

General Conditions of Insurance Commercial Credit Insurance 1999 (version 2008)

NONCOMMITTAL TRANSLATION

Note: Only the German original shall be legally binding

Contents

§ 1	Credit insurance cover	§ 16	Subrogation after indemnification
§ 2	Scope of cover	§ 17	Assignment of the right to payment of a claim
§ 3	Credit management procedures of the Insured / Discretionary Limit	§ 18	Failure of the Insured to comply with his obligations
§ 4	Credit Limits / Obligation to apply for Credit Limits	§ 19	Policy currency
§ 5	Ageing of accounts / set-off	§ 20	Policy period / Cancellation of policy
§ 6	Commencement and Termination of cover	§ 21	Final provisions
§ 7	Overdue report / Withdrawal of cover		
§ 8	Credit management / type of business done		
§ 9	Loss minimization		
§ 10	Obligations of the Insured		
§ 11	Premium		
§ 12	Collection / Insured Event		
§ 13	Payment of claims / Ascertainment of loss		
§ 14	Uninsured Percentage		
§ 15	Maximum liability		

§ 1 Credit insurance cover

Euler Hermes Kreditversicherungs-AG (hereinafter the Insurer) will indemnify the Insured for losses due to bad debts in respect of goods delivered and services performed during the policy period, including such under contracts for work and services, and which are due to the occurrence of an Insured Event in respect of an insured Buyer during the policy period. The further terms and conditions of cover are as stipulated by the Schedule, the General Conditions of Insurance (GCI), and any supplementary agreements and on the basis of the information given by the Insured in the questionnaire.

§ 2 Scope of cover

1. Cover is provided for undisputed receivables arising out of contracts entered into in the normal course of the Insured's business, and which either do not exceed the Discretionary Limit (§ 3 GCI) or for which a Credit Limit for the respective Buyer was fixed in the Credit Limit Notification from the Insurer (§ 4 GCI).

Cover commences

a) in the case of deliveries of goods, from the date of despatch and

b) in the case of performance of services, including such under contracts for work and services, from the commencement of performance

in as far as the delivery of goods or performance of services concerned is invoiced within the following 30 calendar days. If the relevant invoice is issued later, insurance cover commences only from this date.

2. Cover is not provided for losses of receivables

a) due from public Buyers and private individuals, provided that the latter were not transacting business as a company,

b) due from any company in which the Insured directly or indirectly holds a majority interest, or vice versa,

c) arising out of the letting or leasing of real estate,

d) resulting from deliveries of goods and performance of services, including such under contracts for work and services, where there has been a failure by the Insured to obtain any documents or authorizations required, as well as receivables arising from the delivery of goods whose importation into the country of destination contravenes any regulations in force or the export of which contravenes any regulations existing in the Federal Republic of Germany,

e) where the loss is in whole or in part attributable to war, hostilities, civil commotion, riots, revolution, strike, confiscation, obstruction of the traffic of goods and the transfer of payments by public authorities or state institutions, natural disasters or the direct or indirect effects of nuclear energy.

3. Value added tax (VAT) is not insured. Likewise, customs duties and other taxes which become due on the passing of goods across borders are not insured. Late or default interest, contractual penalties, liability for damages and exchange rate losses or costs arising from the disputed acceptance of goods or services by the Buyer are likewise not insured.

4. Accounts for which the Insured agreed at the outset a payment term exceeding that specified in the Schedule are not insured, unless otherwise regulated in the Credit Limit Notification from the Insurer.

§ 3 Credit management procedures of the Insured / Discretionary Limit

1. The Insured has, either in the questionnaire or in another agree-

ment with the Insurer, given details of the credit management procedures operated in his company either currently or at the latest from the commencement of the policy period. As long as the Insurer has not specified any other special conditions of cover in a separate agreement, credit granted by the Insured with a credit term no longer than the payment term specified in the Schedule is covered under a Discretionary Facility up to the Discretionary Limit defined in the Schedule without the need to obtain a Credit Limit from the Insurer pursuant to § 4 GCI.

2. As soon as the receivables due from one and the same Buyer exceed the Discretionary Limit, the excess amount is only covered if a Credit Limit request is made to the Insurer within 30 days of the date when the Discretionary Limit was exceeded and the Insurer subsequently sets a Credit Limit. If the Insurer refuses to set a Credit Limit for the Buyer concerned, the receivables in excess of the Discretionary Limit are uninsured. Cover for receivables already insured under the Discretionary Facility at the time of the refusal remains unaffected by this. Receivables in respect of subsequent deliveries of goods and performance of services and due from the same Buyer are no longer insured.

3. Credit granted by the Insured under the Discretionary Facility is only valid for Buyers in the countries specified in the Schedule, provided that the Insurer does not restrict or cancel cover pursuant to § 6 GCI for subsequent deliveries of goods and performance of services.

4. There is no cover under the Discretionary Facility when one of the events listed under § 10 Par. 3 a) - c) GCI has occurred during the twelve months preceding the delivery of the goods or performance of the services, or the Buyer is insolvent as defined by § 12 GCI.

§ 4 Credit Limits / Obligation to apply for Credit Limits

1. The Insured must apply for adequate Credit Limits in respect of all his business with each current and future Buyer in the insured countries within 30 days if the total amount due from a Buyer exceeds the Declaration Limit stated in the Schedule.

2. As soon it is foreseeable that the total amount due from an insured Buyer will exceed the Credit Limit obtained from the Insurer, the Insured must apply for an increase of the Credit Limit.

If the Insurer is unable to justify granting the Credit Limit requested in full the Insured is obliged to send a new Credit Limit request for the amount needed within 12 months of receiving the respective Credit Limit Notification.

3. If the total amount due from a Buyer for whom a Credit Limit has been obtained from the Insurer falls below the Declaration Limit, the receivables remain insured.

§ 5 Ageing of accounts / set-off

1. Receivables are insured in chronological order up to the amount of the Credit Limit fixed for each Buyer.

2. Uninsured receivables in excess of the Credit Limit are insured only if and when older insured receivables have been paid. Cheques and bills of exchange are only deemed to be paid when honoured.

If a Credit Limit is reduced pursuant to § 6 GCI, accounts due which were previously uninsured and receivables in respect of subsequent deliveries of goods and performance of services can, after outstanding insured accounts have been paid, come under cover if and to the extent that there is a free amount of cover for them in the reduced Credit Limit.

Subsequent inclusion of uninsured receivables is not permissible when cover is cancelled or lapsed according to § 6 GCI.

3. Payments received will be allocated as follows:

a) Any payments received by the Insured before the occurrence of the Insured Event or before the expiry of the policy will normally be allocated to the oldest amounts outstanding, irrespective of any other agreement which may have been reached between the Insured and the Buyer.

b) In the event that the Insured has applied for adequate Credit Limits from the Insurer, but that the Insurer has not been able to justify the full amount, any payments received by the Insured after cancellation of cover, but before the occurrence of the Insured Event will be set off pro rata in the same proportion as that of the outstanding receivables to the Credit Limit. Payments which are received before the cancellation of cover are regulated by Par. 3 a).

§ 6 Commencement and Termination of cover

1. Cover on a Buyer commences at the inception of the policy, unless some other date is specified either in the Schedule or the Credit Limit Notification.

2. If the risk deteriorates or for any other material cause, the Insurer reserves the right to immediately restrict or cancel cover on the Buyer concerned or on all Buyers domiciled in a specified country. This decision becomes effective on receipt of notification from the Insurer and applies to all subsequent deliveries or services by the Insured to the Buyers concerned.

3. Cover on an insured Buyer lapses if and when cover is terminated according to § 7 GCI, or an

Insured Event as defined by § 12 GCI occurs, or when the policy expires.

§ 7 Overdue report / Withdrawal of cover

1. If the Insurer sets a Credit Limit for a Buyer, the Insured must inform the Insurer of each and every non-payment of an insured account due from this Buyer as soon as the notification period for overdues specified in the Schedule is exceeded (Overdue Report). The notification period begins when the due date agreed with the Buyer at the time the goods were delivered or the service performed expires. If and when the Insurer, from case to case, has agreed to the credit period for a particular account being prolonged after this point (§ 10 Par. 4 GCI), the notification period begins with the new due date thus fixed.

If the Insured fails to notify the Insurer of overdues, his insurance cover may be jeopardized (cf. § 18 GCI).

2. On receipt of an overdue report, the Insurer will review whether cover on the Buyer concerned can be maintained or not. The Insured will receive notification of this decision.

3. As soon as the deadline for withdrawal of cover after original due date specified in the Schedule is exceeded, cover for receivables due from subsequent deliveries of goods or performance of services ends automatically, unless the Insured has received notification from the Insurer that this is not the case.

4. The rulings in Par. 1 - 3 above do not apply if the amount of the individual account does not exceed the threshold for notifying overdues specified in the Schedule.

5. For Buyers for whom only credit granted by the Insured under the Discretionary Facility (§ 3 GCI) is covered, no overdue reports under

Par. 1 of this Article are necessary. Cover on these accounts is also cancelled for receivables due from subsequent deliveries of goods or performance of services, however, as soon as the deadline for withdrawal of cover after original due date specified in the Schedule for an unpaid account is exceeded.

Cover on the Buyer concerned will be reinstated after cancellation if and when the Buyer has paid all outstanding receivables due up to the date of payment and no adverse information according to § 10 Par. 3 a) - c) GCI has become known in respect of new deliveries or services and the Buyer is not insolvent as defined by § 12 GCI.

§ 8 Credit management / type of business done

The Insured must inform the Insurer at the latter's request in writing, by telefax or online link whether and if so, what changes have occurred since the previous year either in the business done by his company or the credit management procedures currently operated or if there is any divergence from the information given in this respect in the questionnaire.

§ 9 Loss minimization

1. The Insured agrees, at his own expense, to use all due and reasonable care to ensure that losses are prevented or minimized and will thereby take all appropriate action, will implement instructions given by the Insurer, will make the best use of any security interests he may hold and obtain the consent of the Insurer before concluding any settlement or agreement with the Buyer in respect of payments.

This duty to minimize any loss remains in force after indemnification by the Insurer.

2. The Insured hereby authorizes the Insurer to enter into agreements on his behalf with any of his insured Buyers to protect the insured receivables in order to prevent or minimize the risk of loss.

§ 10 Obligations of the Insured

1. In addition to the obligations in § 4, § 7 Par. 1 and §§ 8 and 9 GCI, there are further obligations of the Insured which are regulated as follows.

2. The Insured must immediately notify the Insurer in writing, by telephone or by telefax or online link of the imminent or actual insolvency of any of his Buyers.

3. In the application for Credit Limit, the Insured must inform the Insurer whether, during the 6 months preceding the request

a) bills of exchange were prolonged beyond the original due date or

b) cheques, bills of exchange or direct debits were not honoured for lack of funds or

c) the Insured received any adverse information concerning the Buyer's financial situation or his ability to pay.

4. Following submission of the Credit Limit request, the Insured must notify the Insurer immediately by telephone, in writing or by telefax or online link on the occurrence of any of the events listed under Par. 3 a) - c) above or if the agreed due date for an insured account is to be prolonged (§ 7 Par. 1 GCI).

5. The Insured will provide all information and any documents which the Insurer deems necessary for the verification of the loss and the ascertainment of the amount of the loss.

6. The Insured agrees to give the Insurer the right to examine any documents material to the policy and

to make or require to be made copies thereof.

7. The Insured agrees to comply with the provisions of Par. 5 and 6 above after indemnification by the Insurer.

8. The Insured will treat all information received from the Insurer concerning the creditworthiness of any of his Buyers or of third parties in the strictest confidence. The Insured further undertakes to protect the Insurer from any claims of third parties which may arise through confidential information becoming known to such third parties through wilful or negligent disregard of this confidentiality on the part of the Insured.

9. If the Insured fails to comply with any of his obligations, the insurance cover may be jeopardized (cf. § 18 GCI).

§ 11 Premium

1. Details of the premium rate and the type of premium calculation are given in the Schedule. The Insured is obliged to notify the details necessary for the calculation of premium to the Insurer at the time agreed.

2. Premium, together with statutory insurance premium tax, is payable immediately on receipt of the invoice.

3. The Insured guarantees to pay to the Insurer in every case the Minimum Annual Premium stipulated in the Schedule.

4. If the first premium is not paid on time, the Insurer is entitled to rescind the insurance contract as long as the payment is not made. Until the first premium is paid, the Insurer is freed from its obligation to indemnify.

Any other questions relating to premiums shall be regulated as provided in the German Insurance Con-

tract Law (VVG §§ 37 - 39). If the insurance contract is rescinded, the Insured is liable to pay an administration fee amounting to 25 % of the Minimum Annual Premium.

§ 12 Collection / Insured event

1. An Insured Event is only deemed to have occurred when a collection order has been placed with Euler Hermes Collections GmbH at the latest on the expiry of the period specified in the Schedule after due date of an insured account and the Buyer is insolvent.

The Buyer is only deemed to be insolvent when:

- a)** Euler Hermes Collections GmbH has not, within the period stipulated after placement of the collection order in the Schedule, succeeded in collecting the insured receivables in full (protracted default), or
- b)** court insolvency proceedings have been opened or proceedings have been rejected by the court for lack of sufficient assets, or
- c)** the insolvency court has formally noted that a plan for the repayment of creditors in a personal insolvency has been accepted, or
- d)** all the Buyer's creditors generally have agreed to a composition or other out-of-court settlement, or
- e)** the execution of a judgement title in respect of the Buyer's assets obtained by the Insured has failed to satisfy the debt in whole or in part, or
- f)** any event has occurred with respect to a Buyer domiciled abroad which by any other system of law is substantially equivalent to any of the above.

2. Placing an order with Euler Hermes Collections GmbH is not a necessary precondition for the occurrence of an Insured Event if and when

a) a petition has already been filed for insolvency proceedings or

b) insolvency of a Buyer as defined by Par. 1 b) to f) has already occurred before the expiry of the period agreed in Par. 1 for the placing of a collection order or

c) the receivables concerned do not exceed the threshold stipulated in the Schedule.

3. Insolvency is deemed to have occurred in the case of Par. 1 on the date when

- a)** the period stipulated in the Schedule following receipt of the collection order with Euler Hermes Collections GmbH has expired,
- b)** and **c)** the court order was passed,
- d)** all the Buyer's creditors generally agreed to the settlement,
- e)** the competent authority confirmed in writing the failure of the execution to satisfy the debt,
- f)** the equivalent event under the system of law applicable occurred.

4. An Insured Event is also deemed to have occurred in the case that, following the delivery of goods or the performance of services, insolvency of the Buyer appears imminent due to deterioration of his creditworthiness and the goods delivered have been reclaimed by the Insured and, with the consent of the Insurer, have been sold at the best price realizable elsewhere, and the proceeds of the sale are still lower than the receivables due from the original Buyer. The Insured Event here is deemed to have occurred on the date on which the loss due to the sale of the goods at a lower price is ascertained. This Insured Event is independent of any prior placing of an order with Euler Hermes Collections GmbH.

§ 13 Payment of claims / Ascertainment of loss

1. The Insurer will pay a claim within the period stipulated in the Schedule if and when an Insured Event has occurred, the required documentation has been submitted and the final insured loss has been established. The settlement of the loss will be based on the Insured Event which occurred first, in chronological order.

If the amount of the loss has not been definitely established by the expiry of the period stipulated in the Schedule, the Insurer will make a provisional loss settlement. In this connection the Insurer will estimate the amounts which are deductible in so far as these amounts have not yet been established.

2. In ascertaining the insured loss, the amount due at the time of the Insured Event will be reduced by the following in the order of their appearance here:

a) uninsured accounts or uninsured parts of accounts due,

b) the following reductions:

- rights of set-off,
- goods reclaimed and proceeds from the sale of goods under retention of title,
- proceeds from the realization of any other rights or security interests,
- dividends in liquidation,

to the extent that they are in respect of the insured accounts.

These reductions will be set off in the amount remaining after deduction of the insolvency administrator's realization and ascertainment costs.

If it is not possible to establish whether the reductions mentioned above are in respect of insured or uninsured accounts, they will be set off against the loss in the proportion of insured to uninsured receivables.

Any payments recovered or the proceeds from relevant sales of goods received between the date of cancellation or reduction of cover and the occurrence of the Insured Event are to be regulated by the same provisions.

3. Any payments recovered or the proceeds from relevant sales of goods received by the Insured after occurrence of the Insured Event must be notified immediately to the Insurer. The Insurer will then make a revised loss settlement where appropriate.

If it is not possible to establish whether the reductions mentioned above refer to insured or uninsured accounts, they will be set off against the loss in the proportion of insured to uninsured receivables.

4. The Insured must submit a claim for indemnification within 6 months of learning of the occurrence of an Insured Event. Claims submitted later than this will not be indemnified.

§ 14 Uninsured Percentage

1. The Insured shall retain for his own account the percentage stipulated in the Schedule of each insured loss ascertained according to § 13 GCI, unless a higher percentage has been specified from case to case in the Credit Limit Notification.

2. The uninsured percentage to be retained for his own account by the Insured may not be insured elsewhere or otherwise covered by any form of protection. If the Insured has insured the amount which he agreed to retain for his own account elsewhere, the Insurer reserves the right to deduct an amount equivalent to the Insured's claim against the other insurer from its claims payment.

§ 15 Maximum liability

The claims payable in respect of the losses incurred in any one insurance year are limited to the multiple specified in the Schedule of the premium paid in that year.

§ 16 Subrogation after indemnification

The Insurer will be subrogated to any legal rights and remedies the Insured has against his Buyer or third parties up to the amount indemnified. The Insured agrees to undertake all necessary actions for the transfer of such rights at the request of the Insurer.

The Insured's obligations under § 10 Par. 5 and 6 GCI remain in force after the transfer of all rights and remedies in respect of the receivables, claims and any other such legal rights.

§ 17 Assignment of the right to payment of a claim

Assignment of the right to payment of a claim under this policy is only admissible with prior written consent from the Insurer. Any legal remedies available to the Insurer, as well as the right of set-off, shall also be valid against the assignees. The amount of the indemnification will however only be ascertained in consultation with the Insured.

§ 18 Failure of the Insured to comply with his obligations

1. The Insurer is released from its liability to indemnify a claim in respect of an insured single risk, without it being necessary to cancel the policy, if the Insured fails to comply with any of his legal or contractual obligations regarding the respective insured single risk and if the Insured can be held responsible for such non-fulfilment. This does however not apply if the non-fulfilment has

had no effect either on the verification or the occurrence of the Insured Event or the ascertainment or the amount of the indemnification to be paid by the Insurer.

2. The Insurer is released from its liability to indemnify a claim if the Insured fails to inform the Insurer about the deterioration of a risk and if the Insured can be held responsible for such non-fulfilment and if the Insured Event occurs after the date this information should have been received. The Insurer remains liable to indemnify a claim if the Insurer knew of the deterioration of the risk at the date this information should have been received or if the deterioration of the risk has had no effect either on the occurrence of the Insured Event or the amount of the indemnification to be paid by the Insurer.

3. The obligation to apply for credit limits (§ 4 GCI) and the duty to notify to the Insurer the details necessary for the calculation of premium (§ 11 Par. 1 GCI) are contractual obligations which must be fulfilled by the Insured. If the Insured fails to comply with one of these contractual obligations and if the Insured can be held responsible for such non-fulfilment the Insurer is released from its liability to indemnify a claim, without it being necessary to cancel the policy.

§ 19 Policy currency

The policy currency is that specified in the Schedule. Invoices denominated in currencies other than the policy currency will be converted at the rate of exchange used by the European Central Bank on the day the delivery was effected or, in the case of services, the invoice date.

The rate of exchange used by European Central Bank on the day the Insured Event occurred will be used in calculating the amount of indemnification, subject to this not being higher than that of the day when delivery was effected or, in the case

of services, the invoice date. Recoveries are to be converted at the rate of exchange used on the day payment is received.

Currencies which are not officially quoted will be converted at the rate fixed as the mean rate of exchange by the Deutsche Bundesbank or alternatively by the European Central Bank on the dates stipulated above.

§ 20 Policy period / Cancellation of policy

1. The policy period is that stipulated in the Schedule. The policy will be renewed from one insurance year to the next unless written notice of cancellation from either of the parties is given by recorded delivery 2 months before the renewal date.

2. The policy automatically expires on the occurrence of any of the events listed under § 12 Par.1 b) to f) GCI with respect to the Insured. This provision does not however apply in the case that court insolvency proceedings have been opened concerning the assets of the Insured. The Insurer's right to payment of the agreed Minimum Annual Premium on a pro rata temporis basis is unaffected by this.

§ 21 Final provisions

1. The Insured is only entitled to set off an amount owed as premium against an unpaid amount owed to him under a claims settlement or to exercise any such lien if and when the right to payment of the claim concerned has either been recognized by the Insurer or has been established as finally valid by a decision of a court.

2. In addition to the contractual provisions, this policy is to be governed and construed in all respects according to the Laws of the Federal Republic of Germany, and in particu-

lar the German Insurance Contract Law, unless any other agreement has been fixed in writing. This contract is concluded as a "current insurance" (in German: "laufende Versicherung") within the meaning of § 53 Insurance Contract Law (in German: "VVG").

3. Place of performance and of jurisdiction shall be Hamburg in the case of companies and merchants (Kaufleute as defined by the German Commercial Code (HGB)).