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General Terms and Conditions

on Insurance of Short-Term Export Receivables

OU-KI/01-16

# Preamble

General Terms and Conditions of Insurance of Short-Term Export Receivables OU-KI/01-16 (hereinafter: General Terms and Conditions) determine the terms and conditions of insurance of short-term export receivables on the basis of direct deliveries of goods and/or services pursuant to the Export contracts concluded between the Exporter and the Foreign buyer that are insured by Hrvatska banka za obnovu i razvitak (hereinafter: the Insurer), for and on behalf of the Republic of Croatia.

Article 1

Definitions

In these General Terms and Conditions, the pertaining Insurance policy and its attachments, the following definitions are used in the meanings:

**Additional costs**: Costs arisen due to the actions taken for the purpose of reducing or evading the occurrence of the Damage that relate to hiring of an agency for the collection of receivables, legal expenses and all other costs previously approved by the Insurer. Additional costs do not relate to the costs of determining the justifiability of the claim.

**Foreign buyer**: foreign legal or natural person that imports goods and/or services from the Exporter via Export contract;

**Exporter**: Croatian legal or natural person that exports;

**Export contract**: contract in which the contractors are the Exporter and the Foreign buyer, and in which the contractual obligation of the Exporter is the production and/or delivery of goods and/or providing of services to the Foreign buyer, and the obligation of the Foreign buyer payment to the Exporter;

**Indemnity**: cash amount paid to the Insured person by the Insurer for the purpose of compensation of Damage arisen for the Insured person as a result of occurrence of the Insured event, to the maximum amount of the Sum insured reduced by the Retention;

**General Terms and Conditions**: General Terms and Conditions on Insurance of Short-Term Export Receivables OU-KI/01-16;

**Insured person**: Exporter concluding the Insurance Contract with the Insurer;

**Insurer**: HBOR - Hrvatska banka za obnovu i razvitak, with seat in Zagreb, Strossmayerov trg 9, for and on behalf of the Republic of Croatia;

**Sum insured**: cash amount for which the insurance is concluded under an individual Foreign buyer stated in the Insurance policy;

**Insured risk**: risk covered by the insurance, a future, contingent event, independent of the exclusive will of the contracting parties, defined by these General Terms and Conditions;

**Insured event:** damaging event caused by an Insured risk;

**Insurance policy**: written document on a concluded Insurance contract, issued by the Insurer;

**Insurance premium**: cash amount charged by the Insurer based on the concluded Insurance contract for risk covered;

**Premium rate**: percentage reflecting the insurance price for the risk taken as stated in the Insurance policy;

**Waiting period**: time period lasting as a rule 3 months from the submission of written information on the delay in payment;

**Retention**: share of the Insured person in the Insured event that is determined by the percentage mentioned in the Insurance policy;

**Damage**: loss expressed in cash equivalent amount which occurred for the Insured person due to an Insured event;

**Standardized contract**: contract between the Insured person and the Insurer that is concluded before the payment of Indemnity by which mutual rights and obligations relating to the recourse collection of debt are regulated;

**Insurance contract**: contract between the Insurer and the Insured person, by which the Insured person’s claims towards the Foreign buyer arising from the Export contracts are insured, which consists of the Insurance policy with attachments and these General Terms and Conditions;

**Usual payment period**: maturity date of payment given in the Export contract which is extended by the agreed (tacit, oral or written) deferral of payment that the Insurer is acquainted with;

**Substitute turning to account**: selling of goods that are the subject matter of insurance in the most convenient way.

Article 2

General provisions

2.1. The Insurance contract is concluded in a written form by signing the Insurance policy by authorised persons.

2.2. General Terms and Conditions are a constituent part of the Insurance contract regulating the rights and obligations between the contracting parties arisen from the concluded Insurance contract.

2.3. The Insurance policy is a written document on the concluded Insurance contract, stating the company and the seat of the Insurer, the company and seat, or the name and the place of residence of the Insured person and the Foreign buyer, the subject matter of insurance, the Sum insured, the insurance duration, the Premium rate, the manner of Insurance premium calculation, the Retention, special provisions, the list of pertaining attachments to the Insurance policy and the date of issue of the Insurance policy.

2.4. In case of non-compliance of the provisions of the General Terms and Provisions with the provisions of the Insurance policy, the provisions of the Insurance policy shall apply.

2.5. Applications for insurance are received in a written form. Written form is deemed to be an application submitted via post office, delivery service, telefax or e-mail and signed by authorised persons.

Article 3

Subject matter of insurance

3.1. The subject matter of insurance are registered cash receivables of the Insured person arisen from the delivery of goods and/or services towards the Foreign buyer for which the Insured person was granted insurance, and which the Insured person performed during the insurance and within which it issued an invoice to the Foreign buyer with agreed deferral of payment. The deferral of payment can generally be arranged for a period of up to 365 days, exceptionally up to 2 years for individual transactions.

3.2. The subject matter of insurance cannot be a receivable arisen from:

* Export of goods with dual purpose pursuant to the regulations on export of goods with dual purpose which have not obtained an export licence;
* Export of nuclear material, particularly the equipment and non-nuclear material[[1]](#footnote-1)\* for which the consent and the export licence have not been obtained;
* Contractual interest, accrued compound interest, default interest and contractual penalties by the Exporter or the Insured person towards the Foreign buyer;
* Expenses which, pursuant to the Export contract, have to be incurred by the Insured person, regardless of whether the Foreign buyer has fulfilled its obligations under the Export contract,
* Export of goods and/or services towards the Foreign buyer that is related to the Insured person in terms of management or ownership with a share over 20%;
* Export of goods and/or services that have been delivered to the Foreign buyer contrary to the legal frameworks of the importing country and the country of the Foreign buyer;
* Export of goods and/or services that are delivered to the Foreign buyer after the expiry of the insurance cover has been established.

The subject matter of insurance cannot be a receivable arisen from the arrangement and performance of tourism services towards the Foreign buyer.

3.3. The insurance does not cover the following risks:

* Risks of natural disasters risks (earthquake, floods, volcano eruptions);
* Risks of nuclear disasters and accidents;
* Risks of terrorist attacks;
* Risks of foreign exchange rate gains/losses;
* Risks of cash transfer.

Article 4

Main obligations of the contracting parties

4.1. The Insurer shall, in case of occurrence of Damage as a result of occurrence of the Insured event and should the Claim of the Insured person consequently be accepted, pay to the Insured person or a third party set out in Article 22 of the General Terms and Conditions the Indemnity and reimburse Additional costs pursuant to Article 15 of these General Terms and Conditions.

4.2. The Insured person shall register with the Insurer the receivables arisen from the performed and invoiced deliveries of goods and/or services towards the Foreign buyer, pay the Insurance premium and other fees pursuant to the terms and conditions prescribed by the Insurer.

Article 5

Insured risks

5.1. Commercial risks are:

1. Prolonged non-payment or delay in payment by the Foreign buyer upon maturity of the usual payment term (KR-1);
2. Insolvency of the Foreign buyer as determined by the applicable law of the Foreign buyer’s country or based on other objective facts that indicate to the impossibility of fulfilment of the payment obligation, initiation of the pre-bankruptcy, bankruptcy or liquidation procedure on the Foreign buyer (KR-2).

5.2. Political risks are:

1. War or similar events (PR-1);
2. Rebellion or revolution (PR-2);
3. Government measures limiting or impeding transfer or free disposal of payments owed to the Insured person for more than 3 months; the same effects shall have the delay of payment for more than 3 months if the Foreign buyer or its guarantor cannot be subject of an initiated bankruptcy or liquidation procedure on the basis of a court decision (Foreign buyer that is a public law entity) (PR-3).

Article 6

Currency of the Insurance contract

6.1. The Insurance contract shall be concluded in the currency of the Export contract, and all payments of the Insurance premium and fees for arranging the insurance, shall be made in Kuna according to the middle exchange rate of the Croatian National Bank on the date of invoice issued by the Insurer.

6.2. All payments under the insurance contract shall be made in Kuna according to the middle exchange rate of the Croatian National Bank on the payment date.

Article 7

Date of conclusion of the Insurance contract and duration of insurance

7.1. The date of conclusion of the Insurance contract shall be the date of signing of the Insurance policy.

7.2. Insurance under an individual Foreign buyer shall start at 00:00 hours on the day stated in the Insurance policy.

7.3. Insurance under an individual Foreign buyer shall end at 24:00 hours on the day given in the Insurance policy or it may end as follows:

* at 00:00 hours on the day of exclusion of the Foreign buyer from the Insurance policy;
* at 00:00 hours on the day of cancellation of the Insurance contract pursuant to Article 21 of these General Terms and Conditions;
* by automatic termination of coverage pursuant to Article 8 of these General Terms and Conditions;
* pursuant to law.

Article 8

Automatic termination of coverage

8.1. Coverage of further deliveries towards an individual Foreign buyer shall terminate automatically at the occurrence of an Insured risk as defined in Article 5 of these General Terms and Conditions.

8.2. The continuation of insurance (coverage) shall be possible expressly after a written consent of the Insurer has been obtained.

Article 9

Premium rate and Insurance premium

9.1. The premium rate and the manner of payment of the Insurance premium shall be given in the Insurance policy.

9.2. The Insurer shall generally calculate and charge the Insurance premium to the Insured person on the amount of exported, invoiced and registered value of goods and/or services with the Insurer on monthly basis.

9.3. The Insurance premium for the insurance of one-off delivery shall be calculated on the amount of Sum insured and be paid in advance.

9.4. If the Insured person pays the Insurance premium after the maturity of the payment, the Insurer may in the period from the day of maturity until the payment day charge the default interest as prescribed by law.

9.5. The Insurer retains the right to change the Premium rate to the Insured person in cases of: payment of the Indemnity, deterioration of Insured risks, changes in the amount of insured exported goods and/or services and in other cases for which the Insurer shall deem it necessary to change the Premium rate.

Article 10

Modification of terms and conditions of insurance

10.1. At any time after becoming aware of the facts that can lead to changes in the risk, the Insurer may modify the terms and conditions of insurance, and particularly:

* Reduce the Insured amount with respect to an individual Foreign buyer;
* Modify the Retention with respect to an individual Foreign buyer;
* Exclude an individual Foreign buyer from the insurance;
* Modify the Premium rate under the concluded Insurance contract,

10.2. If the Insurer modifies the terms and conditions of insurance, the Insurer shall accordingly inform the Insured person in writing, which means that a notice shall be delivered to the Insured person via post office, delivery service, telefax or electronic mail.

10.3. If the Insured person, within the period of 30 days from the receipt of the notice on the modification of the terms and conditions of insurance, fails to cancel the Insurance contract, it shall be deemed that the Insured person has consented to the modified terms and conditions of insurance that shall be in effect from the deadline determined in the notice.

Article 11

Insured event

11.1. Insured event is a perilous event caused by the Insured risk, based on which the Insured person can file a Claim.

11.2. The Insured event, in terms of commercial risks, occurs in one of the following events:

1. Expiry of the Waiting period during which the Foreign buyer has not paid the debt provided that all obligations of the Insured person under the Export contract have been met;
2. Submission of evidence to the Insurer on the opening of pre-bankruptcy, bankruptcy or liquidation proceedings against the Foreign buyer, evidence on the registration of receivables of the Insured person within pre-bankruptcy proceedings, evidence on entering the Insured person into the bankruptcy or liquidation assets;
3. Conclusion of out-of-court settlement between the Insured person and the Foreign buyer;
4. Submission of evidence to the Insurer on the uselessness or unprofitability of the taking of any measures against the Foreign buyer owing to the lack of debt collection prospects, since it is not probable that the initiation of bankruptcy proceedings or any other enforced collection proceedings would result in the collection of receivables;
5. Submission of evidence that the Insured person has suffered losses as a result of a difference in price on the occasion of Substitute turning to account carried out for the purpose of reducing Damage.

11.3. Insured event shall mean any other event that can be, in accordance with the governing regulations in force in the country of the Foreign buyer, considered identical to those Insured events referred to in paragraph 11.2, items 2 to 5 of this Article.

11.4. With regard to political risks, an Insured event occurs at the expiry of the Waiting period and the submission of evidence by the Insured person on the occurrence of any of the insured political risks in accordance with Article 5 of these General Terms and Conditions.

11.5. The Waiting period does not apply to the Insured events referred to in paragraph 11.2, items 2 to 5 and paragraph 11.3 of this Article.

Article 12

Obligations of the Insured person

12.1. Before and after the conclusion of the Insurance contract, the Insured person shall:

1. Report to the Insurer, completely and accurately, any circumstances necessary for the risk evaluation and any changes in these circumstances before and after the conclusion of the Insurance contract
2. At any time at the request of the Insurer, submit all necessary documentation, i.e. all details on the implementation of the Export contract, particularly the wording of the original copy of the Export contract, the export transaction profitability ratios, the impacts on the operations of the Insured person, the photocopies of collateral instruments for payments under the Export contract and other documents related to the Export contract, the Foreign buyer, the Insured person and the country into which the goods and/or services are exported, and make available all its business books and business records to the extent determined by the Insurer;
3. Inform the Insurer about the existence of possible other non-payment insurance or non-payment partial insurance of the same transaction;
4. Inform the Insurer on the amendments to the Export contract and obtain a written consent of the Insurer prior to any significant amendment to the Export contract, particularly in the case of:

* amendments to the agreed payment periods,
* amendments to collateral, if collateral has been agreed;

1. Report to the Insurer all receivables against the insured Foreign buyer;
2. By the 15th of a month, inform the Insurer about the value of the goods and services exported and billed in the previous month;
3. Pay the Insurance premium to the Insurer;
4. At any time, take all prescribed, agreed and all other actions in order to limit and/or prevent the realisation of an Insured risk, and follow the instructions given by the Insurer;
5. Without delay, submit to the Insurer a written report on all circumstances known to the Insured person that might jeopardise the orderly fulfilment of the Export contract on the part of the Foreign buyer.

12.2. All amounts received by the Insured person under the Export contract after the realisation of the Insured risk, regardless of their declared purposes, shall be distributed to the insured and uninsured portion of receivables of the Insured person against the Foreign buyer under the Export contract in the proportion calculated on the basis of the share of possible Indemnity in the total receivables of the Insured person against the Foreign buyer under the Export contract as of the date of the realisation of the Insured risk.

12.3. In the case of the occurrence of the Insured risk, the Insured person shall:

1. Inform the Insurer in writing about the occurrence of the Insured risk referred to in Article 5 of these General Terms and Conditions and about any unfulfilled obligation on the part of the Foreign buyer upon the expiry of the Usual payment term referred to in the Insurance contract. The Insured person shall submit to the Insurer the written notification of the delayed payment on the part of the Foreign buyer within the period of 30 days from the date of the expiry of the Usual payment term;
2. Immediately suspend further deliveries of goods and services to the Foreign buyer who has not fulfilled his/her payment obligation within the Usual payment term referred to in the Insurance contract. For any further delivery to the Foreign buyer, the Insured person shall require a written consent from the Insurer;
3. The Insured person shall immediately send at least one written payment request to the Foreign buyer who has not fulfilled his/her obligation within the Usual payment term;
4. The Insured person shall obtain written consent from the Insurer before entering into an agreement on terms and conditions for the rescheduling of debts under the Export contract concluded with the Foreign buyer;
5. In addition to the written consent previously obtained from the Insurer, the Insured person shall, for the purpose of mitigating the possible Damage, take all legally prescribed and other necessary measures aimed at exercising the contractual rights of the Insured person against the Foreign buyer that can be taken in the case of the occurrence of the Insured risk;
6. In agreement with the Insurer, the Insured person shall, within 60 days from the maturity date of the Usual payment term, hire an agency for the collection of receivables or reach a written agreement with the Insurer on further measures to be taken for the purpose of mitigating the possible Damage;
7. With the consent of the Insurer, activate additional collateral (if such collateral has been stipulated in the Export contract);
8. At the request of or in agreement with the Insurer, substitute turn to account the goods covered by the insurance.

12.4. If agreeing the first rescheduling of debt with the Foreign buyer, and if the Foreign buyer fails to meet his/her obligations under the agreed rescheduling, the Insured person shall carry out the obligations stipulated in paragraph 12.3, items 1 and 4 of this Article. On the day of receipt of the notice from the Insured person on payment delay on the part of the Foreign buyer under the agreed first rescheduling, the Insurer shall determine the new start of the Waiting period.

12.5. Irrespective of the deadlines referred to in paragraphs 12.1 and 12.3, the Insurer may, at any time, give instructions to the Insured person aimed at mitigating the possible Damage if the Foreign buyer fails to meet his/her obligations under the Export contract or if Damage has already occurred. This particularly relates to the obligation to hire an agency for the collection of receivables or take any other measures at the discretion of the Insurer.

Article 13

Claim

13.1. A Claim is submitted to the Insurer in writing after the occurrence of the Insured event.

13.2. A Claim can be submitted to the Insurer in the amount of the overdue receivables from the Foreign buyer up to the Insured amount.

13.3. Documents required for the assessment of the Claim are submitted to the Insurer in the form of photocopies. Documents required for the assessment of the Claim are evidence of the existence of receivables such as photocopies of invoices, photocopies of single administrative documents, of international bills of lading, of handover documents and of other documents related to the Export contract, the Exporter, the Insured person and the Foreign buyer that are requested by the Insurer (e.g. final decision on court, arbitration or administrative proceedings, if such a decision has been made). At the request of the Insurer, the Insured person shall allow the Insurer insight into the original copies of the documents and submit notarised photocopies of such documents.

13.4. The Insurer may, for the purpose of ascertaining the correctness of the data given in the Claim and the documents required for the assessment of the Claim, request from the Insured person to procure, at his/her own expense, an opinion of a chartered auditor and/or a permanent expert witness on such data.

13.5. The documents required for the assessment of the Claim, which are not in the Croatian or the English language, shall be, at the request of the Insurer, submitted also in the form of translation made by a permanent court interpreter or any other translator acceptable to the Insurer.

13.6. In the case where the Foreign buyer fails to meet his/her payment obligations due to disputed receivables or commercial complaints, and in other cases of disputed receivables under the Export contract, the Insured person can submit a Claim provided that court, arbitration or other suitable proceedings are initiated for the purpose of collecting payment, and the Insured person shall inform the Insurer accordingly.

13.7. If additional collateral has been agreed under the Export contract, the Insured person shall, with the consent of the Insurer, in the case of the realisation of the Insured risks, activate such additional collateral first and, in the case on non-settlement or partial settlement of his/her receivables, he/she can submit a Claim. In the case on non-settlement or partial settlement of receivables from additional collateral, for which the Insured person is to blame, the Insurer retains the right to reject the Claim.

13.8. The Claim shall be accepted, subject to a right of revocation, in the cases where the following evidence is submitted:

1. Evidence on the acknowledgement of debt by the Foreign buyer,
2. Evidence on the fulfilment of the obligations of the Insured person under the Export contract and the Insurance contract,
3. Evidence on the non-fulfilment of obligations or the inability to fulfil obligations on the part of the Foreign buyer,
4. Evidence on the realisation of the Insured event referred to in Article 11 of these General Terms and Conditions,
5. Evidence on the established indisputability of the receivables of the Insured person under the proceedings referred to in paragraph 13.6 of this Article,
6. Evidence on the acknowledgement of the receivables of the Insured person under pre-bankruptcy, bankruptcy or liquidation proceedings against the Foreign buyer.

13.9. As an exception, the Claim can be accepted (subject to a right of revocation) before the circumstances referred to in items 5 and 6 of the preceding paragraph have been proven provided that the Insured person has entered into a standardised contract with the Insurer in accordance with Article 18 paragraph 18.2 of these General Terms and Conditions and has submitted to the Insurer collateral satisfactory for him/her securing the repayment of paid Indemnity, expenses and default interest accrued on such amounts from the date of payment of Indemnity until the date of its repayment to the Insurer should it subsequently be established that the Insured person was not entitled to the Indemnity.

13.10. The Insured person shall submit a Claim to the Insurer in accordance with the provisions of this Article because, otherwise, the Insurer shall not be obliged to pay the Indemnity.

13.11. The Claim can be submitted no later than one year after the occurrence of the Insured event.

**Article 14**

**Indemnity calculation**

14.1. Should an Insured event occur caused by the Insured risk, the Insurer shall pay the Indemnity (O) in the total amount that may not exceed the Sum insured set out in the Insurance policy reduced by the Retention (S).

14.2. Calculation of Indemnity (O) that the Insurer is obliged to pay to the Insured person shall be based on the amount of the Insured person’s total overdue receivables (AP) from the Foreign buyer (without the regular contractual and accrued interest and contractual penalties) at the moment of occurrence of the Insured risk and denominated in the currency of the Export contract less:

* + Receivables incurred before the coverage under the Insurance contract began,
  + Receivables that are not the subject matter of insurance in accordance with Article 3 of these General Terms and Conditions.

14.3. In the event of default by a Foreign buyer due to complaints under the Export contract, or in other cases of dispute over the insured receivables, the calculation of Indemnity (O) shall be based on the amount awarded in favour of the Insured person in court, arbitration or other proceedings, after these proceedings become final.

14.4. In case of pre-bankruptcy, bankruptcy or liquidation proceedings against the Foreign buyer, the Indemnity calculation (O) shall be based on the amount of receivables recognised in pre-bankruptcy, bankruptcy or liquidation proceedings.

14.5. Indemnity already paid under the same insured Export contract shall be considered.

14.6. The resulting amount of outstanding receivables shall be reduced, if necessary (i.e. if larger than the Sum insured), to the Sum insured set forth in the Insurance policy, which gives the Insured amount of receivables (OIP)

14.7. Insured amount of receivables (OIP) minus the percentage of retention (S) shall give the Potential Indemnity (PO).

14.8. Potential Indemnity (PO) shall be divided by the amount of total receivables (UP) of the Insured person under the Export contract (without contractual and accrued interest and contractual penalties) in the moment of the occurrence of Insured risk. Thus obtained fraction, converted to a percentage, shall represent the Percentage of coverage (PP).

14.9. Any amount of Payment (I) under the Export contract received after the occurrence of the Insured risk, regardless of their declared purpose, shall be multiplied by the Percentage of coverage (PP). The result obtained in such a manner is to reduce the potential Indemnity (PO) and give the Interim amount (M).

14.10. The Interim amount (M) minus the percentage of unreported deliveries in the last two years (N) in accordance with Article 12 paragraph 12.1 item 5 of these General Terms and Conditions, shall give the amount of the Indemnity (O) to be paid by the Insurer to the Insured person.

14.11. All possible deliveries that are invoiced to the Foreign Buyer after the occurrence of the Insured risk (uninsured deliveries invoiced after the occurrence of the Insured risk) shall represent a special risk that the Insurer shall especially consider, protecting its interests and taking into account its impact on the amount of Indemnity, Compensation for additional expenses and possible subsequent collection from the Foreign buyer.

**Article 15**

**Compensation for additional expenses**

15.1. Additional expenses resulting from actions taken to minimise or avoid the Damage shall be restored to the Insured person, after the Claim, according to the Percentage of coverage (PP) as defined in Article 14 paragraph 14.8 of these Terms and Conditions, provided that the actions were taken after having received the instructions or with the consent of the Insurer and the conditions for the acceptance of Claim have been met.

15.2. If the Insurer is not obliged to pay any Indemnity, because the receivables have been collected from the Foreign buyer in full or partially, additional expenses resulting from attempted collection can be compensated according to the Percentage of coverage (PP).

15.3. Percentage of coverage (PP) shall be multiplied by the sum of the amount of additional expenses (IT) in accordance with paragraph 15.1 and 15.2 of this article. The amount of Compensation for additional expenses (T) shall be obtained in such a manner.

15.4. Regular expenses incurred during the export transaction in the Insured's business operations as well as expenses related to establishing the validity of the Claim shall not be compensated.

**Article 16**

**Maturity of Indemnity and Compensation for additional expenses**

Provided that the Insured person acted according to Insurer’s instructions and requirements in line with the Insurance contract, in particular related to the obligation to conclude the Standard contract in accordance with Article 18 paragraph 18.1 of these General Terms and Conditions:

* + - * Indemnity and Compensation for additional expenses for receivables that, under the Export contract, fell due before the acceptance of the Claim, or the maturity of which has not been determined, fall due 30 days after the acceptance of the Claim, and
      * Indemnity and Compensation for additional expenses for receivables that, under the Export contract, fall due upon acceptance of the Claim fall due on certain days as defined in the Export contract. Acceleration of maturity contracted with the Foreign buyer, does not apply in relation to the Insurer.

**Article 17**

**Procedure for realisation of the Insured person’s rights**

The Insured person may start the legal procedure for the protection of its rights under the Insurance contract, if the Insurer:

* + - * refuses the Claim or revokes the acceptance of the Claim or
      * fails to issue a statement in the period of 2 months from the Insurer’s receipt of a fully documented Claim in accordance with the Article 13 of these General Terms and Conditions.

**Article 18**

**Special obligations of the Insured person before and after Indemnity payment**

18.1. Before Indemnity payment, the Insured person is obliged to conclude the Standard contract with the Insurer (text provided by the Insurer) by which the Insured person is obliged:

1. to undertake all actions required for the collection of total receivables under the Export contract in line with the instructions of the Insurer;

2. as far as the acceptance of the Claim includes the goods comprised under the Insurance which are at the disposal of the Insured person, to liquidate the same at once or at the Insurer’s request, and assign to the Insurer the realised income in the amount of the Indemnity. At the Insurer’s request, the goods shall be pledged to the Insurer;

3. to undertake all the necessary actions in order to realise its contractual rights under the Export contract (e.g. utilise the collateral from abroad and other legal, contractual or other necessary measures which may be undertaken in case of delay in Foreign buyer’s obligations in Insured person’s name, but with the consent of the Insurer, unless the Insurer has accepted the assignment of receivables and represents these requirements on its own);

4. to comply with the instructions of the Insurer on taking actions in order to effect recourse collection from the Foreign buyer;

5. to transfer to the Insurer, within 15 days from receipt, everything that the Insured person receives under the Export Contract, regardless of the declared purpose, up to the amount of Indemnity and the compensated additional expenses plus default interest attributable to the Insurer for the period after the payment of Indemnity. This includes other cash inflow such as compound interest or default interest paid during the period elapsed after the payment of Indemnity under the Insurance contract, as well as additional income generated during replacement liquidation of property;

6. to accept the terms and conditions of total debt rescheduling under the Export contract, after the Indemnity has been paid to the Insured person, as agreed by the Insurer with the Foreign buyer or its successor in relation to debt collection.

18.2. Notwithstanding the provisions of Article 18, paragraph 18.1, prior to Indemnity payment, the Insurer may require the Insured person to assign all its rights under the Export contract through the Standard contract. If instruments of collateral have been obtained, they shall be assigned to the Insurer.

**Article 19**

**Right of the Insured person to recourse**

In case of concluding the Standard contract in accordance with Article 18 paragraph 18.2 of these General Terms and Conditions, the Insurer shall, upon collection of receivables under the Export contract, assign to the Insured person all amounts exceeding the amount of paid Indemnity, less any costs incurred by the Insurer to recover them and default interest attributable to the Insurer for the period after Indemnity payment.

1. **Article 20**
2. **Exclusion of the obligation to pay Indemnity**

20.1. The Insurer is not liable to pay Indemnity:

1. if the insurance premium is not paid on time and in full;

2. for undeclared delivery of goods and services and the ones made out of the insurance period;

3. in the case of dispute over receivables under the Export Contract;

4. if the Insured person is co-responsible for the occurred Damage;

5. if prepayment contracted by the parties under the Export Contract, and which was the condition for contracting of the insurance, has not been paid;

6. if the Insured person violates any provision of the Insurance contract, set forth in Article 12 of these General Terms and Conditions, particularly in case of disregarding the deadlines for:

- submitting a written report on delayed payment of Foreign buyer;

- suspended deliveries of goods and services under the Export contract after the first delay in payments;

- hiring a debt collection agency;

7. if the Insured person violates the provisions of the Export contract or local or foreign regulations;

8. if the Insured person at the time of applying for the Insurance contracts and / or at the time of signing it knew or should have known that:

- it was impossible for the Foreign buyer to fulfil the Export Contract,

- the Foreign buyer has committed a crime in connection with any other contract with the same Insured person within the last two years from applying for the Insurance contracts,

- the Foreign buyer is insolvent or pre-bankruptcy, bankruptcy or liquidation proceedings have been initiated against it;

9. if the Insured person has given false or incomplete statements to the Insurer, in particular if they were made in the Application for insurance or if the Insured person suppressed any circumstance which is in its meaning such that the Insurer, knowing it would not have entered into the Insurance contract;

10. if the Insured person does not submit a Claim in accordance with the provisions of Article 13 of these General Terms and Conditions.

20.2. Should the Insurer accept the Claim, but should subsequently the circumstances occur that would cause the exclusion of obligation of the Insurer, the initial acceptance shall be revoked. In such cases, the Insured person is obliged to refund to the Insurer the amount received for Indemnities and compensation for additional expenses together with default interest in the amount prescribed by law, within 14 days from the Insurer’s written notice. If the Standard contract stipulates instruments of collateral as in Article 13 paragraph 13.9 of these Standard Terms and Conditions, the Insurer is entitled to collect its receivables in accordance with the contracted collateral.

20.3. In the event of court, arbitration or other proceedings between the Insured person and the Foreign buyer related to the Export contract, and the Insurer accepting the Claim in full or in part, the Insured person is obliged to refund to the Insurer the amount received for Indemnities and compensation for additional expenses together with default interest at the legal rate from the date of payment to the date or repayment within 14 days of the final decision by which the Insured person lost the dispute. If the Standard contract stipulates instruments of collateral as in Article 13 paragraph 13.9 of these Standard Terms and Conditions, the Insurer is entitled to collect its receivables in accordance with the contracted collateral.

20.4. Notwithstanding the provisions of this Article, in particular paragraph 20.1. item 6 and item 7, the Insurer may decide to pay Indemnity, in part or in full, if non-compliance with obligations under the Insurance contract by the Insured person is not significant, i.e. if it did not/would not affect the decision of the Insurer about risk taking, did not affect the realisation of Insured risks nor affected the possibility of recourse from the Foreign buyer. In case of partial Indemnity payment, the amount of Indemnity shall depend on the degree of non-compliance with the obligations by the Insured person.

**Article 21**

**Termination of Insurance contract**

21.1. The insurance contract may be terminated by written agreement between the Insurer and the Insured person, which determines the date of termination of the Insurance contract.

21.2. The Insurer may terminate the Insurance contract with immediate effect if:

- the information supplied in the Application for insurance and any other information the Insured person provided to the Insurer are not accurate or complete or the Insured person suppressed any circumstance which is in its meaning such that the Insurer, having known it, would not have entered into the Insurance contract,

- the Insured person fails to comply with the provisions of the Insurance contract,

- the Insured person does not pay the Insurance premium under the terms of the Insurance contract,

- the property of the Insured person is under pre-bankruptcy, bankruptcy or liquidation proceedings.

21.3. The insurer may, by written statement to the Insured person, maintain the Insurance contract in force, however with the adjustment of the conditions of Insurance contract to the new situation at the Insurer’s discretion.

**Article 22**

**Assignment of rights under the Insurance contract to third parties**

The Insured person may assign the rights under the Insurance contract to another person via a contract. The Insured person must inform the Insurer in writing on any intended assignment of rights under the Insurance contract. Such an assignment shall be valid only if and after the Insurer explicitly accepts it in writing. Furthermore, for any subsequent assignment, an explicit prior written acceptance given by the Insurer shall be necessary. The assignment shall not affect the existence of other Insured person’s obligations to the Insurer under the Insurance contract and particularly of Articles 12 and 18 of these General Terms and Conditions.

**Article 23**

**Exclusion of right to abandonment**

Without the Insurer’s consent, the Insured person has no right to abandon rights and property relating to the Export contract in favour of the Insurer after the occurrence of the Insured risk, and in turn request from the Insurer to pay the Indemnity.

**Article 24**

**Governing law and jurisdiction in case of disputes**

24.1. The parties to the contract agree that the laws of the Republic of Croatia in force shall be applied to the Insurance contract.

24.2. The parties to the contract agree that they will strive to resolve all possible misunderstandings and/or disputes arisen from the Insurance contract primarily through negotiations during the entire life of the Insurance contract. Should such negotiations fail, the parties may strive to resolve the disputes through conciliation and/or arbitration, otherwise the competent court in Zagreb shall have jurisdiction.

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1. \**goods that are used for nuclear activities for peacetime purposes pursuant to the regulations on radiological and nuclear security.* [↑](#footnote-ref-1)