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Euler Hermes Credit Insurance Capital Relief World Finance Policy - 0419

保單條款

108 年 11 月 01 日裕利安宜 108 發字第 0147 號函備查

Definitions

Because your **Policy** is a legal document, we have to use a number of accepted legal words to state its terms and conditions. You will find these words are highlighted in **bold** in the text and then explained here for easy reference.

Approved Limit

Means the maximum amount covered for a **Buyer** under the **Policy** as specified in the limit notification issued by us.

have been deposited by the **Supplier** into the possession of the **Buyer** or a third party agent who agrees to hold the goods to the order of the **Buyer**.

Buyer

Meanseither:

- any of the **Supplier's** customers; or
- where applicable, an import factor under a **Factoring Agreement**; or
- any customer of a **Supplier** where the receivables relating to that customer have been assigned to you by an export factor under a **Factoring Agreement**

on which you have received an **Approved Limit** or set a **Discretionary Limit**.

Discretionary Limit

Means the maximum amount of a debt that may be covered for a **Buyer** under the **Policy** where we have not issued an **Approved Limit** and where you have justified that amount in accordance with the criteria set out in the **Special Terms**

Dispute

Means any unresolved, genuine and documented disagreement between you, the import factor, the export factor or the **Supplier** and the **Buyer** as to whether the Buyer has a contractual obligation to pay.

Cash Against Documents

Means payment against the presentation to the **Buyer** of the relevant commercial documents stated in the sale contract and your retaining control of the goods until full and effective payment is made to the bank or other authorised agents responsible for transmitting the documents to the **Buyer**.

Domestic Public Buyer

Means a **Public Buyer** in your country.

Excess

Means any deductible or threshold applicable to the **Policy**.

Date of Crystallisation

Meansthe earlier of:

- (a) the date the **Information Holders** are aware or should be aware that a **Buyer** enters into a **State of Default**; and
- (b) the date we receive your Non-payment notification.

Excluded Receivables

Means receivables relating to indebtedness entirely excluded from cover under the **Policy** by the application of Section 1.01 (what you are covered for) and Section 1.02 (What you are not covered for).

Despatch or Despatched

Means with respect to goods, that:

- (a) the goods have been passed from the **Supplier** to the first independent carrier for transport to the place where the **Buyer** is obliged to accept them; or
- (b) if there is no independent carrier, the goods

Factoring Agreement

Provided that you are a factoring company authorised to operate – among others – in factoring activities according to the laws of your country, **Factoring Agreement** meanseither:

- any legally valid and enforceable factoring agreement entered into between you and a **Supplier**; or

- any interfactoring agreement entered into between you and a factoring company located outside your country which is in accordance with and incorporates the standard terms, conditions and other provisions of the code of FCI, or is otherwise legally binding and enforceable.

Any reference in the **Policy** to a **Factoring Agreement** shall be construed to include a reference to any agreement (including any replacement or amendment) entered into between you and a **Supplier**, in which you agree to purchase receivables approved by you from the **Supplier** regardless of how such agreement is named.

Free Reporting Limit

The total amount owed by a **Buyer**, which does not exceed (**Amount with policy currency**) (or the equivalent amount in the **Policy** currency converted using the exchange rate specified in the **Special Terms** ruling at the start date of the Insurance Period)

Foreign Public Buyer

Means a **Public Buyer** located in any country other than your country.

Information Holders

Means the individuals engaged on behalf of the Insured in the origination, structuring, due diligence, management approval and administration of the insured Factoring Agreement and in the negotiation, purchase and surveillance of this Policy.

Insolvency

Insolvency means:

- I. a Receiver or Manager, Liquidator, Trustee, Administrator, or other similar official is appointed over a **Buyer**, whether or not the appointment has been made by a Court or other similar tribunal but excluding any appointment which does not affect your rights as a creditor of the **Buyer**; or
- II. a composition, scheme of arrangement, compromise or other similar arrangement has been approved and made binding on the **Buyer** and all the **Buyer's** creditors; or
- III. circumstances exist that are equivalent to any of the above.

Insured Debt

Means the amount owing to you from the **Buyer** (including **VAT** unless **VAT** cover is excluded in the **Special Terms**) after taking into account the amount of any debt which you have recourse back to the **Supplier** and/or export factor, provided that the **Buyer** is located in a country listed in the **Special Terms** and relating to **Undisputed** receivables that have been assigned to you during the Insurance Period in accordance with a **Factoring Agreement** between you and the **Supplier** or the export factor.

The **Insured Debt** is restricted to the amount of the **Approved Limit** or the amount of the **Discretionary Limit** whichever applies.

Insured Loss

Means the amount of an **Insured Debt** that was subject to a Non-payment notification or its balance after taking into account the amounts listed in Section 3.01 (Calculation of the Insured Loss).

Insured Percentage

Means the percentage stated in the **Special Terms** which is applied to the **Insured Loss** for the calculation of the indemnity.

Material Obligation

Means an obligation which, if not fulfilled by you, will constitute a breach of contract enabling us to claim damages to the extent of our loss. **Material Obligations** are listed under the **Policy**.

Maximum Extension Period

Means the maximum period specified in the **Special Terms** by which you or the **Supplier** acting on your behalf, can postpone the original due date for payment of the **Insured Debt**.

Maximum Terms of Payment

Means the maximum contractual period that you or the **Supplier**, may agree for payment from the **Buyer** of the **Insured Debt**.

Non-payment Notification Period

Means the maximum period specified in the **Special Terms** by which you can notify your non-payments to us.

Original Due Date

Means the original due date of the receivables stated on the **Supplier's** invoice when the invoice is first assigned and notified to you.

Policy

Means the contract of credit insurance that we have agreed to issue to you including the General Terms and Conditions, Definitions, **Special Terms** (including the Country List) and any other documents and/or notifications and/or notices issued under or in connection with that contract, including but not restricted to the **Proposal** and the limit notifications.

Political Risk

Means:

- 1.2.1. the non-payment of all or part of an undisputed Insured Debt by a Foreign Public Buyer on the expiry of the Maximum Extension Period;
- 1.2.2. the unjustified and formal refusal by a Foreign Public Buyer to accept the goods;
- 1.2.3. the direct prevention of the payment of the Insured Debt by the Buyer or performance of the sale and/or services contract by the Supplier as a result of any of the following political events:
 - (i) the occurrence in the country in which the Buyer is located (provided the Buyer is not located in your country) of war (whether declared or not), invasion, act of foreign enemy hostilities, civil war, insurrection, rebellion, riot, revolution and/or military or usurped power;
 - (ii) transfer restrictions where there is a decree by the government of the Buyer's country imposing restrictions on currency transfer;
 - (iii) the passing of a decree by the government in the country in which the Buyer is located, exonerating him from paying the additional sum due if there is a difference between the amount deposited in local currency on the date of the deposit or on the date of

- completion of the transfer formalities and the amount due to be paid;
- (iv) inconvertibility of the currency of the Buyer's country where the debt is payable in a currency other than the currency of the Buyer's country;
- (v) the passing of a decree by the government in the country in which the Buyer is located preventing the Buyer paying for receivables assigned to a third country.

Proposal

Means the proposal form, credit management questionnaire and any supporting documents, information and representations made by you or on your behalf before we agreed to issue the **Policy**.

Protracted Default

Protracted Default occurs for any reason on the non-payment of all or part of an **Undisputed Insured Debt** on expiry of the **Waiting Period** as specified in the **Special Terms**.

Provide or Provided

Means, with respect to services, that the **Supplier** has fulfilled his contractual obligation towards the **Buyer** in respect of: services to be carried out; and invoicing on a regular basis.

Public buyer

Means a **Buyer** whose creditworthiness is reasonably considered to be equal to that of the State in the **Buyer's** country, due to the **Buyer's** statutory position or a commitment from the State of the **Buyer's** country with regard to the **Buyer's** financial support.

Recoveries

Means any:

- monies received;
- dividends received or payable out of the **Buyer's** insolvent estate;
- indemnities, guarantees or other securities obtained and realised;
- goods recovered;
- counter claims or set-off applied; and/or
- other advantages or rights of action held;

by you or on your behalf.

Second Layer Insurance

Means a second layer insurance contract which provides you with additional coverage on top of the respective **Approved Limits** issued by us on certain **Buyers** where such **Approved Limits** do not cover the total indebtedness owed to you by those **Buyers**.

Special Terms

Means the terms stated in the schedule attached to the General Terms and Conditions.

State of Default

Means the situation of a **Buyer** resulting from the occurrence of:

- (a) an amount in excess of the **Free Reporting Limit** and not subject to a **Dispute**, being overdue past the expiry of the **Maximum Extension Period**, as mentioned in the **Special Terms**. If the debt is composed of several invoices, the date used will be the

- expiry of the **Maximum Extension Period** applicable to the invoice which was due first for payment; or
- (b) any dishonour or non-payment of a bill of exchange, promissory note, cheque or direct debit upon its first presentation for payment or upon its second presentation for payment if the second presentation is made within 7 days from the first presentation and the dishonour or non-payment is solely due to errors and omissions of an administrative nature or due to a delay in receiving the remitted funds from the remitting bank; or
- (c) **Insolvency**.

Supplier

Means any company that:

- entered in a **Factoring Agreement** with you, and
- **Despatched** goods or **Provided** services to a **Buyer**.

Temporary Approved Limit

Means, where there is no pre-existing **Approved Limit** on a **Buyer**, an **Approved Limit** that we issue which specifies an expiry date.

Temporary Uplift

Means, where there is a pre-existing **Approved Limit** on a **Buyer**, an additional **Approved Limit** that we issue which specifies an expiry date. Where we issue a Temporary Uplift, the **Approved Limit** is the total of the **Approved Limit** existing prior to the Temporary Uplift and the Temporary Uplift.

Turnover

Turnover means the total invoice value of all receivables you have purchased from a **Supplier** or export factor or sold to an import factor during the Insurance Period specified in the **Special Terms** in accordance with a **Factoring Agreement**.

Undisputed

Means which is not subject to a **Dispute**.

VAT

Means Value Added Tax or its equivalent.

Waiting Period

Means the relevant period stated in the **Special Terms**, which runs from the **Original Due Date** or extended due date for payment of the debt, if applicable.

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1. SCOPE OF COVERAGE

1.01 What you are covered for

We are the Insurer named in the **Special Terms**. We have issued this **Policy** to you, the Insured, named in the **Special Terms** in return for the premium.

Subject to the terms and conditions of the **Policy** we will indemnify you in accordance with Section 3 (Indemnity) below if a **Buyer** fails, due to an event of loss, to pay you an **Undisputed Insured Debt**. For indebtedness to contribute to an **Insured Debt** it must relate to receivables assigned to you by the **Supplier** or export factor before the expiry of the **Maximum Extension Period**.

Unless otherwise expressly agreed, this **Policy** covers your entire non-recourse **Turnover**.

Unless otherwise expressly agreed, this **Policy** does not cover you recourse **Turnover**:

The provisions of the below section will apply only with respect to **Buyers** located in countries where you are obligated to return an alleged preferential payment in accordance with the insolvency code, statute or regulation of such countries and such countries are covered under this **Policy** in accordance with the Country List showing in the **Special Terms** ("Preference"). These provisions do not apply however, to **Buyers** located in Germany.

In the event that you receive a formal notice to return a Preference, involving a **Buyer** covered by the **Policy**, you may file a non-payment notification under the **Policy** in effect on the date of **Insolvency**, subject to the following provisions:

- (a) the loss resulting from such return of payments relates to debts covered under the **Policy**;
- (b) you fulfilled all your **Policy** obligations with respect of all such receivables;
- (c) the request to return the Preference must have been made within thirty six (36) months from the date of the **Buyer's Insolvency**;
- (d) you must:
 - (i) take all necessary action not to permit a judgment by default to be entered against you in respect of the Preference (proof of action to be submitted to us);
 - (ii) refer the matter to legal counsel for action; and
 - (iii) advise us immediately in writing of such notice;
- (e) your legal counsel must assert and pursue in a timely manner, all defenses allowed by the bankruptcy code and pursue any other legal remedies that may be applicable;
- (f) you must inform us of all actions taken to defend, or otherwise, regarding the Preference;
- (g) in the event that:
 - (i) a judgment, court order or similar instruction directs the return of the Preference, payment may be made by you to the insolvent estate of the **Buyer** or to any office holder of insolvency practitioner acting on its behalf, provided that the judgment, court order or similar also permits the filing of an amended proof of claim unless otherwise agreed to by you with our prior consent, which consent will not be unreasonably withheld; or
 - (ii) your counsel recommends a negotiated settlement, with our written permission which permission will not be unreasonably withheld, payment may be made by you to the insolvent estate of the **Buyer** or to any office holder of insolvency practitioner acting on its behalf, provided that the settlement terms, judgment, court order or similar also permits the filing of an amended proof of claim unless otherwise agreed to by you with our prior consent, which consent will not be unreasonably withheld;
- (h) if additional monies are due to you from us, you must file with us a claim form along with:
 - (i) supporting statements of account reflecting those invoice and payment dates which are the subject of the preferential action along with any information surrounding the **Despatch** or payment with the **Buyer**; and
 - (ii) where applicable, evidence of your payment to the insolvent estate of the **Buyer** following a negotiated settlement, judgment, court order or similar instruction directing the return of the Preference.

- (i) In the event the foregoing provisions are satisfied, and provided you have not waived any subrogation rights due to us without our consent, the amount paid to the **Buyer's** insolvent estate shall be considered as contributing to an **Insured Receivable** under the **Policy** as at the date of the **Buyer's Insolvency**.
- (j) A loss payment, if any, in respect of your claim for a Preference, shall be processed within the provisions of the **Policy** then in effect at the date of the **Buyer's Insolvency**.

Event of loss

Under the **Policy** there is an event of loss when there is a **Protracted Default** or **Insolvency**, whichever occurs soonest. When there is more than one event of loss in respect of the same **Buyer**, the event of loss that occurs first is the event of loss that applies to that **Buyer** under the **Policy** however at the latest (for the avoidance of doubt) the expiry of the Waiting Period.

Where, despite you entering into a **Factoring Agreement** with a **Supplier** for the assignment of receivables on a recourse basis, you decide at your own discretion that you will not exercise your right to recourse back any receivables that remain unpaid by a **Buyer** to that **Supplier** solely due to **Political Risk**, subject to your compliance with all the terms and conditions of the **Policy**, you will also be covered under the **Policy** for any loss you suffer as a result of non-payment by the **Buyer** of an **Undisputed Insured Debt** due to **Political Risk**

1.02 What you are not covered for

We have no liability for losses resulting directly from:

- (a) the breach of any applicable law or regulations (including any economic or trade sanction law or regulations of any international organisation recognised under international law); or
- (b) the **Supplier's** failure to **Despatch** goods and/or provide services due to laws or regulations or decisions made by governments in the **Supplier's** or **Buyer's** countries as well as any country where the goods are in transit; or
- (c) your failure to set a **Discretionary Limit** in accordance with the conditions applicable for discretionary cover; or
- (d) your transfer of the payment obligation from your **Buyer** to a third party without our prior agreement; or
- (e) exchange rate fluctuations and/or currency devaluations; or
- (f) events occurring in a third country that is rated **(Country Grade)** by Euler Hermes where: goods are to be **Despatched** and/or services are to be **Provided** to that third country; or payment is to be made from that third country, insofar as and to the extent that you were aware of those arrangements before the date the receivables have been assigned to you by the **Supplier**, unless we have agreed otherwise beforehand in writing; or
- (d) **Political Risk** only in respect of receivables assigned to you which relate to goods **Despatched** and/or services **Provided** by a **Supplier** to a **Buyer** located in either **(Specific Country)** unless the **Insolvency** or **Protracted Default** do not directly result from the occurrence of a **Political Risk**. For the avoidance of doubt, the covered Event of Loss in respect of these **Buyers** are **Insolvency** or **Protracted Default**.

The following are excluded from the **Policy** cover:

- (a) Transactions with private individuals acting in a personal capacity.
- (b) Transactions with Domestic **Public Buyers**.
- (c) Receivables in whole or in part for which payment is made by confirmed and irrevocable or confirmed, irrevocable and renewable letter of credit.
- (d) Transactions for which you - or the **Supplier** - agreed without our prior written approval payment conditions that are more favourable to the **Buyer** than the **Maximum Terms of Payment** specified in the **Special Terms**.
- (e) Transactions with any **Buyer** located in a country that is either not mentioned in the Country List or that we have excluded from cover.
- (f) Transactions conducted with any **Buyer**:
 - over which you or the **Supplier** have significant control, by participation in its management, administration or capital or, unless we have agreed beforehand in writing, franchise or similar arrangement; or
 - which has similar control over you or the **Supplier**; or
 - which is part of the same group as you or the **Supplier**

- (g) Transactions conducted with any **Buyer** for whom we have refused or withdrawn cover (taking into consideration the delayed effect provisions stipulated in section 2.04 (Amendment and withdrawal of cover)), before the date the receivables have been assigned to you by the **Supplier** or export factor unless, in accordance with the terms of your **Factoring Agreement**, you are contractually obliged to purchase the relevant receivables from the **Supplier** within **(XX)** days following the date we have reduced or withdrawn cover, provided that:
 - o those invoices relate to goods **Despatched** and/or services **Provided** prior to the date of that reduction or withdrawal; and
 - o the agreement to purchase the receivables in respect of those invoices is entered into prior to the date of reduction or withdrawal of our cover.
- (h) Receivables assigned to you by the **Supplier** or export factor provided that the **Information Holders** were aware or should have been aware of the fact that the **Buyer** had entered into a **State of Default** before the receivables were assigned to you.
- (i) Interest for late payment or any contractual or legal damages.
- (j) Value added tax, or its equivalent, if excluded in the **Special Terms**.
- (k) Any loss occurred in relation with a **Factoring Agreement** that it is not valid and enforceable according to the law governing factoring activity in your **Country**, the **Supplier's Country** or the **Buyer's Country**.
- (l) The **Insolvency** of an import factor where that import factor has received payment from the **Buyer** on your behalf.
- (m) Account receivables which are the result of or relate to a fraudulent set up, whichever person or party has initiated it, except where you have taken all practicable measures to ensure that such fraud does not occur.

2. RISK MANAGEMENT

Setting and amending credit limits

2.01 Exercising care and prudence

You must at all times:

- (a) exercise reasonable care and prudence as if you were not insured; and
- (b) take all reasonable measures to prevent any loss arising to you or us; and
- (c) take all reasonable steps to reduce losses and maximise **Recoveries**.

For the avoidance of doubt, the above provisions constitute a **Material Obligation** under the **Policy**.

The **Information Holders** must also disclose to us any material knowledge, information or events that they are or become aware of and that could, in the reasonable opinion of a prudent and careful uninsured, be interpreted as adverse and/or negative with regard to any new and/or existing **Buyer**, regardless of whether the **Buyer** owes you a debt.

For the avoidance of doubt, the above provisions constitute a **Material Obligation** under the **Policy**.

For you to be covered under the **Policy** with respect to a **Buyer**, you must have a credit limit. The credit limit establishes the maximum amount of credit for which you will be covered under the **Policy** for a **Buyer**.

The credit limit may either be the **Approved Limit** issued by us in accordance with Section 2.02 (Limit request), or a **Discretionary Limit** set by you in accordance with Section 2.03 (Discretionary cover).

2.02 Limit request

Where a **Discretionary Limit** is insufficient for the level of credit you intend to grant a **Buyer**, or if you intend to grant credit on terms more favourable to the **Buyer** than the **Maximum Terms of Payment** in the **Special Terms**, you must submit a limit request to us or the Risk Service Provider if specified in the **Special Terms**.

If we issue an **Approved Limit** subject to special conditions, you will have a claim under the **Policy** in respect of the **Buyer** concerned only if all the special conditions have been complied with.

Where **VAT** cover is not excluded in the **Special Terms**, the amount of the **Approved Limit** will include the amount of **VAT**.

Unless specified otherwise in the limit notification:

- (a) **Approved Limits** are effective from the start date specified. If no start date is specified, **Approved Limits** are retrospective from the start date of the **Policy** provided that:
 - (i) there are no amounts outstanding beyond the expiry of the **Maximum Extension Period** or other adverse information about the **Buyer**; and
 - (ii) the original due date of the invoice is not more than **(XX)** days prior to the date of receipt of your limit request;
- (b) discretionary cover for **Buyers** remains valid in accordance with Section 2.03 (Discretionary cover) until you receive the limit notification.

By accepting this **Policy**, you agree:

- that the Risk Service Provider named in the **Special Terms** will provide you with certain services related to this **Policy**; and
- to pay the fees it charges you.

2.03 Discretionary cover

If we have not issued an **Approved Limit**, you may set a **Discretionary Limit** in accordance with the conditions for setting **Discretionary Limits** in the **Special Terms**. The **Discretionary Limit** you set is subject always to the maximum **Discretionary Limit** applicable to the country of the **Buyer**.

You may not set a **Discretionary Limit** for any **Buyer** excluded under Section 1.02 (What you are not covered for).

Where **VAT** cover is not excluded in the **Special Terms**, you must take into account the amount of **VAT** when calculating any **Discretionary Limit**.

2.04 Amendment and withdrawal of cover

- (a) At any time you may apply for a higher **Approved Limit**.
- (b) Using the approved means of communication (see **Special Terms**), we may immediately withdraw, vary or reduce the cover relating to one or more of your **Buyers**, one or more countries or any category of business if we believe the risk has deteriorated, or there is some other material reason for taking the action. We may also amend the Country List at any time.

Unless we specify otherwise in the notification, discretionary cover does not apply after such withdrawal. We may also amend the Country List at any time. This may result in the cancellation of discretionary cover for **Buyers** in certain countries.
- (c) Any withdrawal, variance or reduction as stated in (b) above will apply to any receivable assigned to you by a **Supplier** or export factor after the date you receive our notification.
- (d) There is no cover for receivables purchased from a **Supplier** or export factor which relate to a **Buyer** who has entered into a **State of Default** provided that on the date of purchase of such receivables the **Information Holders** are aware or should have been aware of the **Buyer** entering into a **State of Default**. Cover will be reinstated on the **Buyer** when all amounts outstanding beyond the **Maximum Extension Period** have been paid provided that:
 - the credit limit for the **Buyer** has not already been withdrawn by us; and
 - an event of loss has not occurred.

Notwithstanding the provisions of this Section, it is agreed that any:

- (i) withdrawal, variation or reduction in cover relating to a country or amendment to the Country Grade will take effect **(XX calendar/working)** days after the date you receive our notification; and
- (ii) withdrawal of an **Approved Limit** will take effect **(XX calendar/working)** days after the date you receive our notification; and
- (iii) reduction of an **Approved Limit** or variation in cover will take effect **(XX calendar/working)** days after the date you receive our notification
provided that the **Information Holders** neither:

- are aware or should have been aware of the **Buyer** being in a **State of Default** nor
- have any reason to believe that the **Buyer** is or may be unable to meet its payment or any other contractual obligation.

For the avoidance of any doubt, the above delayed effect provisions do not apply to any **Temporary Approved Limits** or **Temporary Uplifts**.

Additionally, you have the right to request cancellation of an **Approved Limit** and to insure the debt of the **Buyer** with another company if the **Approved Limit** does not cover you for a minimum of **(Specific Percentage)** of your real outstanding on that **Buyer**.

You have to request the cancellation of an **Approved Limit** in writing and you have to give us the opportunity to review our decision in reasonable time before this request.

Receivables beyond due date

2.05 Your credit management obligations

You must apply your credit management procedures continuously and consistently.

To comply with your credit management procedures will constitute a **Material Obligation**. For the avoidance of doubt our damages may exceed the value of your claims under the **Policy**.

You must comply with any reasonable instructions we may give you.

In addition, you must obtain our prior written agreement to grant approval (whether as part of an out-of-court settlement, or a court order) for:

- (a) a repayment plan or other form of rescheduling in respect of all or part of the debt beyond the **Maximum Extension Period**, or
- (b) an assignment or pledge of all or part of the debt, or
- (c) a waiver of all or part of the debt; or
- (d) the giving up of any of your rights or guarantees in respect of all or part of the debt.

Such approval shall not be unreasonably withheld.

2.06 Postponement of due date

You or the **Supplier** acting on your behalf, may agree to one or more postponements of the initial due date for payment of the **Insured Debt**. However, the additional credit period granted must not exceed the **Maximum Extension Period**, as set in the **Special Terms**. Unless we agree otherwise, the **Policy** will not cover any debt you have agreed to postpone beyond the **Maximum Extension Period**.

Unless you obtain our prior written agreement, you must not grant any postponement of due date if:

- (a) the initial methods of payment are **Cash Against Documents**, promissory note, bill of exchange, or irrevocable letter of credit, or
- (b) the **Information Holders** are aware or should have been aware that the **Buyer** is in a **State of Default**.

If you enter into a payment rescheduling agreement on debt obligations due from the **Buyer** to you which are unrelated to the **Factoring Agreement** (and therefore not insured under this **Policy**), you must obtain our prior written approval to include **Insured Debt** in the same rescheduling agreement. Such approval will not be unreasonably withheld and we will negotiate in good faith to consider such a request.

2.07 Non-payment notification

You may notify us of any unpaid debt at any time after the original due date for payment. However where the **Information Holders** are aware or should be aware that a **State of Default** has occurred, you must notify us before the expiry of the **Non-payment Notification Period**, using the relevant forms and submitting all documents that are reasonably required and objectively necessary including the following:

- Signed and completed non-payment notification form

- Statement of Account (includes summary listing of invoice numbers, due dates, outstanding balances, etc.)
- Copies of the relevant **Factoring Agreement**
- Copies of confirmed Purchase Orders
- Proof of Delivery / Bill of Lading
- Proof of any collection or legal action started against the Buyer such as applying for bankruptcy, commencing legal proceedings, enforcing any guarantee (if applicable)
- Third Party Confirmation of Insured Debt documentation from an insolvency administrator or other competent insolvency party referencing the outstanding balance (if available)
- Proof of legally binding assignment of receivable (if applicable)
- Copies of documents provided to court/administrator (if applicable)
- Documentation supporting justification of a **Discretionary Limit** (if applicable).
- Copies of correspondence in respect of any collection or legal action (if applicable)

The **Non-payment Notification Period** expires **(XX)** days after the **Information Holders** are aware or should have been aware that a **Buyer** has entered into a **State of Default**.

Notwithstanding the above, if an amount not exceeding the **Free Reporting Limit**, owed by a **Buyer** is overdue past the expiry of the **Maximum Extension Period**, and provided that there are no other circumstances that would give rise to a **State of Default**; then:

- (a) notwithstanding Section 2.07 of the General Terms and Conditions, you need not submit a non-payment notification to us; and
- (b) notwithstanding the Definition of **State of Default** contained in the General Terms and Conditions, the **Buyer** is not deemed to be in a **State of Default**.

2.08 Inconvertibility and restrictions on currency transfers

In the event of inconvertibility and restrictions on currency transfers, your indemnity will be adjusted (at the date the inconvertibility and restrictions on currency transfer cease) of any shortfall in the value of your **Insured Debt** due to currency depreciation.

3. INDEMNITY

3.01 Calculation of the Insured Loss

- (a) The **Insured Loss** is to be calculated as being the **Insured Debt**:
 - after taking into account the value of any **Recoveries** you have received prior to the date of settlement of the indemnity; and
 - after taking into account the amount of any **Excess**, if applicable, as specified in the **Special Terms**.
- (b) Invoices in a currency other than the **Policy** currency will be converted in accordance with Section 5.02 (Policy currency).

For the purposes of establishing which debts constitute the **Insured Debt**, debts owed by a **Buyer** will be taken in the order of the invoice dates up to the amount of the credit limit. Debts above the credit limit are covered under the **Policy** only if and when older debts that are covered under the **Policy** have been paid. This subsequent cover of previously uninsured debts does not apply after the **Date of Crystallisation**. If payment is by cheque or bill of exchange, payment is deemed to have been made when you have received cleared funds.

3.02 Calculation of the indemnity

Subject always to Section 3.05 (Maximum liability), the maximum indemnity under the **Policy** in respect of any claim will be the **Insured Percentage** of the **Insured Loss**.

Where:

- (a) you mandate the Collection Service Provider specified in the **Special Terms** to collect outstanding debts, or
- (b) we have given our prior written approval; and
 - (i) the amount of collection and legal costs is evidenced by invoices rendered to you by an **(Name of the Insured)** Group entity, or an **(Name of the Insured)** Group affiliate, or the **Supplier**, or a correspondent factor, or a debt collection agency, or a solicitor; and
 - (ii) the costs are incurred by you to recover payment of a **Buyer's** undisputed debt in respect of any **Insured Debt**; and
 - (iii) the **Insured Debt** at the date we receive your Non Payment Notification exceeds any **Excess** applicable to the **Policy** as specified in the **Special Terms**,

then we will contribute to a share of the collection fees and legal costs, calculated as follows:

$$\text{Contribution} = (\text{collection fees} + \text{legal costs}) \times \frac{\text{Insured Debt}}{\text{Total Debt at the Date of Crystallisation}}$$

The term "Total Debt" above refers to the total amount of debt (both **Insured Debt** and uninsured debt) that is owed to you or the **Supplier** by the **Buyer** pursuant to the **Factoring Agreement**. We will not contribute to your administrative costs and expenses. Our contribution shall be considered an insurance benefit which has to be taken into account while calculating the loss ratio of the **Policy**.

In the event that you are required to contribute to any legal costs incurred by us, you will only be liable for such legal costs provided that:

- the parties have entered into prior agreement to the relevant contribution arrangements;
- you have given your prior written approval; and
- the amount of legal costs is evidenced by invoices rendered to us by relevant solicitors;

For the avoidance of doubt, in any event you shall not be required to contribute to any collection or legal costs incurred by us after we have paid the relevant indemnity to you pursuant to Clause 3.03 of the General Terms and Conditions if the debt recovery actions concerned are conducted in our name and do not seek to recover any uninsured debt.

3.03 Payment of the indemnity

- (a) We have no liability in respect of any debt or claim unless we have received the non-payment notification from you in accordance with Section 2.07 (Non-payment notification).
- (b) If the **Insured Debt** (or any part of it) is subject to a **Dispute**, we will have no liability in respect of the disputed amount until the **Dispute** is unconditionally settled in favour of the **Supplier** or you. We are not liable for any costs incurred in the **Dispute** resolution.
- (c) Subject to Section 5.03 (Verifying your documents), we will pay your claim within 30 days from the later of:
 - the date of the occurrence of the event of loss as determined in Section 1.01 (What you are covered for); and
 - the date we receive the non-payment notification and all supporting documents and information within your control that are reasonably required and objectively necessary. This includes proof of the exact date in which any receivable subject to a non-payment notification was assigned to you; and of the amount of your actual loss with respect to any unpaid receivable; and that the **Factoring Agreement** was legally binding and enforceable according to the applicable law; and
 - if the debt was subject to a **Dispute** that has subsequently been resolved in favour of the **Supplier**, the expiry of an additional period of 30 days following resolution of the **Dispute**, within which the **Buyer** has to pay.
- (d) The indemnity is payable in the **Policy** currency (Section 5.02 - Policy currency).
- (e) If you receive an indemnity from us to which you are not entitled under the **Policy**, you must reimburse it to us within 14 days of our request or of your being aware that you are not entitled to it.

3.04 Recoveries

- (a) (i) All **Recoveries** relating to receivables assigned to you by a **Supplier** or an export factor, realised

before the **Date of Crystallisation** must be used to reduce the amount of the undisputed receivables owed to you which relate to that **Supplier** or export factor, in the order of allocation agreed by you.

- (ii) For the calculation of the **Insured Loss**, all **Recoveries** received after the **Date of Crystallisation** will be shared between you and us pro rata based on the ratio between the **Insured Debt** and your total debt at the **Date of Crystallisation**. Our share will be calculated in accordance with the following formula:

$$\text{Recoveries} \times \frac{\text{Insured Debt}}{\text{total indebtedness}} \text{ at the Date of Crystallisation}$$

- (b) On payment of the indemnity, any of your rights or actions in respect of the **Insured Loss** will be subrogated to us. Our share of any **Recoveries** you receive after you have been indemnified under the **Policy** must be reimbursed to us within 14 days of their receipt. **Recoveries** realised in a currency other than the **Policy** currency are converted in accordance with Section 5.02 (Policy currency).

Notwithstanding the above:

- (c) in respect of **Excluded Receivables**,
- 1.1 we will relinquish any share of the value of any **Recoveries** which are directly and wholly attributable to **Excluded Receivables** and to which we would otherwise have been entitled to under the provisions of the **Policy**; and
 - 1.2 any monies received by you or on your behalf in respect of an **Excluded Receivable** will be applied to the **Excluded Receivables**; and
 - 1.3 where the percentage of the **Insured Loss** which is not covered under the **Policy** is retained by the **Supplier** in accordance with section 3.07 (Shared risk) and for this purpose the **Supplier** opens a bank account (the "Cash Deposit"), then, the transfer to you of such Cash Deposit will for the purposes of the **Policy** not be considered as **Recoveries**.

3.05 Maximum liability

Regardless of the amount of any individual **Approved Limit** or the aggregate value of all credit limits and the number of beneficiaries under the **Policy**, we will have no further liability at all for an Insurance Period when the amount we have paid to you as indemnity first reaches the maximum liability shown in the **Special Terms**. Your obligations under the **Policy** continue, including your obligations to pay us premium and to account to us for our share of any **Recoveries**.

3.06 Assignment of indemnities

You may wish to transfer any benefits under the **Policy** to a third party. Any assignment of the benefits payable under the **Policy** requires our prior approval and an amendment being made to the **Policy** noting the assignment.

3.07 Shared risk

You and/or the relevant **Supplier** must remain solely responsible for any portion of the debt not covered under the **Policy**.

You may however:

- (a) purchase **Second Layer Insurance** from a company of your choice subject to our prior written approval and:
- (i) notwithstanding section 5.04 (Confidentially) and except where we have agreed otherwise in writing with you, you may disclose only the amount of our **Approved Limit** and any changes to the **Policy** that are material to the **Second Layer Insurance**. All other information, including the Euler Hermes Buyer Grade, remains subject to the provisions of Section 5.04 (Confidentially). We will not be liable to you under the **Policy** in respect of any **Buyer** where you have obtained Second Layer insurance but have failed to comply with this condition;

and

- (ii) notwithstanding anything to the contrary that may be stated elsewhere in the **Policy**, section 3.04 (a) (ii) will always apply where you have obtained **Second Layer Insurance**; and
- (iii) you will inform us immediately if and when the **Second Layer Insurance** is terminated; or
- (b) obtain collateral in the form of a bank guarantee or Letter of Credit for any portion of the debt not covered under this **Policy** (the "Collateral"). If you have obtained the Collateral:
 - (iv) at your own instigation, then when calculating the **Insured Loss** in accordance with section 3.01 (Calculation of the Insured Loss) of the General Terms and Conditions, **Recoveries** relating to such security shall be allocated firstly to the portion of the indebtedness which exceeds the **Insured Debt**. Any remaining **Recoveries** shall be used to reduce the amount of the **Insured Debt**.
 - (v) at our request as a condition for the validity of the **Approved Limit**, then when calculating the **Insured Loss** in accordance with section 3.01 (Calculation of the Insured Loss), **Recoveries** relating to such security shall be allocated firstly to the **Insured Debt**. Any remaining **Recoveries** shall be used to reduce the amount of the uninsured indebtedness.

At all times, the difference between the **Insured Debt** and the **Insured Percentage** of the **Insured Debt** must remain at the **Supplier's** and/or your own risk and uninsured.

4. POLICY MANAGEMENT

4.01 Declaration of turnover

For each Insurance Period and for each country specified in the **Special Terms**, you must declare to us using our forms the aggregate value of your **Turnover** within **XX** days (unless specified otherwise in the **Special Terms**) after the end of the period.

The value of invoices denominated in currencies other than the **Policy** currency must be converted into the **Policy** currency in accordance with Section 5.02 (Policy currency).

You must not exclude from your **Turnover** the value of any:

- (a) receivables relating to a **Factoring Agreement** where credit notes have been issued in respect of goods returned to the **Supplier** by the **Buyer** or in relation to retrospective volume rebates, loyalty rebate, early settlement rebate or any other rebate.
- (b) receivables assigned to you which relate to a Buyer on which there was a valid credit limit at the time when receivables have been assigned, where that limit has subsequently been withdrawn.

You may exclude from your **Turnover** the value of any:

- (c) value added tax (or its equivalent) if **VAT** cover or its equivalent is excluded in the **Special Terms**; and
- (d) sales entirely excluded from cover by the application of Section 1.02 (What you are not covered for).

4.02 Calculation of premium

Premium will be calculated on the basis of the declared turnover multiplied by the relevant premium rate set in the **Special Terms** for the particular country. If the calculated premium for the Insurance Period is lower than the minimum premium, as indicated in the **Special Terms**, you must pay the minimum premium for that period.

Insurance taxes will be added to the premium according to the relevant tax legislation.

4.03 Payment of premium

You must pay the premium to us strictly in accordance with the amounts shown and on the date set in the **Special Terms**.

4.04 Right of set-off

We alone may set off any premium or other amounts you owe us against any sums payable under the **Policy**, regardless of the **Policy** period.

5. OTHER PROVISIONS

5.01 Your Proposal

We have agreed to issue this **Policy** on the basis of the **Proposal** and all information and representations provided by the **Information Holders** which are to the best of the **Information Holders'** knowledge and belief true and accurate at the effective date of the **Policy**.

The truth and accuracy of the above information and representations at the effective start date of the **Policy** subject to the knowledge and belief of the Information Holders and the requirement to immediately notify us of any material changes that the Information Holders become aware of constitute a **Material Obligation** under the **Policy**.

5.02 Policy currency

The **Policy** currency is indicated in the **Special Terms**. It will be used for **Turnover** declarations, premium payments and other charges, calculation of any **Insured Loss** and any indemnity payments. If an invoice is denominated in any other currency, all amounts in relation to the invoice, including with respect to the calculation of the **Insured Loss, Recoveries** received prior to the date of indemnification and **Turnover** declarations, will be converted into the **Policy** currency using the exchange rate in the **Special Terms** ruling on the date specified in the **Special Terms**. Any **Recoveries** in any other currency which are received after the date of indemnification will be converted into the **Policy** currency using the exchange rate in the **Special Terms** ruling on the date the **Recoveries** are converted.

5.03 Verifying your documents

At any time we may inspect and take copies of any documents in your possession or control which relate to any **Insured Debt** under the **Policy**. On our request, you must take all necessary and reasonable steps to obtain such documents held by any third party. To provide documents received from a third party (which are not confidential or privileged) constitutes a **Material Obligation**. For the avoidance of doubt our damages may exceed the value of your claims under the **Policy**.

5.04 Confidentiality

The **Policy**, any amendment to it and all correspondence from us, including limit notifications, are strictly confidential. They must not be disclosed to any unauthorised third parties. The following entities are not unauthorised third parties:

- companies in the Allianz group;
- insureds named in the **Special Terms**;
- the broker or insurance intermediary whose name is stated in the **Special Terms**;
- legal advisers;
- third party provider of **Second Layer Insurance**;
- **Suppliers**.

We undertake to:

- treat and safeguard any information or document disclosed to us pursuant to the **Policy** as private and confidential;
- keep in safe custody such information or document so as to avoid all unauthorised access;
- disclose such information or document only to our employees or agents and only to the extent strictly necessary for the purpose of the **Policy**;
- not to make use of or disclose such information or document except for the purpose of this **Policy**.

5.05 Policy duration

- (a) The start date of the **Policy** is shown in the **Special Terms**. Cover under the **Policy** for any receivables purchased by you from a **Supplier** or an export factor on and after the start date does not commence unless you have paid the first premium payable under the **Policy** within the period specified in the invoice issued by us.
- (b) The Insurance Period and, where applicable, the further Insurance Periods are shown in the **Special Terms**.
- (c) At the end of each Insurance Period, the **Policy** will automatically continue for another Insurance Period of the same length, unless you or we gave written termination notice at least three months (unless specified otherwise in the **Special Terms**) before the end of the Insurance Period.
- (d) Despite Section (c) above, we may terminate the **Policy** in the following circumstances:

If you or any other Joint Insured under the **Policy** forming part of the **(Name of the Insured)** Group become subject to **Insolvency**, we may terminate the **Policy** with immediate effect. Subject to your compliance with all the terms and conditions of the **Policy**, we will pay you claims relating to receivables assigned to you during the applicable Insurance Period up to the date of your **Insolvency** (the "Terminated Insurance Period").

If we terminate the **Policy** in accordance with these provisions, then:

- the Minimum Premium applicable to the Terminated Insurance Period will be calculated on the basis of the Minimum Premium due under the **Policy** for the applicable Insurance Period pro-rated to the Terminated Insurance Period; and
- the Maximum Liability applicable to the Terminated Insurance Period will be calculated on the basis of the premium paid under the **Policy** for the Terminated Insurance Period or the Minimum Premium applicable to the Terminated Insurance Period, whichever is the greater.

5.06 Breach of contract

Your obligations under the **Policy** continue, regardless of any termination or suspension.

We do not waive any breach by you of any term or condition of the **Policy** unless we have agreed to the waiver expressly in writing.

5.07 Communication

For the purpose of the **Policy**, any agreed means of communication and any special conditions applying may be specified in the **Special Terms**.

5.08 Law, arbitration and language

The **Policy** is governed by and construed in accordance with the applicable law specified in the **Special Terms**.

Any dispute, controversy or claim arising in any way out of or in connection with the **Policy** (including, without limitation: (1) any contractual, pre-contractual or non-contractual rights, obligations or liabilities; and (2) any issue as to the existence, validity or termination of the **Policy**) will be resolved in accordance with the arbitration clause set out in the relevant **Special Terms**.

The language of the **Policy** is stated in the **Special Terms**. If there are any differences in the meaning or effect of the documents that comprise the **Policy**, then the text in the language of the specified **Policy** will always prevail over any translation, even if provided by us.

5.09 Legal Compliance

You and we, hereby represent and warrant that:

- (a) neither of us have violated and will not violate, in connection with any matter pertaining directly or indirectly to this **Policy**, including without limitation the negotiation thereof, any applicable anti-corruption and anti-bribery laws and regulations, and
- (b) neither you nor us have engaged and undertake that neither you nor us shall engage, in the following conduct: making of payments or transfers of value, offers promise or give any financial or other advantage, or request, agree to receive or accept any financial or other advantage, either directly or indirectly, which have the purpose or effect of public or commercial bribery or acceptance of or acquiescence in bribery, extortion, facilitation payments or other unlawful or improper means of obtaining or retaining business, commercial advantage or the improper performance of any function or activity.