

## GENERAL TERMS COFACE ADVANCED

\* This text is only a translation of the German version. Legally binding are solely the German insurance terms. (EKV III)

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### ■ OBJECT OF INSURANCE

Art. 1 (1) Compagnie Francaise D'Assurance Pour Le Commerce Exterieur SA Niederlassung Austria, (hereafter "the Insurer") will compensate the Insured for uncollectible insured receivables arising from the delivery of goods or provision of services in foreign countries in accordance with the following "General Terms" and other agreed "Special Conditions" in cases where these receivables have become uncollectible because the Insured's customers covered by the insurance contract (hereafter "customers") have become insolvent.

The Insurer will provide the Insured with compensation for provable costs incurred in connection with legal transactions, as defined in Art. 2 (2), which can no longer be completed because of the insured event or have been prohibited by the Insurer.

Receivables due from private persons or companies with close business connections to the Insured are, as a matter of principle, not covered by this insurance contract.

(2) Insolvency as an insured event in the sense of these terms is considered to exist if

- a) bankruptcy proceedings regarding the assets of a customer or her/his estate have been opened with legal effect or the opening of such proceedings was rejected, with legal effect, by a court of law for lack of assets, or
- b) court-controlled reorganisation proceedings have been opened regarding the assets of a customer or her/his estate, or
- c) an out-of-court reorganisation has been agreed on between a customer and all of her/his creditors and the Insurer has given its consent to this reorganisation, or
- d) an execution levied by the Insured against the customer's assets based on an enforceable writ of execution did not lead to full satisfaction, or
- e) an event occurs at the domicile of the debtor that has a similar legal consequence to one of the facts listed under a) - d), or
- f) collection appears impossible because of verified unfavourable circumstances that make execution proceedings, a bankruptcy petition or another measure taken by the Insured against the customer unlikely to succeed, or

- g) if goods have already been produced or acquired, or services have already been performed, and full performance of the contract will be impossible because of reasons listed under (2) a) - f) or if full performance has been prohibited by the Insurer.

(3) The date at which the insured event is considered to occur is:

- in the case of par. (2)a), the date of the court order,
- in the case of par. (2)b), the date of the order to open reorganisation proceedings,
- in the case of par. (2)c), the date on which the customer notified the Insured of her/his insolvency following the completion of out-of-court reorganisation,
- in the case of par. (2)d), the date of execution or the date on which the customer issued an oath of disclosure,
- in the case of par. (2)e), the date on which the event occurs,
- in the case of par. (2)f), the date on which the futility of measures against the debtor must be assumed based on adequate proof,
- in the case of par. (2)g), the date on which the basis for a claim has been determined after the goods have been realised for another purpose or it has been determined that an alternative realisation of the goods will not be possible.

### ■ SCOPE OF INSURANCE

Art. 2 (1) The insurance covers all receivables within the insured amount that are due and payable to the Insured for the delivery of goods and provision of services to customers in countries listed in the "Special Conditions"

- a) that arose and were invoiced in the course of the regular conduct of business of the Insured in her/his name and solely for her/his account prior to the insured event, and
- b) that arose and were invoiced during the period specified in the policy, and
- c) for which the payment periods agreed do not exceed the maximum payment periods defined in the "Special Conditions" or the appendix.

The Insured is obliged to present all customers (except for economically affiliated companies and closely related private persons) that maintain their headquarters in the insured countries for this insurance coverage.

(2) Moreover, this insurance also covers costs as described in Art. 1(1) par. 2 which the Insured incurred from orders accepted within the period defined in the policy.

(3) The insurance does not cover

- a) receivables for interest, forfeit money, contractual penalties or compensation for damages,
- b) foreign exchange losses,
- c) costs of legal prosecution and other costs not included in invoices,
- d) political risk, in particular intervention by the government of the country in which the insured customer is domiciled, such as transfer restrictions or moratoria.

(4) The insurance does not cover losses or uncollectible receivables that are a result of the direct or indirect impact of natural disasters or nuclear reactions, nuclear radiation or radioactive contamination.

(5) If a customer exceeds the maximum payment period specified in the "Special Conditions" or in an appendix or if it becomes apparent that the maximum payment term will be exceeded due to the acceptance of bills of exchange or an agreement on payment terms, or if collection proceedings are instigated (regardless of whether insured or uninsured receivables are involved), the delivery of further goods and provision of additional services to this customer will no longer be insured, unless agreed otherwise with the Insurer. Incoming payments and other performance received must be credited towards the oldest receivables, unless agreed otherwise with the Insurer.

(6) Receivables from customers that exceed the insured amounts stated in the customer list are only insured up to the stated amount. The remainder is not insured, but will be covered if and when older receivables are paid and coverage is then available under the insured amounts.

The above arrangement shall not apply

- a) once insurance coverage for the future delivery of goods or provision of services has been terminated in accordance with Art. 6 or upon the request of the Insured, or has been limited by the Insurer in accordance with Art. 6 or has automatically expired in accordance with Art. 2 (5), or
- b) once the policy has expired.

In these cases, receivables or parts of receivables are not covered by the insurance, even if the total amount of the receivables falls below the insured amount due to the payment of older receivables.

#### ■ INSURED AMOUNT

Art. 3 (1) The Insurer shall individually determine the maximum contractual liability it will assume for each customer (insured amount). This insured amount will be defined by the Insurer in the customer list, which will form an integral part of the policy; the insured amount will apply to the delivery of goods and provision of services beginning on the day agreed between the Insurer and Insured as the start of insurance coverage for the relevant customer, regardless of the rights of the Insurer as stated in Art. 6 of these conditions.

(2) The insured amounts defined in the customer lists apply both to trade receivables and to costs incurred and any other insurance services that may be defined in the "Special Conditions".

If the total amount arising from delivered goods, services, costs incurred and other insured items exceeds the insured amount, the insurance cover will be used for the oldest trade receivables first. Costs incurred are only insured if coverage is possible within the insured amount.

#### ■ DEDUCTIBLE

Art. 4 The Insured shall be required to bear the amount defined in the "Special Conditions" or in the customer list in the case of each loss according to Art. 8 of the "General Terms". This deductible may only be covered in another manner with the written approval of the Insurer. If the deductible is covered in another manner without the explicit approval of the Insurer, the Insurer will be entitled to all related third-party payments.

#### ■ GENERAL OBLIGATIONS OF THE INSURED

Art. 5 (1) As part of the application for insurance, the Insured shall notify the Insurer of all receivables due from customers that are to be presented for insurance. All facts that are known at the time the insurance contract is concluded or become known during the term of the

insurance and that are material for evaluating the credit standing of a customer must be reported to the Insurer immediately in writing. In particular, information must be reported if

- a) a customer exceeds the maximum term of payment specified in the "Special Conditions" or appendix,
- b) the Insured learns of an event that could trigger an insurance claim,
- c) the customer offers to return goods that have been delivered or sent.

(2) The Insured is obliged to proceed with the diligence of a prudent businessman in granting and monitoring the insured credits. Furthermore, s/he must ensure that s/he retains a title of ownership in countries in which the requirements for retention of title are similar to the requirements under Austrian law. The Insured must also take all measures suitable to prevent an insured event from occurring and to reduce any loss, if necessary at her/his own cost. With regard to the actions as defined in this section, the Insured must follow all instructions that may be issued by the Insurer.

(3) Receivables that have not been paid after the maximum term of payment defined in the "Special Conditions" or appendix are to be classified as overdue.

Regardless of her/his obligations as defined in par. (1) and (2), the Insured must initiate court proceedings to collect such receivables no later than 90 days after they have become overdue. Failure to meet this obligation shall release the Insurer from any obligation to provide compensation, unless the Insurer and Insured have concluded an agreement to the contrary.

(4) Moreover, the Insured is obliged - especially in the case of an insured event - to permit representatives of the Insurer, who have appropriately identified themselves and who are obliged to maintain confidentiality, to examine the key documents on which the contractual relationship is based during business hours and on the premises of the Insured and to inspect business records, correspondence and other files for this purpose. The Insured shall support the Insurer's representatives in these activities and provide all necessary explanations. It is hereby expressly stated that the Insurer is not obliged to exercise these rights and the Insured may thus never claim a lack of inspection on the part of the Insurer.

#### ■ EXCLUSION OF CUSTOMERS

Art. 6 The Insurer may terminate or limit, at any time, the insurance coverage of a customer for the future delivery of goods or provision of services, or for taking up new manufacturing, because of increased risks or for other reasons that appear to be justified to the Insurer. In this case, insurance coverage existing subject to agreed conditions shall remain valid for all goods delivered and services provided and invoiced, as well as all costs incurred, up to the receipt of the notice of termination or limitation. The Insurer shall also be entitled to payment of a future premium due for such coverage.

#### ■ BEGINNING AND END OF LIABILITY, PREMIUM

Art. 7 (1) The insurance coverage will begin with payment of the premium and all secondary charges due upon delivery of the policy or payment of any agreed deposit premiums, but not before the date specified in the policy.

(2) The premium will be calculated by the Insurer based on monthly balances. The Insured is obliged to report the debit balances as at the end of each month to the Insurer within 14 days after the end of the relevant month and - if covered - also any costs incurred by the

end of the month. If the total amount of both trade receivables and costs incurred exceeds the insured amount, the premium will initially be calculated based on the total amount of trade receivables. Then, costs incurred will be included in the premium calculation to the extent that they are covered by the insured amount. When an insured event occurs, the corresponding amount (relevant balance) shall no longer be included in the report of balances for the following month.

(3) a) If the Insured fails to present the required documents as defined in par. (2) in due time, s/he is obliged to pay a deposit premium as defined in the policy or the "Special Conditions" no later than 21 days after the end of the month without the need for a separate request. The above provision does not release the Insured from the obligation to present the documents required for premium calculation.

b) If the Insured fails to report a balance in whole or in part as required by Art. 7. (2), the Insurer shall be released from the obligation to provide compensation in an amount corresponding to this omission.

The Insurer shall be entitled to terminate the insurance contract within one month after learning of a violation of Art. 7 (2) without observing a notice period; as of this date, the Insurer shall be released from the obligation to provide compensation.

(4) If the balances reported and costs incurred by a customer total less than 30% of the insured amounts defined in the customer lists during three consecutive months, the Insurer is entitled to require the Insured to decide whether s/he wants to delete or reduce the respective insured amount from the first day of the following month or whether s/he chooses to maintain the insured amount and pay the premium based on this figure as of that same date.

(5) The Insurer will inform the Insured of the amount of the premium by sending a premium invoice. If the Insured has paid a deposit premium on conclusion of the insurance contract or at the start of an insurance period, this deposit premium will be initially offset against the monthly premium. After the deposit premium has been exhausted, all premiums must be paid within 10 days after receipt of the invoice.

(6) If the premium or deposit premium is not paid on time, the Insurer must demand payment from the Insured in writing, granting a grace period of at least two weeks for payment and informing the Insured on the legal consequences of any further delay. If an insured event occurs after the end of the grace period and the Insured still has not paid the premium or interest or costs owed at the time the insured event occurs, the Insurer shall be released from the obligation to provide compensation.

(7) The insurance coverage shall end when the Insured receives the payment that discharges the customer.

(8) The insurance coverage shall apply only to events occurring during the term of the contract.

#### ■ DETERMINATION OF CLAIM

Art. 8 (1) The Insured is obliged to report the occurrence of an insured event to the Insurer without delay and to file a claim for compensation. The Insurer will indicate acceptance of the insured event by sending a claim report to the Insured.

(2) Payments made or other services performed by or on behalf of the customer prior to the occurrence of the insured event shall be offset against the receivables in the order in which they arose. This provision can only be changed by a special agreement between the Insured and Insurer.

(3) In order to determine the loss, the following items will be deducted from receivables existing at the time of the insured event

- a) receivables or parts of receivables that are not insured;
- b) return deliveries, proceeds from the alternative realisation of goods, offsettable receivables and discounts and rebates that the customer was entitled to deduct; all proceeds from any retention of title, liens, collateral, coverage and guarantees that the customer provided to the Insured after the conclusion of the insurance policy, unless a different agreement was made in this regard; payments made or other services performed by the customer or third parties after the occurrence of the insured event that relate to insured receivables;
- c) the parts of proceeds from bankruptcy or reorganisation quotas that relate to insured receivables.

(4) If costs incurred are also insured, the amount of the claim shall be determined based on those direct and indirect expenses and overhead costs as defined by generally accepted principles of cost accounting that verifiably arose up to the occurrence of the insured event or the prohibition of complete fulfilment of the contract for the goods to be delivered or services to be provided. The Insured is obliged to realise any goods in her/his possession that have not yet been delivered to the best extent possible in agreement with the Insurer. The proceeds from this realisation will be taken into account when calculating the claim.

(5) The loss determined by the above calculation will be reduced by the deductible to be borne by the Insured as defined in Art. 4, and the resulting claim report must be sent to the Insured within one month after all required documents have been received.

(6) If the loss has not been determined with final effect three months after the date of insolvency as defined in Art. 1 (3), a preliminary claim report must be issued. The above provisions also apply to this preliminary report; expected proceeds shall be included at their estimated value if their exact amount is not yet known. The same also applies to the amount of expected distributions in cases where the proceedings to distribute the proceeds of a debtor's estate have not been concluded. If the authority responsible for these proceedings provides an estimated amount, this figure shall be used. If the estimate represents a range, the mean value shall be used. If it is not possible to estimate the amount of an imminent loss caused by the non-payment of an account receivable, 50% shall be used as a first approximation.

#### ■ PAYMENT OF COMPENSATION

Art. 9 (1) Compensation shall be due and payable four weeks after the loss has been determined, unless agreed otherwise.

(2) If a preliminary claim report has been made in accordance with Art. 8 (6), the Insured can demand that the Insurer pay the amount of the presumed loss as indicated in the preliminary claim report, less the deductible as defined in Art. 4, within fourteen days as an advance payment towards the final compensation amount. If the final claim report indicates that the final loss is less than the advance payment made by the Insurer, the Insured shall return the surplus to the Insurer within 14 days after receipt of the final claim report.

(3) If a claim for compensation is not filed with a court of law within a period of 6 months after the Insurer rejected, in writing, the claim made by the Insured, such notice of rejection having to provide information on the legal consequences connected with the expiration of said period, the Insurer shall be released from any obligation to provide compensation.

(4) The receivables of the Insured, as well as any collateral provided for these receivables, shall devolve on the Insurer upon payment of the claim in the amount of the compensation paid. Regardless thereof, the Insured shall take all measures required to collect the receiva-

bles and realise the collateral as directed by the instructions provided by the Insurer, but in her/his own name and at her/his own expense.

#### ■ ASSIGNMENT OF CLAIMS FOR COMPENSATION

Art. 10 The assignment of claims for payment of compensation is only permissible with the written consent of the Insurer.

#### ■ VIOLATION OF CONTRACTUAL OBLIGATIONS BY THE INSURED

Art. 11 (1) The Insurer shall be released from the obligation to provide compensation without having to terminate the insurance contract if the Insured

- a) fraudulently conceals circumstances that are material for the acceptance of risk or intentionally or grossly negligently provides incorrect information in connection with such circumstances when applying for insurance or when applying for the inclusion of customers in this insurance,
- b) intentionally or grossly negligently violates, during the term of the insurance contract, one of the obligations vis-à-vis the Insurer that the Insured has to comply with under the "General Terms" or the provisions of the "Special Conditions", or violates other obligations that the Insured accepted in the contract. If the violation involves an obligation that must be met after the occurrence of an insured event, the Insurer shall still be required to provide compensation in the event of gross negligence if the violation had no influence on the determination of the insured event or the determination or scope of the compensation to be provided by the Insurer.

The provisions set forth in Art. 5 (3), Art. 7 (6) and Art. 14 (1) regarding the release of the Insurer from the obligation to provide compensation shall remain unaffected by the above provision.

(2) In the cases listed under par. (1), the Insurer may also terminate the entire insurance contract with immediate effect within one month of receiving knowledge of the violation.

#### ■ CURRENCY OF THE CONTRACT

Art. 12 (1) The currency of the contract shall be the euro. The insured amount (Art. 3) shall be determined in euro.

(2) Receivables denominated in a foreign currency shall be converted into euro by the Insured using the official exchange rate (buy) for the relevant currency

- a) for the calculation of the premium, the exchange rate at the last day of the month,
- b) for the calculation of a compensation, the exchange rate on the last day before the occurrence of the insured event, but at a rate not higher than the exchange rate used to calculate the premium.

(3) If the Vienna Stock Exchange does not publish the price for a foreign currency, this currency shall first be converted into a currency traded on the Vienna Stock Exchange using the buy rate for the currency of an international financial centre, and then translated into Euro.

#### ■ WRITTEN FORM OF DECLARATIONS BY BOTH PARTIES

Art. 13 (1) All applications for insurance as well as all notifications and explanations by the Insured must be made in writing.

(2) Changes or amendments to the policy or insurance terms are only valid if they have been set forth in writing as an integral part of the insurance contract.

#### ■ PRELIMINARY TERMINATION OF CONTRACT

Art. 14 (1) The Insured is obliged to immediately report to the Insurer any changes in the legal form of her/his company or any changes in the ownership or shareholder structure that may have a significant negative impact on her/his economic position. In this case, the Insurer is entitled to terminate the insurance contract, observing a one-month notice period, within one month after receiving this information; receivables arising up to the end of the notice period will also no longer be covered by the insurance.

(2) Furthermore, the Insurer is entitled to terminate the insurance contract, observing a one-month notice period, if bankruptcy or reorganisation proceedings have been opened regarding the assets of the Insured; insurance coverage shall expire at the end of the notice period.

(3) The Insurer is also entitled to terminate the insurance contract without observing a notice period, if the Insured has not met her/his payment obligations in spite of having been granted a grace period as defined in Art. 7 (6); in this case, the insurance coverage shall expire upon termination of the contract. The termination of the contract can already be arranged when setting the payment period by stating that such termination shall become effective upon expiration of the payment period if the Insured has not met her/his payment obligations by then. The same shall apply if the Insured has failed to pay, in due time, a deposit premium which was due after the start of insurance contract.

(4) If a contract is terminated based on the provisions of par. (1), (2) or (3), the Insurer is entitled to payment of the premium for the insured receivables up to the expiration of the contract.

#### ■ LEGAL VENUE

Art. 15 Both parties agree to submit all disputes arising from or in connection with this insurance contract exclusively to the court competent for the subject matter in Vienna, unless the insurance contract was brokered or concluded by an insurance agent. In this case, any actions brought against the Insurer on the basis of the insurance relationship shall be filed with the court in whose district the agent maintained her/his business office at the time the contract was brokered or concluded, or in which s/he had her/his residence if s/he had no business office.

#### ■ ADDITIONAL LEGAL REGULATIONS

Art. 16 If no other agreements were made in the policy or in the "General Terms" or any "Special Conditions", the legal regulations governing insurance contracts as well as the provisions of commercial and civil law shall also apply.