline for the giving his opinion, it is considered as if the Insurer gave his consent to the proposed procedure,
- i) conclude, simultaneously with the indemnification payment and on suggestion of the Insurer, a contract on cession of receivables which the Insurer has indemnified, or to conclude, in compliance with the Article XIII., a contract on arrangement of rights and obligations,
- j) enable the Insurer assertion of claims, especially the claims for the compensation of damages, which belong to the Insured,
- k) return to the Insurer the already paid-out indemnification if the Insured prevented the Insurer to carry out the rights ceded to him, or their cession was refused by 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,
- l) return to the Insurer the already paid-out indemnification if it had been provided on the basis of an incomplete or untruthful information, or without the rightful title for 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 XII. had occurred,
- m) enable the Insurer a sufficient inspection of documents in order to precise and/or add to necessary data serving to needs of the Insurer,
- n) to submit to the Insurer all contracts and documentation related to the insured credit for investments, if requested to do so by the Insurer
- o) to submit to the Insurer a report on the development of the credit for investments in the scope and by the dates set out by the Insurance Contract,
- p) inform the Insurer without delay when discovering that – other unusual circumstances have arisen or there is danger of an occurrence of a loss,
  - he has learnt new, substantial information on the Investor or the investment,
  - circumstances have occurred or measures have been taken in any country which could have a negative influence on the interests of the Insured and on the investment,

- other circumstances have occurred which could lead to an occurrence of an insurance loss or to an increase in its extent or which may influence obligations of the Insurer arising from the insurance contract,
  - q) provide necessary assistance so the Insurer can obtain information also from third persons or to study their documents in compliance with above-mentioned conditions,
  - r) to defend own rights in an expedient way and endeavour in solving the negative situation and, if necessary, by the form of legal action at respective court or in other proceedings; the Insured is obligated to prove this fact,
  - s) to register duly and in a 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 country of the foreign institution; the Insured has the right to request from the Insurer a consultation regarding steps necessary for a proper registration of the insured receivable.
3. The Insured may not cede the rights arising from the insured credit for the investment to a third person without a prior written consent of the Insurer.
4. In case of a cession of rights arising from the credit for the investment with a prior written consent of the Insurer, the Cessionary becomes the Insured and the Assignor becomes the Policyholder in the sense of the Civil Code after the execution of the cession. The insurance of the ceded insured receivables shall become void without a prior written consent of the Insurer.

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## **Article XV. – OBLIGATIONS OF THE INVESTOR**

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1. The Investor is obligated to:
- a) in relation to the investment, to proceed with due care and diligence in considering international business practices, to care about the investment and the associated risks with professional care, skill and foresight, not to accept investment terms significantly diverging from customary international practices or the practices of the host country and restricting the Investor's rights,
  - b) comply with terms and conditions of contracts related to the investment and with respective legal regulation valid in the host country or in the country through which the payment was (or should have been) executed,
  - c) refrain from application of any provision of the contracts related to the investment which restrict the rights of the Insured or possibility of their implementation and enforcement,
  - d) submit to the Insured and to the Insurer feasibility study of the investment project, liquidity plan, planned financial statements of the foreign institution and of own company for the period of duration of the credit for the investment as well as other documentation requested by the Insurer for the analysis,

- e) provide the Insurer with an exact and true information on own economic situation, financial and legal status,
  - f) in the event the Borrower is a foreign institution, to give the Insurer the guarantee for the repayment of the credit for the investment to the foreign institution and/or to give any suitable form of security negotiated in the Insurance Contract in accordance with the Article III., par. 6 of the Insurance Conditions ensuring the repayment of the credit,
  - g) inform the Insurer without delay upon any occurrence of circumstances known to the Investor 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,
  - h) fulfil fully and on their due dates all obligations toward the foreign institution,
  - i) acquire all necessary licences and to ascertain that the foreign institution had acquired all necessary licences and permits before the start of the investment,
  - j) take individually and by instructions of the Insurer, all reasonable steps aimed at 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 Investor is liable for reduced recoverability or legal enforceability of the insured receivables caused by their late presentation to court or to other relevant authority,
  - k) fulfil fully and on their due dates all obligations from the Credit Contract for the Investment toward the Insured,
  - l) in case the Investor becomes a receiver of a compensation according to the Article X., par. 6, letter a), he is obligated to deposit these financial means with the account kept with the Insured and to enable the Insured their blocking minimally in the amount of the unpaid part of the credit for the investment.
2. The Investor may not change terms and conditions of the investment, may not cede the rights from the investment to a third person, establish the right of lien to the investment or to encumber the investment in any other way without a prior written consent of the Insurer.
3. The Investor may not take any steps, which may result in a loss of value of the investment, in non-performance of the transfer of dividends, returns, profits after payment of all taxes and fees from the investment and in financial insolvency of the Investor or of the foreign institution.

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**Article XVI. – RECOURSE AGAINST THE INVESTOR**

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1. In case an insurance loss was caused by the Investor, by the Foreign Institution or by persons acting for them or on their behalf, the right for the recourse against him is governed by relevant provisions of the generally binding legal regulations.
2. Upon payment of an indemnification to the Insured, the Insurer has the right to take recourse against the Investor for damages caused by the Investor or by a person to whom the Investor has ceded rights and obligations from the investment, resulting in obligation of the Insurer to indemnify the Insured and that up to the amount of the paid indemnification.
3. The recourse shall be applied, particularly in cases of:
  - a) financial insolvency and protracted default of the Borrower under Article X., par. 3, letters a) and b),
  - b) exercising of the rights arising from the investment which differ substantially from international business conventions and restrict the rights of the Investor in case of an insurance loss resulting from political and other non-commercial risks,
  - c) violation of contractual terms and conditions related to the investment,
  - d) application of any provisions of contracts related to the investment which restrict rights of the Investor or possibility of their exercising and enforcement,
  - e) such violation of respective laws and regulations valid in the Czech Republic, in the host country or in third countries which prevents conversion and transfer of financial means from the investment (particularly non-securing formalities and licences necessary for the transfer or conversion of payments),
  - f) Investor's or foreign institution's conduct contrary to the law of the host country, and/or acts punishable according to the law of the host country or acts contrary to the law of the host country;
  - g) non-compliance with terms and conditions stipulated in the environmental impact assessment of the export.
4. The right of the Insurer of the recourse against the Investor shall be governed by the recourse declaration of the Investor in the insurance contract and by respective provisions of generally binding regulations.

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**Article XVII. – 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 awarded 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 payment of the insurance premium for the whole period of validity of the insurance,
  - b) request from the Insured and from the Investor submission of all contracts and documentation related to the investment; in doing so, the Insurer does not become responsible for the content and form of these contracts and documents,
  - c) increase the insurance premium rate and the Self-Retention in case that the contracts and documents given under letter b) concluded or issued 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 regulations on the banking and business secrecy,
  - e) request from the Insured proper enforcement of the claims against third persons,
  - f) agree with the Insured subsequent steps in recovery and collection of the insured receivable independently from acquisition of the unpaid insured receivable and after payment of the indemnification,
  - g) claim from the Insured the 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 for 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 XII. had occurred.

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**Article XVIII. – AUDIT AND EXPERT EXAMINATION**

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1. Upon the Insurer's request, the Investor shall organise and submit an audit or a professional expert analysis of the Investor's accounts and the accounts of the foreign institution performed by an auditor or an expert pursuant to Paragraph 2.
2. This audit or expert examination, together with checks carried out in compliance with the Article XIV., shall be made by a representative of the Insurer or by an auditor or an authorized expert selected from the list of auditors and authorized experts by agreement with the Investor at Investor's costs.

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**Article XIX. – 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 these 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 authorization for entrepreneurial activities, a court has decided on insolvency of the Insured or on refusal of petition for insolvency proceedings for the lack of assets of the Insured,
  - b) it is so stated in the Insurance Contract,
  - c) it is so 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 law.
5. If some provisions of these 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. Any information exchanged between the parties in any form in relation to the conclusion of the Insurance Contract and meeting of the obligations thereunder is confidential. The party to which the information was provided shall not, without the other party's consent, provide such information to a third person or use it for any other purpose other than those for which the information was provided, unless binding legal regulations provide otherwise (e.g. the Insurance Act). The Parties may provide this information to their professional counsel to the necessary extent (including auditors, legal counsel, and accounting or tax advisors). The Parties may further share this information and the necessary documents about the circumstances arising from the Insurance Contract with their controlling entity.

7. Disputes arising from the Insurance Contract or in relation thereto shall be resolved by the 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 provisions of the section 1801 of the Civil Code, the Insurer, Policyholder and Investor 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 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 Investor were not made acquainted with their content and also knowledge of the Policyholder of their meaning will not be proven;
  - ii. clauses which can be read with extraordinary difficulties only or clauses unintelligible for a person of average intellect even in the case when it causes detriment to the Policyholder and/or the Investor and its meaning has not been sufficiently explained to the Policyholder and/or the Investor; and
  - iii. clauses which are particularly disadvantageous for the Policyholder and/or Investor 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.