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General Conditions of Insurance for ACREDIA Easy^A 2014

(GCI ACREDIA Easy 2014)

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Global Insurance

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Splošni zavarovalni pogoji za ACREDIA Easy^A 2014

(SZP ACREDIA Easy 2014)

Predmet

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Globalno zavarovanje

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Definition

The Insured is the natural person or legal entity who/which concludes the insurance policy with the Insurer.

The Insurer is ACREDIA Versicherung AG.

The Buyer is the natural person or legal entity who/which concludes the contract for the delivery of goods and/or the performance of services with the Insured and is obliged to pay him.

Object

Art. 1 Which losses will be indemnified under this insurance policy?

The Insurer will indemnify the Insured for losses due to bad debts in respect of legally secure receivables for goods delivered and services performed during the policy period due to the insolvency of insured Buyers.

Global Insurance

Art. 2 What does "obligation to offer all business for cover" mean?

(1) The Insured undertakes to offer all his receivables to the Insurer for cover and to apply for adequate Credit Limits in respect of them (obligation to offer all business for cover).

The obligation to offer all business for cover applies to all receivables due from current and future Buyers which fulfil the following criteria:

- 22. člen** Do kdaj je treba prijaviti zavarovalni primer?
Katere podatke potrebuje zavarovatelj za izračun zavarovalnine?
- 23. člen** Na kakšen način se izračuna zavarovalnina?
- 24. člen** Kdaj je zavarovalnina izplačana?
Katere pravice se prenesejo na zavarovatelja?

Druge določbe

- 25. člen** Na kakšen način se tuje valute preračunavajo v pogodbeno valuto?
- 26. člen** Kakšne posledice imajo zavarovalčeve kršitve dolžnosti ali obveznosti?
- 27. člen** Ali se lahko zavarovalnina zastavi ali odstopi?
- 28. člen** Kaj se zgodi, če postane zavarovalec plačilno nesposoben?
- 29. člen** Na kakšen način se lahko predmetna pogodba spremeni?
Katero pravo se uporablja?

Opredelitve pojmov

Zavarovalec (fizična ali pravna) oseba, ki sklene zavarovalno pogodbo z zavarovateljem.

Zavarovatelj je ACREDIA Versicherung AG.

Kupec je (fizična ali pravna) oseba, s katero zavarovalec sklene pogodbo o dobavi ali storitvah in je zavezana k plačilu.

Predmet

1. člen Kateri izpadi plačil so nadomeščeni na podlagi te zavarovalne pogodbe?

Zavarovatelj nadomesti zavarovalcu izpade plačil od pravno utemeljenih terjatev iz naslova dobav blaga in izvajanja storitev, ki nastanejo med trajanjem zavarovalne pogodbe zaradi plačilne nesposobnosti zavarovanih kupcev.

Globalno zavarovanje

2. člen Kaj pomeni "dolžnost ponujanja"?

(1) Zavarovalec se zavezuje, da bo zavarovatelju ponudil vse terjatve v zavarovalno kritje in da bo za njih zahteval zadostno zavarovalno vsoto (dolžnost ponujanja).

Dolžnost ponujanja velja za vse terjatve do sedanjih in prihodnjih kupcev, ki izpolnjujejo naslednje pogoje:

- The Buyer is domiciled in a country listed in the Schedule to the policy, and
- the existing or expected total outstanding receivables due to the Insured from the Buyer reaches or exceeds the Declaration Limit. The Declaration Limit is specified in the Schedule to the policy.

(2) If the total outstanding receivables due from a Buyer exceed the Credit Limit set, the Insured shall promptly apply for a higher Limit. If the total amount due from a Buyer consistently lies below the Declaration Limit, the Insured can request the Limit to be deleted (Art. 15). If the Insurer has not set the Limit at the level requested by the Insured, the Insured shall make a new request in the amount needed at the latest after one year.

(3) The Insured applies for a Credit Limit or an increased Limit by placing an order for the credit assessment of a Buyer with ACREDIA Services GmbH via ACT-Portal or using the pre-printed form provided for this (Art. 10).

Art. 3 What are the preconditions for getting insurance cover?

The preconditions for the granting of insurance cover are

- that the Insurer has set a Credit Limit on the Buyer and
- that there is room for the outstanding receivables within the Limit (Art. 15).

The Insurer will set the Credit Limit in a written Credit Limit Notification.

Art. 4 When does cover begin and when does it end?

Cover on a Buyer begins on the date specified in the Credit Limit Notification (Art. 3), but not prior to the commencement of the validity of the insurance policy. It ends on the expiry of the policy. Any insured event must occur within this period.

Art. 5 What defines the contents and the scope of cover?

The contents and the scope of cover are defined by the insurance policy, unless otherwise set out in the Credit Limit Notification (Art. 3).

Art. 6 What part of the risk is borne by the Insured for his own account?

The Insured shall bear a percentage of each covered loss (Art. 23) for his own account. He is not permitted to insure or otherwise secure this self-insured retention elsewhere. The self-insured retention is specified in the Schedule to the policy. The Insurer may however set a higher self-insured retention in the Credit Limit Notification (Art. 3).

- kupec ima sedež v državi, ki je navedena v zavarovalni polici, in
- obstoječa ali pričakovana celotna terjatev zavarovalca, ki jo ima do kupca, dosega ali presega ponudbeno mejo. Ponudbena meja je navedena v zavarovalni polici.

(2) V primeru, da celotna terjatev do enega kupca presega določeno zavarovalno vsoto, mora zavarovalec nemudoma predlagati njeno povišanje. V primeru, da celotna terjatev trajno ne dosega ponudbene meje, lahko zavarovalec zahteva odpravo zavarovalne vsote (15. člen). V primeru, da zavarovatelj ne odobri zavarovalne vsote v zahtevani višini, mora zavarovalec najkasneje v enem letu znova zaprositi za zavarovalno vsoto ali njeno povišanje.

(3) Zavarovalec zaprosi za zavarovalno vsoto oz. njeno povečanje tako, da prek spletnega portala ACT oz. s predvidenim obrazcem pri ACREDIA Services GmbH predloži nalogo za preverjanje kreditne sposobnosti (10. člen).

3. člen Pod kakšnimi pogoji obstaja zavarovalno kritje?

Pogoj za zavarovalno kritje je,

- da je zavarovatelj za kupca odobril zavarovalno vsoto, in
- da se terjatev giba v okviru zavarovalne vsote (15. člen).

Zavarovatelj odobri zavarovalno vsoto s pisnim obvestilom o kritju.

4. člen Kdaj zavarovalno kritje prične in kdaj preneha veljati?

Zavarovalno kritje kupca prične veljati z dnem, ki je določen v obvestilu o kritju (3. člen), vendar ne pred začetkom veljavnosti zavarovalne pogodbe. Zavarovalno kritje preneha veljati s prenehanjem zavarovalne pogodbe. Zavarovalni primer mora nastati znotraj tega časovnega okvira.

5. člen Kaj določa vsebino in obseg zavarovalnega kritja?

Vsebina in obseg zavarovalnega kritja sta določena v zavarovalni pogodbi, razen če obvestilo o kritju (3. člen) ne določa drugače.

6. člen Kateri del nosi zavarovalec sam?

Zavarovalec je pri vsakem zavarovanem izpadu (23. člen) udeležen z lastnim deležem, ki ga ne sme zavarovati na drug način. Lastni delež je naveden v zavarovalni polici, vendar pa lahko zavarovatelj v obvestilu o kritju (3. člen) določi višjega.

Art. 7 What are the limits to indemnification?

(1) The Insurer will indemnify the Insured for each Buyer only up to the maximum of the Credit Limit set on that Buyer less the Insured's self-insured retention.

(2) The total amount of all indemnifications in any one insurance year is limited to the Maximum Liability. The Maximum Liability is specified in the Schedule to the policy.

(3) The Maximum Liability applies independent of the amounts set as Credit Limits by the Insurer.

Art. 8 How is the premium calculated and when must it be paid?

(1) The premium is calculated according to the procedure described in the Schedule to the policy and the Additional Terms and Conditions.

(2) The Insured undertakes to provide the necessary information for the calculation of the premium by the date agreed for this (see the Schedule to the policy).

(3) The mode of payment is provided for in the Schedule to the policy. The premium is due on receipt of the invoice.

Art. 9 What happens if the Insured does not send the necessary details for the premium calculation to the Insurer in time?

(1) If the Insured is more than a month late with supplying the information despite a written reminder, the Insurer may estimate the missing details. The Insurer can invoice the Insured with the premium calculated based on the estimate (preliminary premium).

(2) This regulation does not represent a waiver of the Insured's duty to provide the information. If the Insured provides the information within 6 months of the notification of the preliminary premium, the Insurer is obliged to correct the premium calculation. If the information is provided at a later point in time, the Insurer is entitled, but not obliged to correct the calculation.

Art. 10 Why are credit rating fees payable to ACREDIA Services GmbH?

(1) ACREDIA Services GmbH carries out credit assessment on behalf of the Insured (Art. 2) and monitors on an ongoing basis the creditworthiness of all Buyers on which a Credit Limit has been set. The Insurer sets the Credit Limits based on the results of this assessment and monitoring.

(2) The Insurer is entitled to pass on any information received from the Insured in connection with this insurance policy to ACREDIA Services GmbH. The Insured hereby authorizes the Insurer irrevocably to do this.

7. člen S čim je zavarovalnina omejena?

(1) Zavarovatelj zavarovalcu izplača zavarovalnino za vsakega kupca, in sicer največ v znesku zavarovalne vsote, določene za posameznega kupca, od katere odšteje lastni delež.

(2) Zavarovalnina za vse zavarovalne primere, ki nastanejo v posameznem zavarovalnem letu, je omejena z maksimalno zavarovalno vsoto. Maksimalna zavarovalna vsota je navedena v zavarovalni polici.

(3) Omejitev z maksimalno zavarovalno vsoto velja ne glede na višino posameznih zavarovalnih vsot, ki jih je določil zavarovatelj.

8. člen Na kakšen način se izračuna premija in kdaj zapade?

(1) Premija se izračuna po postopku, ki je določen v zavarovalni polici in dodatnih pogojih.

(2) Zavarovalec se zavezuje, da bo do dogovorjenega roka predložil podatke, ki so potrebni za izračun premije (glej zavarovalno polico).

(3) Način plačila je naveden v zavarovalni polici. Premija zapade ob prejetju računa.

9. člen Kaj se zgodi, če zavarovalec zavarovatelju ne pošlje podatkov za obračun premije pravočasno?

(1) Če zavarovalec kljub pisnemu opominu zamuja z obvestilom več kot en mesec, lahko zavarovatelj manjkajoče podatke oceni. Premijo, ki je bila izračunana na osnovi ocene, lahko zavarovatelj zaračuna zavarovalcu (začasna premija).

(2) To pravilo pa ne preklicuje obveznost obveščanja zavarovalca. Če zavarovalec v roku 6 mesecev od določitve začasne premije sporoči podatke, je zavarovatelj dolžan obračun premije popraviti. Če ga obvesti kasneje, je zavarovatelj do popravka upravičen, vendar ne zavezan.

10. člen Zakaj je potrebno družbi ACREDIA Services GmbH plačati prispevke za preverjanje kreditne sposobnosti?

(1) ACREDIA Services GmbH opravi po nalogu zavarovalca preverjanje kreditne sposobnosti (2. člen) in stalno nadzoruje bonitetno oceno vseh kupcev, za katere obstajajo zavarovalne vsote. Na podlagi tega preverjanja in nadzora zavarovatelj določi zavarovalno vsoto.

(2) Zavarovatelj sme informacije o kupcih, ki jih prejme od zavarovalca na podlagi te pogodbe, posredovati družbi ACREDIA Services GmbH. Zavarovalec ga za to nepreklicno pooblašča.

(3) The Insured pays a credit rating fee as contribution towards the costs of such credit assessment and monitoring. The fee is specified in the Schedule to the policy. It applies per Credit Limit and year and is invoiced by ACREDIA Services GmbH. The credit rating fee is payable on receipt of the invoice.

Details of cover

Art. 11 What receivables are insured?

(1) Cover is provided only for undisputed and invoiced receivables due to the Insured which fulfil the following criteria:

- a) They are in respect of goods delivered and services performed in the normal course of the Insured's business in his own name and on his own account,
- b) the Buyer is domiciled in a country listed in the Schedule to the policy, and
- c) the term of payment agreed with the Buyer does not exceed the Maximum Extension Period (Art. 16).

(2) Freight costs and insurance premiums, discounts and charges for bills of exchange are included in cover to the extent that they were incurred in connection with insured receivables (Par. 1).

(3) Any VAT or comparable tax charged by the Insured in his invoice is not insured.

(4) For receivables which are invoiced within 5 weeks of their accrual (Art. 13) cover exists prior to invoicing.

Art. 12 What receivables are not insured?

The following are excluded from insurance cover:

- a) receivables which accrued prior to the commencement of the insurance policy,
- b) receivables which are already older than the Maximum Extension Period (Art. 16) at the commencement of cover (Art. 4),
- c) receivables which accrue during a period of suspension of cover (Art. 17),
- d) receivables which accrue subsequent to the occurrence of an insured event or to the termination of the insurance policy,
- e) receivables or parts of receivables for which there was not sufficient room within the Credit Limit (Art. 15).
- f) receivables in respect of liability for damages, late interest, contractual penalties, costs arising from the disputed acceptance of goods or services by the Buyer or exchange rate losses,
- g) receivables or parts of receivables arising out of discounts originally granted and subsequently cancelled,
- h) receivables due from private persons (consumers as defined by the Austrian Consumer Protection Act),
- i) receivables due from public Buyers,
- j) receivables due from any company in which the Insured directly or indirectly holds a majority interest or can be shown to exert a controlling influence on management decisions,

(3) Zavarovalec je soudeležen pri stroških preverjanja in nadzora s prispevkom za preverjanje kreditne sposobnosti. Znesek je naveden v zavarovalni polici in velja za posamezno zavarovalno vsoto in leto, pri čemer račun za zadevni znesek izstavi ACREDIA Services GmbH. Prispevek za preverjanje kreditne sposobnosti zapade v plačilo s prejemom računa.

Podrobnejše informacije o zavarovalnem kritju

11. člen Katere terjatve so zavarovane?

(1) Zavarovalno kritje obstaja le za terjatve zavarovalca, ki so pravno utemeljene in za katere je bil izdan račun, ter izpolnjujejo naslednje pogoje:

- a) terjatev izhaja iz dobave blaga ali izvajanja storitve, ki jo je zavarovalec opravil v okviru svojega rednega poslovanja v svojem imenu in za svoj račun,
- b) kupec ima sedež v državi, ki je navedena v zavarovalni polici, in
- c) s kupcem dogovorjeni rok plačila ne presega skrajnega kreditnega roka (16. člen).

(2) Prevozni stroški, zavarovalne premije, menični popusti so vsi v zavarovalno kritje, v kolikor so nastali v povezavi z zavarovanimi terjatvami (1. odst).

(3) Davek na dodano vrednost, ki je naveden na zavarovalčevem računu ni zavarovan.

(4) Za terjatve, za katere je bil v roku 5 tednov od njihovega nastanka (13. člen) izdan račun, obstaja zavarovalno kritje že pred izdajo računa.

12. člen Katere terjatve niso zavarovane?

Naslednje terjatve so iz zavarovalnega kritja izključene:

- a) terjatve, ki so nastale pred začetkom zavarovalne pogodbe,
- b) terjatve, ki so ob pričetku zavarovalnega kritja (4. člen) starejše od skrajnega kreditnega roka (16. člen),
- c) terjatve, ki nastanejo med zaustavitvijo kritja (17. člen),
- d) terjatve, ki nastanejo po nastanku zavarovalnega primera ali po prenehanju zavarovalne pogodbe,
- e) terjatve ali deli terjatev, za katere ni prostora v okviru zavarovalne vsote (15. člen),
- f) zahtevki za plačilo odškodnine, zamudne obresti, pogodbene kazni, stroški pravnih postopkov, tečajne izgube,
- g) terjatve ali deli terjatev, nastali na podlagi naknadno odpovedanih popustov,
- h) terjatve do fizičnih oseb (potrošniki v smislu avstrijskega zakona o varstvu potrošnikov),
- i) terjatve do javno-pravnih podjetij,
- j) terjatve do podjetij, v katerih je zavarovalec posredno ali neposredno večinsko udeležen ali v katerih, na kakršenkoli drug način lahko izvaja odločilen vpliv na poslovanje,

- k) receivables in respect of the letting and leasing of real estate,
- l) receivables due in respect of the delivery of goods and/or the performance of services for which there has been a failure by the Insured to obtain any documents or authorizations required,
- m) receivables in respect of the delivery of goods whose import into the country of destination contravenes a prohibition in force.
- n) receivables from the supply of goods and services that is in breach of mandatory economic sanctions or embargoes, and in particular sanctions or embargoes imposed by the Policyholder's country, the Buyer's country, the European Union, the United Nations or another international organisation recognised under international law.

Art. 13 When does a receivable accrue?

In the case of the delivery of goods, the receivable accrues on the date on which the goods were despatched.

In the case of services, the receivable accrues continually as and when the service is performed. One day's performance is considered to be given from the moment the day starts.

Art. 14 How are payments allocated to the account? When is a receivable paid?

(1) Each and every payment made prior to the occurrence of an insured event is allocated to the outstanding account it is intended for. Payments received without any indication of their purpose are allocated to the oldest outstanding account in the chronological order of due dates, whether this is overdue or has not yet fallen due.

(2) If the Insured has uninsured outstandings as well as insured outstandings, he is not permitted to agree any form of amortization of payments with his Buyer which would put the Insurer at a disadvantage. If the Insured fails to comply with this obligation, the Insurer is entitled to allocate all payments received to the oldest account outstanding at the time of payment.

(3) Payments received subsequent to the occurrence of an insured event shall also be allocated as intended. If it is not possible to determine whether a payment was intended to pay an insured or an uninsured account, it will be allocated pro rata.

(4) Cheques and bills of exchange are only deemed to have been paid when they are honoured.

(5) If the Buyer is domiciled in a country which has no free currency market and if the equivalent value of the outstanding amount is paid onto an account in that country for the benefit of the Insured, this credit transaction is deemed to constitute payment.

- k) terjatve iz naslova oddajanja nepremičnin v najem ali v zakup,
- l) terjatve iz dobave blaga ali izvedenih storitev, za izvedbo katerih manjkajo potrebna dovoljenja,
- m) terjatve iz dobave blaga, katerih uvoz v namembno državo pomeni kršitev obstoječe prepovedi,
- n) terjatve, ki izhajajo iz dobave blaga/izvajanja storitev, katerih dobava/izvajanje pomeni kršitev pravno zavezujočih mednarodnih gospodarskih sankcij ali embarga, predvsem sankcij ali embarga, ki jih določi država zavarovanca, država stranke, Evropska unija, Združeni narodi (ZN) ali druge mednarodne organizacije, ki so priznane po mednarodnem pravu.

13. člen Kdaj nastane terjatev?

Pri dobavi blaga nastane terjatev na dan, ko je bilo blago odpremljeno.

Pri storitvi nastaja terjatev postopoma z izvajanjem storitve. Storitve, ki je opravljena v enem dnevu, se šteje za opravljeno že s pričetkom tega dne.

14. člen Na kakšen način se vplačila pripisujejo? Kdaj se terjatev šteje za plačano?

(1) Vsako plačilo se pred nastopom zavarovalnega primera pripiše k odprti terjatvi, na katero se sklicuje. Plačila brez sklica se pripišejo k odprti terjatvi, ki je oz. bo prva zapadla v plačilo.

(2) V primeru, da ima zavarovalec poleg zavarovanih tudi nezavarovane terjatve, ne sme s kupcem skleniti dogovora o odplačevanju, ki bi zavarovatelja postavil v slabši položaj. Če zavarovalec krši navedeno obveznost, lahko zavarovatelj vsa plačila pripiše najstarejši odprti terjatvi.

(3) Plačila, izvedena po nastopu zavarovalnega primera, se prav tako pripišejo glede na njihov sklic. V kolikor ni mogoče ugotoviti, ali pripadajo zavarovani ali nezavarovani terjatvi, se prištevajo sorazmerno.

(4) Čeki in menice veljajo kot plačilo šele z njihovim unovčenjem.

(5) Če ima kupec sedež v državi, ki nima prostega deviznega trga, in prejme zavarovalec na račun v tej državi ekvivalent svoje terjatve, se ta ekvivalent šteje kot plačilo.

**Art. 15 What receivables are covered by the sum insured?
What are the consequences of the reduction or
cancellation of the insurance cover?**

(1) The Credit Limit always covers the oldest outstanding accounts at any given time. Any receivables in excess of the Credit Limit can come under cover if and to the extent that a corresponding amount of cover for them becomes free within the Limit due to the payment of insured accounts.

(2) In the case of deterioration of the risk or for other material reasons which the Insurer deems to justify such action, the Insurer is entitled to reduce or cancel cover on the Buyer concerned at any time. The reduction or cancellation becomes effective on receipt of the Credit Limit Notification by the Insured.

(3) If a Credit Limit is reduced, uninsured accounts can only come under cover if and to the extent that there is a free amount of cover for them in the reduced Credit Limit after outstanding insured accounts have been paid.

(4) If a Credit Limit is cancelled, cover is automatically suspended (Art. 17).

Art. 16 What is the purpose of the Maximum Extension Period?

(1) The Maximum Extension Period is specified in the Schedule to the policy. The Insurer may however set a different Maximum Extension Period in the Credit Limit Notification. It starts to run from the invoice date of the account.

(2) If a Buyer has failed to pay either an insured or an uninsured account on the expiry of the Maximum Extension Period, or if it becomes clear to the Insured that the Maximum Extension Period will be exceeded (e.g. because he has accepted a bill of exchange or agreed to deferred payment terms),

- the Insured must inform the Insurer without delay and – independently of this –
- cover is automatically suspended (Art. 17).

(3) The Insured must place an order with an attorney or a collection agency for the collection of the account at the latest one month after the Maximum Extension Period is exceeded. Any other action is only permitted after obtaining the prior consent of the Insurer.

(4) In the case of invoices with an amount of no more than EUR 750.– still outstanding at the point at which the Maximum Extension Period was exceeded, or if the non-notification of the exceeding of the Maximum Extension Period is older than 2 years (calculated from the date of the oldest outstanding invoice), the Insurer will not assert its right to terminate cover pursuant to Pars. 2 and 3.

**15. člen Katere terjatve so zavarovane v okviru zavarovalne vsote?
Kakšne posledice imata znižanje ali odprava
zavarovalne vsote?**

(1) V okviru zavarovalne vsote so zavarovane vsakokrat najstarejše terjatve. Terjatve, ki presegajo zavarovalno vsoto, se prenesejo vanjo le pod pogojem in v obsegu, v katerem se na podlagi plačila zavarovanih terjatev za njih sprosti ustrezen del zavarovalne vsote.

(2) Zavarovatelj je zaradi povečanja nevarnosti ali drugih po njegovi presoji upravičenih razlogov v vsakem trenutku upravičen odpraviti ali znižati zavarovalno vsoto. Znižanje ali odprava zavarovalne vsote učinkuje z dnem zavarovalčevega prejema obvestila.

(3) V primeru znižanja zavarovalne vsote se nezavarovane terjatve prenesejo v zavarovalno vsoto šele, ko se s plačilom zavarovanih terjatev za njih sprosti ustrezen del znižane zavarovalne vsote.

(4) V primeru odprave zavarovalne vsote nastopi zaustavitev kritja (17. člen).

16. člen Kakšen je pomen skrajnega kreditnega roka?

(1) Skrajni kreditni rok se določi v zavarovalni polici, pri čemer lahko zavarovatelj v obvestilu o kritju določi drugačen skrajni kreditni rok. Ta začne veljati z dnem izdaje računa za terjatev.

(2) Če kupec pri zavarovani ali nezavarovani terjatvi skrajni kreditni rok preseže ali če zavarovalec ugotovi, da bo skrajni kreditni rok presežen (npr. ker sprejme menico ali se dogovori za odlog plačila),

- zavarovalec o tem nemudoma obvesti zavarovatelja in ne glede na navedeno
- nastopi zaustavitev kritja (17.člen).

(3) Zavarovalec najpozneje v enem mesecu po prekoračitvi skrajnega kreditnega roka najame odvetnika oz. izvršitelja za izterjavo terjatve. Drugačno ravnanje je možno le s predhodnim soglasjem zavarovatelja.

(4) Pri računih, pri katerih odprti znesek ob prekoračitvi kreditnega roka ne presega 750,00 EUR, ali pri neprijavljenih prekoračitvah kreditnega roka, ki so starejše od 2 let (šteto od datuma najstarejšega odprtega računa), se zavarovatelj odpoveduje sklicevanju na določbe 2. in 3. odstavka tega člena.

Art. 17 What is the significance of "suspension of cover"?

As soon as cover is suspended and for the entire suspension period,

- no already existing uninsured receivables can come under cover within the Credit Limit and
- receivables which accrue subsequently are excluded from cover.

Receivables which were already insured shall remain insured. The suspension of cover will cease to be effective when and to the extent that the Insurer gives written notification of the fact.

Art. 18 What other obligations must be observed?

(1) The Insured shall provide all information known to him which may have material relevance for granting cover in the Credit Limit Request (Art. 2). This applies in particular to any circumstances affecting the creditworthiness of the Buyer. He undertakes to provide details of his outstanding accounts with insured Buyers to the Insurer at any time the latter so requests.

(2) The Insured undertakes to notify the Insurer without delay of any circumstances which could lead to a deterioration of the risk, in particular

- a) if there is any serious deterioration in the Buyer's payment behaviour, or the Insured becomes aware of any negative information concerning the Buyer's financial situation,
- b) if cheques or bills of exchange are not honoured for lack of funds or direct debits are returned or bills of exchange are prolonged beyond the original due date,
- c) if the Insured suspends deliveries or performance of services for reasons of creditworthiness or is only willing to continue deliveries against prepayment or cash payment,
- d) if he orders an attorney or a collection agency to collect the debt or takes court action to secure payment of the debt,
- e) if insolvency as defined by Art. 20 has occurred or its occurrence is imminent.

(3) The Insured undertakes to obtain the consent of the Insurer before concluding any composition agreement, agreement for the Buyer to pay in instalments or similar agreement.

(4) 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 and make full use of his legal rights and will implement instructions given by the Insurer.

Art. 19 What are the Insurer's rights?

(1) The Insured hereby authorizes the Insurer to enter into agreements on behalf of the Insured with any of his Buyers to protect the insured receivables and to reduce the risk.

17. člen Kaj pomeni „zaustavitev kritja“?

Neposredno ob nastanku in med trajanjem zaustavitve kritja,

- se obstoječe nezavarovane terjatve ne morejo pomakniti v zavarovalno vsoto in
- novo nastale terjatve so izključene iz zavarovalnega kritja.

Terjatve, ki so že bile zavarovane, ostanejo zavarovane. Zaustavitev kritja preneha veljati izključno po pisnem obvestilu zavarovatelja.

18. člen Katere obveznosti je treba še upoštevati?

(1) Zavarovalec v nalogu za preverjanje kreditne sposobnosti (2. člen) navede vse njemu poznane okoliščine, ki bi lahko bile pomembne za prevzem zavarovalnega kritja. To velja predvsem za okoliščine, ki zadevajo plačilno sposobnost kupca. Zavarovalec zavarovatelja redno obvešča o obstoječih terjativah do zavarovanih kupcev.

(2) Zavarovalec mora nemudoma sporočiti okoliščine, ki bi lahko predstavljale povečanje nevarnosti, zlasti

- a) če se plačilno vedenje kupcev znatno poslabša ali zavarovalec izve za neugodne informacije, povezane s kupčevim finančnim položajem,
- b) če zaradi nezadostnega kritja ne pride do unovčenja čekov ali menic ali če okoliščine privedejo do storniranja knjiženj ali naknadnega podaljšanja menic,
- c) če zavarovalec zaradi bonitetnih razlogov opravlja dobave oz. storitve le še na podlagi predplačila ali gotovinskega plačila ali jih ne opravlja več,
- d) če za izterjavo najame odvetnika ali izvršitelja ali če sodno uveljavlja terjatev,
- e) če je nastala ali grozi plačilna nesposobnost (20. člen).

(3) Za sklenitev poravnave, sporazuma o obročnem odplačevanju ali podobnega dogovora zavarovalec pridobi predhodno soglasje zavarovatelja.

(4) Zavarovalec na lastne stroške s skrbnostjo dobrega gospodarja sprejme vse ukrepe za preprečitev ali zmanjšanje izpada plačila, uveljavlja svoje pravice, uporablja zaščitne ukrepe in pri tem upošteva navodila zavarovatelja.

19. člen Katere pravice ima zavarovatelj?

(1) Zavarovalec pooblašča zavarovatelja, da v njegovem imenu z zavarovanimi kupci sklepa dogovore za zaščito zavarovanih terjatev in zmanjševanje tveganja izpada plačila.

(2) The Insurer is entitled to examine or to have examined by others authorized by it any documents material to the policy and to make or require to be made copies thereof.

Art. 20 When does an insured event occur?

(1) An insured event is deemed to have occurred on the date when the Buyer became insolvent. The Buyer is deemed to be insolvent within the meaning of the present policy when

- a) insolvency proceedings under the provisions of insolvency law of the country in which the Buyer's registered office is situated have been opened by the court or duly qualified authority for the purposes of reorganisation or liquidation, or the application for the opening of proceedings has been rejected by the court for lack of assets, or on the basis of the application, before the opening of proceedings a provisional receiver and manager has been appointed for the purpose of safeguarding the objects of the proceedings, or the assets and business activities have otherwise been put under protection, or
- b) all the Buyer's creditors generally have agreed to an out-of-court settlement – with the exception of a mere deferral of payments – or
- c) the execution of a judgement title obtained by the Insured has failed to satisfy the debt in whole or
- d) the economic situation of the Buyer has been demonstrated to be so unfavourable that payment seems unlikely since the execution of a judgement title, a winding-up petition or other measures taken by the Insured against the Buyer have no prospect of success.

Insolvency is deemed to have occurred on the date when

- in case a), above, the court order was passed,
in case b), all the Buyer's creditors generally agreed to the settlement,
in case c), the execution to satisfy the debt took place,
in case d), the Insured received written proof that the planned measures against the debtor had no prospect of success.

(2) An insured event is also deemed to have occurred if and when

- following the delivery of goods or the performance of services, insolvency of the Buyer appears imminent due to deterioration of his creditworthiness,
- the goods delivered, to the extent that they are still under the control of the Insured or have been reclaimed by him 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.

(3) Cover is automatically suspended on the occurrence of an insured event (Art. 17).

(2) Zavarovatelj lahko sam ali prek pooblaščenca zahteva vpogled v poslovno dokumentacijo zavarovalca, ki je pomembna za pogodbeno razmerje, ali izdelavo kopij takšne dokumentacije ali kopije izdelava sam.

20. člen Kdaj nastopi zavarovalni primer?

(1) Zavarovalni primer nastane s plačilno nesposobnostjo kupca. V skladu s to zavarovalno pogodbo nastane plačilna nesposobnost takoj, ko

- a) pristojno sodišče ali drug pristojni upravni organ v skladu z določili insolvenčnega prava v državi kupca začne insolvenčni postopek, katerega cilj je reorganizacija ali likvidacija, če je bila zahteva za začetek takšnega postopka zavrtnjena zaradi pomanjkanja sredstev ali če je na podlagi zahtevka pred začetkom postopka za zavarovanje namena postopka imenovan začasni upravitelj, ali
- b) so vsi upniki sprejeli ponudbo za izvensodno poravnavo kupca (razen moratorija) ali
- c) z izvršbo, uvedeno s strani zavarovalca, ni bilo doseženo polno poplačilo ali
- d) so dokazane neugodne okoliščine, zaradi katerih zavarovalec plačila s strani kupca kljub sprejetemu ukrepu (npr. izvršbe, predloga za začetek insolvenčnega postopka) verjetno ne bo prejel.

Za čas nastanka zavarovalnega primera šteje

- v primeru a) šteje datum sklepa sodišča,
v primeru b) šteje datum, ko so se vsi upniki kupca strinjali s poravnavo,
v primeru c) šteje datum izvršbe,
v primeru d) šteje datum, ko ima zavarovalec pisno dokazilo.

(2) Zavarovalni primer nastane tudi, če

- se boniteta kupca po dobavi blaga ali opravljanju storitev tako poslabša, da mu grozi plačilna nesposobnost, in
- zavarovalec blago, s katerim še lahko razpolaga ali ga je znova prevzel, skladno z dogovorom z zavarovateljem najbolje drugače unovči in
- in pri tem je prejeta plačilo manjše od zneska odprtih terjatev.

Za datum nastopa zavarovalnega primera pri tem velja datum, ko nastane izpad zaradi drugačnega unovčenja blaga.

(3) Z nastopom zavarovalnega primera pride do zaustavitve kritja (17. člen).

Art. 21 What losses are not covered?

The following losses are excluded from cover:

- a) 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.
- b) Losses which occurred prior to commencement of cover or subsequent to the expiry of cover (Art. 4).

Art. 22 When must a loss be notified? What documentation does the Insurer need to calculate indemnification?

(1) The Insured must make a claim for indemnification to the Insurer within 12 months of the occurrence of an insured event. The claim to indemnification lapses if it is not received by the Insurer within this period (period of preclusion).

(2) The Insured undertakes to provide all information and all documentation which the Insurer deems necessary in order to verify the occurrence of the insured event and the undisputed legal status of the receivables as well as for the calculation of the insured loss.

Art. 23 How is indemnification calculated?

(1) In ascertaining the insured loss, the amount due from the Buyer 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) accounts which accrued subsequent to the occurrence of the insured event (Art. 14 Par. 3),
- c) proceeds arising out of any rights and security instruments which were a precondition for cover,
- d) the following:

- aa) rights of set-off,
- bb) reclaimed goods and proceeds under retention of title rights,
- cc) proceeds from the sale of goods as defined by Art. 20 Par. 2,
- dd) proceeds from any other rights and security instruments,
- ee) any dividends in liquidation or composition received.

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.

(2) Any payments recovered or the proceeds from relevant sales of goods received between the date of reduction or cancellation of cover and the occurrence of the insured event are to be similarly regulated by the same provisions.

21. člen Kateri zavarovalni primeri niso kriti?

Naslednji zavarovalni primeri so iz zavarovalnega kritja izključeni:

- a) Zavarovalni primeri, ki so nastali zaradi vojne ali vojnega stanja, notranjih nemirov, stavk, zaplemb, oviranja blagovnega in/ali plačilnega prometa s strani organov ali državnih institucij, naravnih katastrof ali vplivov jedrske energije,
- b) zavarovalni primeri, ki so nastali pred začetkom ali po prenehanju zavarovalnega kritja (4. člen).

22. člen Do kdaj je potrebno prijaviti zavarovalni primer? Katere podatke potrebuje zavarovatelj za izračun zavarovalnine?

(1) Zavarovalec mora od zavarovatelja zahtevati zavarovalnino v roku 12 mesecev po nastopu zavarovalnega primera. Njegova prava zahtevati zavarovalnino preneha (prekluzija), če zavarovatelj ne prejme prijave zavarovalnega primera v navedenem roku.

(2) Zavarovalec je dolžan posredovati zavarovatelju vse informacije in dokumente, ki jih zavarovatelj potrebuje kot dokazilo za nastanek zavarovalnega primera in za obstoj terjatve kot tudi za izračun zavarovanega izpada plačila.

23. člen Na kakšen način se izračuna zavarovalnina?

(1) Za izračun zavarovanega izpada se od terjatev do kupca, ki ob nastopu zavarovalnega primera obstajajo, odštejejo naslednji zneski v navedenem vrstnem redu:

- a) nezavarovane terjatve ali deli terjatev,
- b) opravljena plačila od nastanka zavarovalnega primera dalje (14. člen 3. odst.),
- c) iztržki iz pravic in zaščitnih ukrepov, ki so bili vzpostavljeni kot pogoj za zavarovalno kritje,
- d) naslednja zmanjšanja terjatev:
 - aa) terjatve, ki se lahko pobotajo,
 - bb) povratne dobave in realizacije iz pridržkov lastninske pravice,
 - cc) realizacija iz vnovčenj v smislu 20. člena 2. odst.,
 - dd) iztržki iz pravic in zaščitnih ukrepov,
 - ee) sorazmerna plačila,

v kolikor se nanašajo na zavarovane terjatve. Če ni mogoče ugotoviti, ali se zmanjšanja terjatev nanašajo na zavarovane ali nezavarovane terjatve, se obojim pripišejo sorazmerno.

(2) Navedene določbe se v enaki meri uporabljajo tudi za zmanjšanje terjatve med znižanjem ali odpravo zavarovalne vsote in nastopom zavarovalnega primera.

(3) The Austrian VAT refunded by the financial authorities in respect of bad debts will not be deducted in the case of Buyers domiciled in Austria.

(4) The Insurer will indemnify the insured loss after deducting the Insured's self-insured retention, subject to the Maximum Liability (Art. 7) not being exceeded.

Art. 24 When is a claim paid? What rights are subrogated to the Insurer?

(1) The Insurer will indemnify a claim when the final insured loss has been established.

(2) If the amount of the loss has not been definitely established 3 months after the insured event has occurred, the Insurer will make a provisional loss settlement. In this connection the Insurer will estimate the amounts which are deductible under Art. 23 in so far as these amounts have not yet been definitely established. If it is not possible to make any approximate estimate, a provisional indemnification will first of all be made in the amount of 50 % of the probable insured loss less the Insured's self-insured retention. The final loss settlement will be made as soon as the necessary documentation is received.

(3) The Insurer will be subrogated to all legal rights and remedies the Insured has against his Buyer or third parties as well as all secondary rights up to the amount indemnified. The Insured is obliged to undertake all necessary actions for the transfer of such rights at the request of the Insurer. If the insured receivables have been transferred by way of security (Sicherungscession), the Insurer is entitled to withhold indemnification until the assignee has agreed to reassign the receivables to the Insurer.

(4) Any payments or other transactions which reduce the outstanding debt which were not included in the loss calculation pursuant to Art. 23 must be notified by the Insured to the Insurer. The Insurer will then make a revised loss settlement where appropriate.

Additional Provisions

Art. 25 What exchange rate is to be used for foreign currencies?

(1) The policy currency is the Euro (EUR). It shall be used for all insured accounts, premium payments, credit rating fees and indemnifications.

(2) The reference rate of the European Central Bank on the invoice date shall be used for the purpose of determining the euro amounts of receivables denominated in other currencies. Currencies for which no reference rate is available will be converted at the

(3) Avstrijski davek na dodano vrednost, ki je bil s strani finančnega urada povrnjen za neprejeta povračilo, pri kupcih s sedežem v Avstriji od terjatve ne bo odštet.

(4) Zavarovatelj izplača zavarovani izpad plačil brez lastnega deleža kot zavarovalnino, v kolikor ne pride do prekoračitve maksimalne zavarovalne vsote (7. člen).

24. člen Kdaj je zavarovalnina izplačana? Katere pravice preidejo na zavarovatelja?

(1) Zavarovatelj izplača zavarovalnino takoj ko je dokazan dokončni zavarovani izpad plačila.

(2) V primeru, da višina izpada plačila še ni dokončno določena, sestavi zavarovatelj v roku 3 mesecev po nastopu zavarovalnega primera predhodni obračun zavarovalnine. Pri tem oceni zneske, ki se odbijejo v skladu s 23. členom, če njihova višina še ni določena. Če približna ocena ni mogoča, izplača zavarovatelj kot začasno zavarovalnino najprej 50 % domnevnega zavarovanega izpada plačila, od česar odšteje lastni delež. Končni poračun se izvede, ko so predložena potrebna dokazila.

(3) Na zavarovatelja se prenesejo vsi zahtevki zavarovalca do vseh zavezancev in vse stranske pravice, in sicer v višini izplačane zavarovalnine. Zavarovalec bo za prenos pravic na zavarovatelja na njegovo zahtevo opravil vsa potrebna dejanja. Če je bila zavarovana terjatev odstopljena v zavarovanje (cesija v zavarovanje), je zavarovatelj upravičen zadržati izplačilo zavarovalnine, dokler se cesionar (odstopni upravičenec) ne zaveže k prenosu terjatve na zavarovatelja.

(4) Zavarovalec zavarovatelja obvešča o plačilih ali zmanjšanjih terjatev, ki pri izračunu izpada plačila (23. člen) niso bili upoštevani. Zavarovatelj nato po potrebi opravi nov izračun zavarovalnine.

Druge določbe

25. člen Na kakšen način se tuje valute preračunavajo v pogodbeno valuto?

(1) Pogodbena valuta je evro (EUR). Velja za zavarovalne vsote, plačila premije, prispevke za preverjanje kreditne sposobnosti in zavarovalnine.

(2) Zneski računov, ki so izdani v tuji valuti, so za namene določitve terjatve preračunani v EUR po tečaju Evropske centralne banke na dan izdaje računa. Valute, za katere referenčni tečaj ne obstaja, se

officially published rate of the Oesterreichische Nationalbank. If no official rate is available for the day concerned, the rate applying is the rate for the most recent previous day.

(3) For the calculation of indemnification, the rate will be that applying on the day on which the insured event occurred, subject however to this not being higher than that on the invoice date.

(4) Amounts paid or deposited in the debtor's country in a currency other than the agreed currency of the contract between him and the Insured, but not yet transferred or converted into the agreed contract currency shall be converted at the last official foreign exchange rate in the debtor's country on the day prior to the payment or depositing of the amount concerned.

Art. 26 What are the consequences of failure to comply with the duties of the Insured?

(1) If the Insured has failed to meet a legal or contractual obligation or has breached a duty, then the Insurer is released from its liability to indemnify a claim, irrespectively of termination of the insurance policy.

(2) The Insurer will not plead exemption from liability to indemnify,

- if the Insured was not to blame for the breach of its duties of conduct, or
- if the breach of the duties of conduct did not have any influence on the occurrence of the insured event, or
- to the extent that the breach of the duties of conduct had no influence on the scope of the indemnification to be provided by the Insurer.

Art. 27 Can the right to indemnification be pledged or assigned?

It is not permissible to pledge the right to indemnification in any form.

In any assignment of the right to indemnification, all 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.

Art. 28 What happens if the Insured becomes insolvent?

If insolvency proceedings are opened in relation to the Insured's assets, the Insurer is entitled to terminate the insurance policy with a notice period of one month (Section 14 of the Austrian Insurance Contract Act).

preračunajo po objavljenem deviznem tečaju Avstrijske nacionalne banke. Če za zadevni dan ni bil objavljen menjalni tečaj, se uporabi menjalni tečaj predhodnega dne, za katerega je bil menjalni tečaj objavljen.

(3) Za izračun zavarovalnine se uporabi menjalni tečaj dne, na katerega je nastal zavarovalni primer, ki pa ne sme preseirati menjalnega tečaja na dan izdaje računa.

(4) Zneski, ki so bili v državi dolžnika plačani ali položeni v valuti, ki ni dogovorjena s pogodbo, vendar še niso bili preneseni ali pretvorjeni v dogovorjeno valuto, se v dogovorjeno valuto preračunajo po zadnjem uradnem menjalnem tečaju v državi dolžnika na dan pred plačilom ali pologom.

26. člen Kakšne posledice imajo zavarovančeve kršitve dolžnosti ali obveznosti?

(1) V primeru, da zavarovalec ne izpolni katere zakonske ali pogodbene dolžnosti ali krši določeno obveznost, je zavarovatelj prost svoje obveznosti izplačila. To velja ne glede na odpoved zavarovalne pogodbe.

(2) Zavarovatelj se ne bo skliceval na prenehanje dogovorjenih obveznosti,

- če je do kršitve obveznosti prišlo brez krivde zavarovalca ali
- če zavarovalec ni imel vpliva na nastanek zavarovalnega primera ali
- če kršitev ne vpliva na obseg obveznosti, ki jo mora izpolniti zavarovatelj.

27. člen Ali se lahko zavarovalnina zastavi ali odstopi?

Zastavitev zahtevka za izplačilo zavarovalnine ni dovoljena.

V primeru odstopa zavarovatelj ohrani pravico do ugovora in do pobota do cesionarjev. Škoda se obračuna samo z zavarovalcem.

28. člen Kaj se zgodi, če postane zavarovalec plačilno nesposoben?

Če je bil nad premoženjem zavarovalca začet insolvenčni postopek, lahko zavarovalec zavarovalno pogodbo odpove z enomesečnim odpovednim rokom (14. člen avstrijskega zakona o zavarovalnih pogodbah).

**Art. 29 How can this policy be altered?
What law applies?**

(1) Modifications that alter the contents or nature of the insurance contract – in particular notice of termination, cancellation, cession of payment claims – must be in writing. The contractual language is German.

(2) Austrian law shall apply, to the exclusion of conflict of law rules and UN commercial law. In addition to the contractual provisions, the provisions of the Austrian Insurance Contract Act, the Austrian Commercial Code and the Austrian General Civil Code apply. Place of performance and jurisdiction shall be Vienna. ■

**29. člen Na kakšen način se lahko predmetna pogodba spremeni?
Katero pravo se uporablja?**

(1) Izjave v zvezi z obstojem ali vsebino zavarovalnega razmerja – zlasti odpoved pogodbe, odstop od pogodbe, odstop od zahtevka za izplačilo zavarovalnine – morajo biti podane v pisni obliki. Jezik pogodbe je nemščina.

(2) Uporablja se avstrijsko pravo, pri čemer so izključena kolizijska pravila in Konvencija Združenih narodov o pogodbah o mednarodni prodaji blaga. Poleg tega veljajo določila avstrijskega zakona o zavarovalnih pogodbah, avstrijskega trgovskega zakonika in avstrijskega civilnega zakonika. Kraj izpolnitve je Dunaj. Izključno pristojno sodišče je sodišče na Dunaju. ■