

Euler Hermes Services UK Ltd

Terms & Conditions of Business for your Credit Intelligence Services



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Terms & Conditions of Business

This document sets out the terms and conditions of business upon which we will supply you with Credit Intelligence Services in connection with your Policy. Words highlighted in italics are defined at the end of this document.

1 Effect of these Terms and Conditions of Business

- 1.1 By receiving *Credit Intelligence Services* from us, you agree that these terms and conditions of business will apply to all *Credit Intelligence Services* that we supply to you.

2 Our obligations to you

- 2.1 We will use due skill and care in providing *Credit Intelligence Services* to you.

3 Your obligations to us

- 3.1 You must pay us all *Credit Intelligence Services Fees* by the date they are due in accordance with the *Credit Intelligence Services Schedule of Fees* and these terms and conditions of business.
- 3.2 You must provide us with all information that we may reasonably require to enable us to provide the *Credit Intelligence Services*.
- 3.3 You must keep all *Approved Limits*, *Credit Intelligence Opinions* and other confidential information provided to you as part of the *Credit Intelligence Services* absolutely confidential, and not disclose them to an *Insured Buyer* or any other third party.
- 3.4 You must indemnify us against all loss, damage, costs and expense that we may incur as a result of your breach of any of these terms and conditions of business.

4 Priority of your policy

- 4.1 In the event of any inconsistency between these terms and conditions of business and the terms and conditions of your *Policy*, the terms and conditions of your *Policy* will prevail.

5 Use and effect of Approved Limits and Credit Intelligence Opinions

- 5.1 The use and effect of any *Approved Limit* or *Credit Intelligence Opinion* issued by us is subject to all the terms and conditions of your *Policy*. In particular, you should remain aware that:
 - 5.1.1 A *Credit Intelligence Opinion* is valid for 12 months from its date of issue.
 - 5.1.2 A *Credit Intelligence Opinion* can only be used in connection with your *Policy*, to justify the granting of credit to an *Insured Buyer* up to the lesser of the maximum *Discretionary Limit* amount specified in your *Policy* or the amount set out in the *Credit Intelligence Opinion*.
 - 5.1.3 If we are able to increase the amount of your *Credit Intelligence Opinion* during its 12 month validity period, we will do so by notifying you of the increase. This increase is a variation of the original *Credit Intelligence Opinion* and does not extend the original *Credit Intelligence Opinion's* 12 month validity period. There is no additional fee payable for this variation.
 - 5.1.4 If we or *Euler Hermes UK* issue you with a nil *Approved Limit* or give you notice cancelling the *Approved Limit* (including the *Discretionary Limit*) in respect of an *Insured Buyer*, then any *Credit Intelligence Opinion* (whenever issued) in respect of that *Insured Buyer* will become automatically void, and may not be used to justify under your *Policy* the granting of credit to that *Insured Buyer*.
 - 5.1.5 You must exercise care and act as if you were uninsured when deciding whether

to grant credit to an *Insured Buyer*, and if so in what amount. If you know of any circumstances which could give reasonable grounds to believe that an *Insured Buyer* may not be able to fulfil its obligations to you, then any *Approved Limit* or *Credit Intelligence Opinion* that we issue to you may be void.

6 Fixed Charging for Approved Limits and Credit Intelligence Opinions

6.1 Where your *Credit Intelligence Services Schedule of Fees* provides for *Fixed Charging* for both *Approved Limits* and *Credit Intelligence Opinions*, you must pay us the fixed amount set out in your *Credit Intelligence Services Schedule of Fees* in respect of all *Approved Limits* and *Credit Intelligence Opinions* issued to you during your *Period of Cover*.

7 Fixed Charging for Approved Limits with Transactional Charging for Credit Intelligence Opinions

7.1 Where your *Credit Intelligence Services Schedule of Fees* provides for *Fixed Charging* for *Approved Limits* and *Transactional Charging* for *Credit Intelligence Opinions*, you must pay us:

7.1.1 The fixed amount set out in your *Credit Intelligence Services Schedule of Fees* in respect of all *Approved Limits* issued to you during your *Period of Cover*; and

7.1.2 A fee in respect of each *Credit Intelligence Opinion* issued to you during your *Period of Cover*, calculated in accordance with clause 10.

8 Transactional Charging for Approved Limits and Credit Intelligence Opinions

8.1 Where your *Credit Intelligence Services Schedule of Fees* provides for *Transactional Charging* for both *Approved Limits* and *Credit Intelligence Opinions*, you must pay us:

8.1.1 An application fee for each *Approved Limit* issued to you during your *Period of Cover* calculated in accordance with clause 9; and

8.1.2 A monitoring fee in respect of each *Positive Approved Limit* that you continue to hold at the end of each month of your *Period of Cover*, calculated in accordance with clause 9; and

8.1.3 A fee in respect of each *Credit Intelligence Opinion* issued to you during the month, calculated in accordance with clause 10.

9 Basis of Transactional Charging for Approved Limits

9.1 Where your *Credit Intelligence Services Schedule of Fees* provides for *Transactional Charging* for *Approved Limits*, you must pay us the following charges in the amounts set out in your *Credit Intelligence Services Schedule of Fees*:

9.1.1 An application fee where we issue a *Positive Approved Limit*, a nil *Approved Limit* or a *Discretionary Limit*; and

9.1.2 A monitoring fee in respect of each *Positive Approved Limit* that you hold on the last day of each month of your *Period of Cover*.

- 9.2 You will not be required to pay:
- 9.2.1 An application fee where you apply for an increase to an existing *Positive Approved Limit*; or
 - 9.2.2 A monthly monitoring fee where the *Approved Limit* that you hold at the end of the month is a nil amount or a *Discretionary Limit*; or
 - 9.2.3 A monthly monitoring fee in respect of an *Insured Buyer* where you have been charged an application fee in respect of that *Insured Buyer* during the same month.
- 9.3 Application and monitoring fees payable in respect of *Approved Limits* vary according to the country of domicile of the *Insured Buyer*, as set out in your *Credit Intelligence Services Schedule of Fees*. In addition, you will be charged a discounted application fee where you request an *Approved Limit* via our EOLIS online system.

10 Basis of Transactional Charging for Credit Intelligence Opinions

- 10.1 Where your *Credit Intelligence Services Schedule of Fees* provides for *Transactional Charging* for *Credit Intelligence Opinions*, you must pay us the following charges in the amounts set out in your *Credit Intelligence Services Schedule of Fees*:
- 10.1.1 An application fee where we issue a *Credit Intelligence Opinion* for a positive amount or a nil amount; and
 - 10.1.2 An application fee where we issue a *Credit Intelligence Opinion* in respect of an *Insured Buyer* on whom you held a *Credit Intelligence Opinion* that has expired.

- 10.2 The application fee payable in respect of each *Credit Intelligence Opinion* issued to you will vary according to the country of domicile of the *Insured Buyer* as set out in your *Credit Intelligence Services Schedule of Fees*.

11 Fair use of Fixed Charging

- 11.1 Where your *Credit Intelligence Services Schedule of Fees* provides for *Fixed Charging* for *Approved Limits* and/or *Credit Intelligence Opinions*, we may change the basis of charging to *Transactional Charging* if we determine that the number of *Approved Limits* or *Credit Intelligence Opinions* requested by you in any period of time exceeds the number of requests for *Approved Limits* or *Credit Intelligence Opinions* that could be reasonably expected during that period of time in connection with the management of your *Policy*.

12 Credit Intelligence Services Fees – general

- 12.1 We will send you monthly in arrears an invoice containing a summary of all *Credit Intelligence Services Fees* due in respect of *Credit Intelligence Services* provided to you during each month of your *Period of Cover*. A detailed breakdown of each invoice can be obtained via our EOLIS online system or on written request.
- 12.2 Value added tax will be payable on *Credit Intelligence Services Fees* where applicable.
- 12.3 *Credit Intelligence Services Fees* are due on receipt of our invoice, except where you have agreed to pay by direct debit, in which case we will collect payment from your account no earlier than 14 days after the date of our invoice.
- 12.4 Subject to clauses 11 and 12.5, *Credit Intelligence Services Fees* are fixed in respect

of each *Period of Cover* as set out in the *Credit Intelligence Services Schedule of Fees* provided to you at the commencement of that *Period of Cover*. We may vary *Credit Intelligence Services Fees* payable in respect of subsequent *Periods of Cover* by notice to you in writing.

- 12.5 *Credit Intelligence Services Fees* payable in respect of each market band as set out in your *Credit Intelligence Services Schedule of Fees* are fixed in respect of each *Period of Cover*. However, we may alter the market band to which any particular country is assigned, by notice to you in writing.
- 12.6 Where the currency of your *Policy* is Sterling, Euros or US Dollars, *Credit Intelligence Services Fees* will be specified and invoiced in the *Policy* currency. Where the currency of your *Policy* is an alternative currency, *Credit Intelligence Services Fees* will be specified in Sterling, and the relevant due amount will be converted into the *Policy* currency at the *Invoice Conversion Rate* and invoiced to you.
- 12.7 If you fail to pay *Credit Intelligence Services Fees* by the date they are due, we may vary the terms of payment of *Credit Intelligence Services Fees* and/or refuse to provide you with further *Credit Intelligence Services*.
- 12.8 In addition, we will be entitled to charge interest on all overdue *Credit Intelligence Services Fees*, calculated on a daily basis from the due date until date of payment, at the rate set out in Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998.

13 Cancellation

- 13.1 In addition to all other remedies available to us, we will be entitled to refuse to supply you with *Credit Intelligence Services* if you breach any of these terms and conditions of business or no longer hold a *Policy* for any reason.

14 No warranty

- 14.1 Neither we nor Euler Hermes UK warrant the accuracy or reasonableness of any opinion or information supplied to you as part of the *Credit Intelligence Services*, or that any *Insured Buyer* will be able to meet its obligations to you or comply with any credit terms that you may extend. *Credit Intelligence Services* are provided to you only for use in connection with your *Policy* and should not be employed or interpreted as a general credit opinion or an indication of the creditworthiness or financial position of any *Insured Buyer*.

15 Limitation of liability

- 15.1 Under no circumstances will our total aggregate liability to you under these terms and conditions of business or in connection with the provision of *Credit Intelligence Services* exceed the total amount of *Credit Intelligence Services Fees* paid by you to us during the *Period of Cover* during which such liability arose.

16 Variation

- 16.1 Subject to clause 12.4, we may vary any of these terms and conditions of business by notice to you in writing.

17 Data Protection

- 17.1 This clause sets out the framework for the sharing of *personal data* between the parties as *data controllers*. Each party acknowledges that one party (the Data Discloser) may disclose to the other party (the Data Recipient) *Shared Personal Data* collected by the Data Discloser for the provision or receipt of *Credit Intelligence Services*, credit insurance, risk assessment, grading, credit management, debt collection and associated activities (together "*Permitted Purposes*").

- 17.2 Each party shall:
- 17.2.1 ensure that it has all necessary notices and consents (where applicable) in place to enable lawful transfer of the **Shared Personal Data** to the **Permitted Recipients** for the **Permitted Purposes**. For the avoidance of doubt, when we are provided by you with any **personal data** relating to your **Insured Buyers** or employees, it will be received by us on the basis that you are authorised to process it in compliance with the **Data Protection Legislation**;
 - 17.2.2 give full information to any **data subject** whose **personal data** may be **processed** under these terms and conditions of the nature of such **processing**;
 - 17.2.3 process the **Shared Personal Data** only for the **Permitted Purposes**;
 - 17.2.4 not disclose or allow access to the **Shared Personal Data** to anyone other than the **Permitted Recipients**;
 - 17.2.5 ensure that all **Permitted Recipients** are subject to written contractual obligations concerning the **Shared Personal Data** (including obligations of confidentiality) which are no less onerous than those imposed by these terms and conditions;
 - 17.2.6 ensure that it has in place **appropriate technical and organisational measures** to protect against unauthorised or unlawful **processing** of **personal data** and against accidental loss or destruction of, or damage to, **personal data**.
 - 17.2.7 not transfer any **personal data** received from the Data Discloser outside the EEA unless the transferor:
 - (1) complies with the provisions of Articles 26 of the **GDPR** (in the event the third party is a joint controller); and
 - (2) ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 **GDPR**; (ii) there are appropriate safeguards in place pursuant to Article 46 **GDPR**; or (iii) one of the derogations for specific situations in 49 **GDPR** applies to the transfer.
- 17.3 Each party shall assist the other in the complying with all applicable requirements of the **Data Protection Legislation**. In particular, each party shall, in relation to the Shared Personal Data and where appropriate:
- 17.3.1 consult with the other party about any notices given to third party **data subjects**;
 - 17.3.2 provide the other party with reasonable assistance in complying with any third party **data subjects** access request;
 - 17.3.3 notify the other party without undue delay on becoming aware of any breach of the **Data Protection Legislation**;
 - 17.3.4 maintain complete and accurate records and information to demonstrate its compliance with this clause 17, and
 - 17.3.5 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the **Data Protection Legislation**.
- 17.4 Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to penalties, fines, and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the **Data Protection Legislation** by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.
- 17.5 With regard to the **processing** of your own **personal data**, you should refer to the most recent version of our privacy notice available at <https://www.eulerhermes.co.uk/privacy-notice.html>

18 Law and Jurisdiction

- 18.1 These terms and conditions of business will be governed by and interpreted in accordance with English law. Any dispute arising under or in connection with these terms and conditions of business will be submitted to the exclusive jurisdiction of the English Court.

Definitions

Where used in these Terms and Conditions, the words 'we' and 'us' mean Euler Hermes Services UK Ltd.

Approved Limit

"*Approved Limit*" means the written notification that we provide to you of the maximum amount of credit that will be covered under your *Policy* in respect of an *Insured Buyer*.

Controller and various GDPR related terms

"*Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures*": as set out in the *Data Protection Legislation* in force at the time.

Credit Intelligence Opinion

'*Credit Intelligence Opinion*' means the written notification that we provide to you of the maximum amount that may be used by you to justify a *Discretionary Limit* under your *Policy* in respect of an *Insured Buyer*.

Credit Intelligence Services

'*Credit Intelligence Services*' means the services we provide to you in connection with your *Policy* in respect of *Approved Limits* or *Credit Opinions*.

Credit Intelligence Services Fees

"*Credit Intelligence Services Fees*" means the fees payable by you to us for *Credit Intelligence Services* as set out in your *Credit Intelligence Services Schedule of Fees*.

Credit Intelligence Services Schedule of Fees

"*Credit Intelligence Services Schedule of Fees*" means the schedule of fees payable by you for *Credit Intelligence Services*, issued by us to you at the commencement of each *Policy Period*.

Data Protection Legislation

"*Data Protection Legislation*": (i) the Data Protection Act 1998, until the effective date of its repeal (ii) the General Data Protection Regulation ((EU) 2016/679) (*GDPR*) and any national implementing laws, regulations and secondary legislation, for so long as the *GDPR* is effective in the UK, and (iii) any successor legislation to the Data Protection Act 1998 and the *GDPR*, in particular the Data Protection Bill 2017-2019, once it becomes law.

Discretionary Limit

"*Discretionary Limit*" means the maximum amount of credit that will be covered under your *Policy* in respect of an *Insured Buyer*, which may be justified by you through a *Credit Intelligence Opinion* or other method in accordance with the terms and conditions of your *Policy*.

Euler Hermes UK

"*Euler Hermes UK*" is a branch of Euler Hermes Europe S.A. (N.V.).

Fixed Charging

"*Fixed Charging*" means the basis of charging *Credit Intelligence Services Fees* as set out in your *Credit Intelligence Services Schedule of Fees*, when you are required to pay a fixed amount in respect of all *Approved Limits* and/or *Credit Opinions* issued to you during your *Period of Cover*.

Insured Buyer

"*Insured Buyer*" means any of your customers trading in any of the countries listed in the schedule to your *Policy*.

Invoice Conversion Rate

"*Invoice Conversion Rate*" means the spot rate prevailing in the London Foreign Exchange Market at close of business on the last Friday of the invoice month (or the nearest alternative practicable date).

Definitions

Where used in these Terms and Conditions, the words 'we' and 'us' mean Euler Hermes Services UK Ltd.

Period of Cover

"*Period of Cover*" means each period of cover under your *Policy*.

Permitted Recipients:

"*Permitted recipients*" means the parties to this agreement, the employees of each party, and in our case, any company of the Euler Hermes Group, fraud prevention agencies and any third parties engaged by us to perform obligations in connection with the *Policy*, including credit reference agencies.

Policy

"*Policy*" means the insurance policy issued to you by *Euler Hermes UK* (including the schedule).

Positive Approved Limit

"*Positive Approved Limit*" means an *Approved Limit* issued by us for an amount greater than nil.

Shared Personal Data:

"*Shared Personal Data*" means the *personal data* to be shared between the parties under clause 17 of this agreement in connection with the *Permitted Purposes* (as defined in clause 17.1). *Shared Personal Data* shall be confined to the following categories of information relevant to the following categories of *data subject*:

1. Your incorporated *Insured Buyers'* representatives: contact details (e.g. directors or other officers);
2. Your unincorporated *Insured Buyers* (i.e. sole traders and partnerships): owner's / partner's name, email address, trading address, trade sector, legal form, and information regarding their creditworthiness (e.g. payment and risk incidents);
3. Your and our employees / business representatives: contact names, email addresses, telephone numbers, job titles.

Transactional Charging

"*Transactional Charging*" means the basis of charging *Credit Intelligence Services Fees* as set out in your *Credit Intelligence Services Schedule of Fees*, when you are required to pay a fee in respect of each *Approved Limit* and/or *Credit Opinion* issued to you during your *Period of Cover*.

Euler Hermes Services UK Limited
1 Canada Square
London E14 5DX
Tel : +44 (0)20 7512 9333
Fax : +44 (0)20 7512 9186
www.eulerhermes.co.uk

Euler Hermes Services UK Limited.
Registered in England and Wales no. 3376459.
Registered Office 1 Canada Square, London E14 5DX.