

INDIVIDUAL CREDIT  
INSURANCE POLICY

# **SPECIAL TERMS AND CONDITIONS CREDIT INSTITUTIONS**

**BUYER CREDIT COVER**

**ASC EC CA 17-01\_EN**

This English translation is provided only for convenience  
French version shall prevail in all respects



# **CONTENTS**

<b>PREAMBLE</b>	<b>4</b>
<b>ARTICLE 1 EFFECTIVE DATE OF COVER</b>	<b>5</b>
<b>ARTICLE 2 SCOPE OF COVER</b>	<b>5</b>
<b>ARTICLE 3 INSURED'S OBLIGATIONS</b>	<b>5</b>
<b>ARTICLE 4 POTENTIAL LOSS</b>	<b>6</b>
<b>ARTICLE 5 DECLARATION OF LOSS - CLAIM PAYMENT REQUEST</b>	<b>6</b>
<b>ARTICLE 6 CONDITIONS FOR CLAIM PAYMENT</b>	<b>6</b>
<b>ARTICLE 7 ALLOCATION OF PAYMENTS AND PROCEEDS FROM THE REALISATION OF SECURITY INTERESTS</b>	<b>8</b>
<b>ARTICLE 8 LOSS ADJUSTMENT</b>	<b>9</b>
<b>ARTICLE 9 REIMBURSEMENT OF ANCILLARY COSTS</b>	<b>10</b>

## PREAMBLE

---

It is recalled that any reference to Bpifrance Assurance Export shall be a reference to Bpifrance Assurance Export acting on behalf, in the name and under the control of the State. Any reference to the State shall be a reference to the State represented, for the purposes of this policy, by Bpifrance Assurance Export.

In case of any inconsistency between these Special Terms and Conditions and the General Terms and Conditions Credit Institutions ASC EC 17-01\_EN, the Insured Party and the State acknowledge and accept that the terms of this Special Terms and Conditions will prevail.

The Insured Party acknowledges having read carefully these Special Terms and Conditions and having been given the opportunity to negotiate their terms.

## ARTICLE 1 - EFFECTIVE DATE OF COVER

### §1 - Effective date

Provided the conditions listed in § 2 below are fulfilled, the insurance cover shall take effect on the date the Insured Contract comes into force.

### §2 - Conditions for cover to take effect

The insurance cover shall take effect subject to the following conditions:

- the signature and entry into force of the Insured Contract;
- the debtor and its guarantor obtaining the authorisations (in particular, transfer authorisations) necessary to perform their obligations in accordance with the local laws and regulations applicable on the signature date of the Insured Contract, with the exception of authorisations that can only be obtained thereafter.

## ARTICLE 2 - SCOPE OF COVER

**§1** - Up to the insurance cover limits specified in the schedule to the policy's Particular Terms and Conditions, the insurance cover shall apply to:

- the amount of the principal of any debt that the Insured holds for amounts owed by the Debtor as a result of drawdowns under the credit facility granted to the Debtor;
- the corresponding amount of interest (excluding late payment interest);
- the amount of bank fees.

These amounts constitute the Insured Debt.

**§2** - If the performance of the Insured Contract cannot be continued due to:

- a decision taken by the French government, or
- instructions that Bpifrance Assurance Export gives the Insured pursuant to the provisions of Article 5, § 3, of the General Terms and Conditions,

the Insured shall be entitled to claim payment under the insurance policy for any damages that the Insured may be ordered to pay the Debtor for breach of contract, and the limit referred to in § 1 above shall not apply.

## ARTICLE 3 - INSURED'S OBLIGATIONS

Declarations of repayment schedules and notices of drawdowns under the credit facility shall be submitted using the forms available for such purpose, in accordance with the following procedures:

Repayment schedules	Notification of drawdowns under the credit facility
<p>At the time the policy is signed, the Insured shall provide Bpifrance Assurance Export with a repayment schedule containing inter alia the forecast dates and amounts of repayments that the Debtor will be required to make in the event the credit facility made available to it is used entirely.</p> <p>The Insured shall update this document:</p> <ul style="list-style-type: none"><li>• at the starting point of the credit facility or, if there are multiple starting points, at each such starting point;</li><li>• at the time of any change to the amount or terms of repayment of the Insured Contract; and/or if requested by Bpifrance Assurance Export.</li></ul>	<p>Within the first ten days of the month following any month in which the credit facility has been drawn down one or more times, and until the last drawdown, the Insured shall notify Bpifrance Assurance Export of the drawdowns made under the credit facility during the previous month, stating, in particular:</p> <ul style="list-style-type: none"><li>• the amount of the payment that the Insured made for the Debtor;</li><li>• the dates and amounts of repayments (principal and interest) that the Debtor is to make due to such payment.</li></ul>

## ARTICLE 4 - POTENTIAL LOSS

**§1** - If due to the occurrence of a cause of loss, the Insured Debt is not paid on any due date, the Insured shall declare the potential loss to Bpifrance Assurance Export, using the forms available for such purpose.

Deadline for declaration in order for the declaration to be valid and accepted by the State:

<b>Claims for principal and interest</b>	<b>Bank fees and intermediary interest</b>
Within 30 days from the due date.	Within 3 months following the date a detailed account is sent to the Debtor claiming payment therefor.  In derogation of Article 3 of the General Terms and Conditions, the starting point of the waiting period shall be extended to the end of the second month following the date on which the relevant detailed account is sent.

**§2** - Cancellation of a declaration of potential loss in consequence of the regularisation of the payment situation before expiry of the waiting period shall be promptly notified to Bpifrance Assurance Export.

## ARTICLE 5 - DECLARATION OF LOSS - CLAIM PAYMENT REQUEST

Any payment of a claim shall be conditioned on the Insured submitting to Bpifrance Assurance Export a declaration of loss, which will be deemed a claim payment request.

The declaration of loss shall be sent to Bpifrance Assurance Export upon the expiry of the waiting period, as defined in Article 3 of the General Terms and Conditions. It shall be submitted together with a Loss Account, drawn up in accordance with Article 8 below.

Unless Bpifrance Assurance Export decides otherwise, it shall be accepted only if:

- a declaration of potential loss was made within the allotted time period, and
- all documentation evidencing the Insured's rights has been produced.

## ARTICLE 6 - CONDITIONS FOR CLAIM PAYMENT

### §1 - Security interests

If the Debtor's obligations toward the Insured have been guaranteed by a security interest, a claim payment in respect of causes of loss 1 and 2, as defined in Article 2 of the General Terms and Conditions, shall be paid only if the following conditions are met:

#### 1.1. Conditions with respect to the constitution of the security interests :

In accordance with the requirements and within the time periods prescribed by the laws or regulations applicable to the security interests, such security interests must have been validly constituted and the Insured shall take all necessary measures to keep it in force.

#### 1.2. Conditions with respect to enforcing the security interests:

##### a) In the case of a security interest in personam

Without awaiting Bpifrance Assurance Export's instructions, the Insured shall complete the acts and formalities required to enforce the security interest with the diligence necessary to give such security interest full effect. In particular, the Insured shall send the guarantor a demand for payment no later than the end of the 30-day period following the due date of the unpaid instalment.

If the Insured fails to comply with this time period, Bpifrance Assurance Export may nevertheless maintain the cover of the State, but the starting point for the waiting period shall be postponed until the date on which such demand for payment was sent.

**b) In the case of a security interest in rem**

After having obtained Bpifrance Assurance Export's approval, the Insured shall complete all acts and formalities required in order to enforce this security interest.

## **§2 - Dispute by the Debtor**

**2.1** If the Debtor disputes the amount or the validity of the debt due to the Insured or any of its rights and if such dispute appears to be legitimate, Bpifrance Assurance Export may postpone payment of the claim until the dispute is settled in favour of the Insured, either by the courts or an arbitration tribunal as provided for in the Insured Contract or, if the Insured Contract does not contain a jurisdiction clause or arbitration clause, by a final decision enforceable in the Debtor's country.

**2.2** However, if due to political events that occur outside France, the State acknowledges that the courts or arbitration tribunals provided for in the Insured Contract are prevented from operating in accordance with the conditions that prevailed at the time this policy was signed, and if as a result thereof the Insured is denied the possibility of having its rights recognised or enforced as provided in the preceding paragraph, Bpifrance Assurance Export will agree to settle the claim.

In such case, the amount of the claim payment shall be determined on the basis of the value of the rights that the court or arbitration tribunal referred to above would have granted to the Insured if their operation had not been prevented.

## **§3 - Loss attributable to cause of loss 6 listed in Article 2 of the General Terms and Conditions**

Claim payment is conditional upon the Insured submitting documents evidencing that the formalities required by the authorities of the Debtor's country for the transfer of funds have been performed.

## **§4 - Losses for which no claim payment shall be made**

No claim payment shall be made for:

**4.1** Losses due to non-performance by the Insured itself, by any other person acting on the Insured's behalf or by the Insured's co-lenders of:

- the terms and provisions of the Insured Contract, unless such non-performance is the consequence of a decision of the French government that prohibits performance of the said contract or of instructions given by Bpifrance Assurance Export to the Insured due to an aggravation of the risk pursuant to the provisions of Article 5, § 3 of the General Terms and Conditions;
- any obligation imposed on them by laws or regulations applicable in France or abroad, except obligations that are the result of an amendment deemed to be an act or decision of the government of a foreign country that prevents performance of the Insured Contract and, in general, losses due to any act or omission of the Insured or of any other person acting on the Insured's behalf.

**4.2** Losses due to the enforcement against the Insured of a provision restricting its rights contained in the Insured Contract or any other document relating thereto, including documents concerning the guarantees or the security interests arrangements.

**4.3.** Losses due to the occurrence of a legal or documentation risk, in particular losses that are the result of:

- non-compliance with applicable laws;
- the invalidity of contractual documents;
- the failure to include in the contractual documents the conditions imposed on cover.

## **§5 - Cover only for causes of loss 3, 4, 5 and 6 listed in Article 2 of the General Terms and Conditions**

If the Particular Terms and Conditions list only causes of loss 3, 4, 5 and 6 as defined in Article 2 of the General Terms and Conditions, and if a debt remains unpaid three months after its due date and if non-payment is not attributable to one of these causes of loss, cover for the unpaid instalment shall automatically terminate upon the expiry of said three-month period.

## **§6 - Bilateral Intergovernmental Debt Rescheduling Agreement**

If the Insured Debt is refinanced pursuant to a Bilateral Intergovernmental Debt Rescheduling Agreement, payments made for and on behalf of the foreign government by the Banque de France, or any other institution designated to this effect by the French authorities, shall extinguish any right to claim payment for the relevant debt if such payments discharge the debt up to the amount of the indemnifiable Loss, as defined in Article 8, § 2, below, after applying the percentage of cover.

If such payments do not total such amount, Bpifrance Assurance Export shall make a claim payment to the Insured equal to the difference between the amount of the indemnifiable loss, after applying the percentage of cover, and the payment made pursuant to the Bilateral Intergovernmental Debt Rescheduling Agreement.

## **§7 - Acceleration of payment clause**

The State shall not be bound by any provision of the Insured Contract providing for repayment before the due date of the Insured Debt's Instalments in the event of the Debtor's default. The claim may however be paid in advance by Bpifrance Assurance Export in accordance with the provisions of Article 8, §1.2, below.

## **ARTICLE 7 - ALLOCATION OF PAYMENTS AND PROCEEDS FROM THE REALISATION OF SECURITY INTERESTS**

---

For the purposes of calculating the indemnifiable loss and for the allocation between the State and the Insured of sums recovered after payment of a claim, payments received under the Insured Contract from the Debtor or a third party as from the time of the first declaration of potential loss, as well as proceeds from the realisation of security interests, shall first be allocated to pay off the principal and interest amounts of Insured Debts and uninsured debts in the chronological order they fall due, from the oldest to the most recent, to the exclusion of late payment interest, regardless of any allocation made by the payers.

However, if the Insured Contract involves several jointly insured lenders, said sums shall be deemed to pay off the Debtor's debt to each lender in proportion to each such lender's right over the outstanding portion of the Insured Debt remaining due on the date of the recovery.

After wiping off all Insured Debt and uninsured debt, if any, any surplus proceeds shall be allocated to late payment interest.

If Recoveries are deemed to correspond to late payment interest, the Insured shall be entitled to the entire portion thereof attached to the period between the date of the unpaid instalment and the date the claim was paid.

In derogation of the foregoing provisions, in the event a Bilateral Intergovernmental Debt Rescheduling Agreement provides for partial payment of the Insured Debt, payments made pursuant thereto shall be allocated to paying off such debt in accordance with the provisions of Article 6, § 6 above.



## ARTICLE 8 - LOSS ADJUSTMENT

### §1 - Loss account

1.1. Calculation of the claim shall be made instalment by instalment. For each unpaid instalment, the Insured shall establish a Loss Account in the currency of the Insured Contract, in accordance with the following provisions:

on the debit side	on the credit side
The amount of the unpaid instalment.	All amounts that can be set off against the relevant instalment and that were paid to the Insured before the payment of the claim, and in particular: <ul style="list-style-type: none"><li>• partial payments made by the Debtor or any third party;</li><li>• the proceeds generated by realising security interests.</li></ul> If the sums referred to above are paid in a currency other than the contractual currency, the conversion into the currency of the Insured Contract shall be made on the basis of the exchange rate defined in Article 13 of the General Terms and Conditions in effect on the date of payment.

1.2. However, if the loss is attributable to cause of loss 2 as defined in Article 2 of the General Terms and Conditions, or if Bpifrance Assurance Export decides to pay the claim relating to all insured instalments, whether they are due and unpaid or not yet due, the Insured shall submit a single loss account, which shall include:

on the debit side	on the credit side
The amount of all relevant instalments for which no claim payment has yet been made.	<ul style="list-style-type: none"><li>• The amounts referred to under this heading in § 1.1. above;</li><li>• The amount of unearned interest for the period between the date of payment of the claim and the date of instalments not yet due, with the exception of credit insurance premiums and bank fees financed by an increase in the interest rate if they remain due under the Insured Contract in the event the acceleration clause is applied.</li></ul>

### § 2 - Amount of loss which may be indemnified and amount of the claim payment

2.1. The Loss which may be indemnified shall be equal to the debit balance of the Loss Account, multiplied if applicable, by the ratio (*coefficient réducteur*) defined in the Particular Terms and Conditions.

2.2. The maximum amount of Loss which may be indemnified shall not exceed the amount of the Insured Contract (including principal, interest and bank fees) specified in the schedule to the policy's Particular Terms and Conditions, plus, if applicable, the increases agreed in accordance with Article 5, § 2, of the General Terms and Conditions.

However, this limit shall not apply in the event of a claim payment made with respect to damages that the Insured may be ordered to pay the Debtor for breach of contract in accordance with the provisions of Article 2, § 2, above.

2.3. The amount of the claim payment shall be equal to the product of the amount of the indemnifiable Loss multiplied by the percentage of cover.

## ARTICLE 9 - REIMBURSEMENT OF ANCILLARY COSTS

<b>Costs to be borne solely by the Insured</b>	<b>Costs paid by the State up to the percentage of cover multiplied if applicable, by the ratio (<i>coefficient réducteur</i>) defined in the Particular Terms and Conditions</b>
<ul style="list-style-type: none"><li>• collection expenses, the costs of constituting and maintaining security interests, the costs of protests (<i>frais de protêt</i>), as well as costs in connection with any measure necessary or of use to protect its rights;</li><li>• expenses incurred for the purpose of resolving any dispute concerning the validity or the monetary value of its rights.</li></ul>	<ul style="list-style-type: none"><li>• Costs incurred with Bpifrance Assurance Export's prior agreement or pursuant to Bpifrance Assurance Export's instructions for the purpose of avoiding or limiting the Losses that may result from a claim.</li></ul>



**Bpifrance Assurance Export**

Agissant au nom, pour le compte et sous le contrôle de l'État, en vertu de l'article L. 432-2 du code des assurances

SAS au capital de 30 000 000 euros - 815 276 308 RCS Créteil - N° TVA FR 29 815 276 308

Siège social : 27-31, avenue du Général Leclerc - 94710 Maisons-Alfort Cedex - Tél. : +33 1 41 79 80 00 - Fax : +33 1 41 79 80 01 - [bpifrance.fr](http://bpifrance.fr)