

OVERALL AGREEMENT

General terms (664-02)



The one-stop shop for exporters

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This text lays down the General Insurance Terms for contracts referred to in the Special Policy Terms.

The contracts covered by Ducroire, the Luxembourg export credit agency (hereinafter referred to as “Ducroire”) as well as the co-contracting party or parties are referred to hereinafter as “the Contract” and “the debtor”.

Chapter 1

Scope of the insurance

ARTICLE 1 RISKS COVERED

1.1 The Special Terms stipulate, among the following risks, those, which are covered by the policy:

1.1.1 De jure or de facto cancellation of the Contract

De facto cancellation is where the performance of the Contract is interrupted for a six-month period, commencing on the date on which the insured informs Ducroire of the occurrence of risks as described in Article 1.2.3 and necessitating the aforesaid interruption or, in other cases, on the date on which the interruption is imposed by Ducroire, pursuant to Article 5.1.

1.1.2 Non-payment of claims

Non-payment is when there is a failure to recover the sums due under the Contract (including the failure to obtain the transfer of the debtor’s payment to the Grand-Duchy of Luxembourg) within the waiting period for claims defined in Article 1.2.4.

1.2 The Special Terms stipulate, among the following risks, those, which are covered under the policy:

1.2.1 Risks on private debtors

1.2.1.1 - proven insolvency of the debtor, which may be established de jure or de facto

Debtor insolvency is established de jure in the following cases:

- > declaration of bankruptcy,
- > amicable or legal composition,
- > legal decision of the same type as bankruptcy or composition, entailing the suspension of individual proceedings.

Debtor insolvency is established de facto when the insured proves that the debtor’s situation rules out the likelihood of any payment and that the enforced execution or filing for bankruptcy involves the risk of increased loss.

1.2.1.2 - presumed insolvency of the debtor

The debtor is presumed to be insolvent when, having actually taken delivery of goods or services ordered, he has not paid the price, in part or in whole, upon the expiry of the waiting period.

1.2.1.3 - debtor default

Default means that the debtor is unable to honour his obligations or backs out of honouring them for no legitimate reason.

1.2.2 Risk of public debtor default

This risk means that the public debtor is unable to honour his obligations or backs out of honouring them for no legitimate reason.

1.2.3 Political (and similar) risks

These risks cover events occurring abroad other than those related to the risk of debtor default or insolvency, which shall assume the nature of force majeure for the insured or for the debtor, in particular:

- > political happenings such as wars, revolutions or riots;
- > natural disasters such as earthquakes, volcanic eruptions or tidal waves;
- > economic difficulties such as foreign currency shortage;
- > acts, decisions or default on the part of public authorities, which are deemed to constitute government intervention.

Action by the Luxembourg authorities shall, however, be covered in the context of the conducting of international affairs.

Doubtful claims or those of mixed causality are not deemed to have arisen from political risks.

1.2.4 Unless otherwise stipulated in the Special Terms, the waiting period for claims referred to in Article 1.2.2 shall be fixed at six months from maturity.

The period is suppressed if the claim arises from the proven insolvency of the debtor.

If the insurance is limited to political risks and the claim is invoked because of the impossibility of making a transfer, the waiting period for the claim shall not take effect until the moment when the debtor has completed all the acts incumbent upon him for the conversion or transfer of his payments.

**ARTICLE 2
RISKS EXCLUDED**

2.1 No loss shall give rise to indemnity if, besides the causes covered as defined in Article 1, it is attributable to the fault of the insured or of any person for whom the latter is liable (subcontractors, authorised agents, persons acting on his behalf and, where appropriate, associated partners).

2.2 This fault may in particular consist of:

2.2.1 - technical or financial errors in the drafting, evaluation and performance of Contract obligations as well as in the drafting of the Contract proper which would have resulted in losses, even in the absence of a claim;

2.2.2 - the failure to comply with the legislation and regulations in force in the Grand-Duchy of Luxembourg or abroad, with particular regard to the commissions, the licences and formalities required for imports and exports and the transfer and conversion of payments;

- 2.2.3** - unwise exposure to the risk of non-transfer of payments or assets in foreign currency due, in particular, to the fact that local cash funds are maintained in the debtor's country which are out of proportion to the rate or volume of work to be carried out there or to the fact that local expenses are financed by euro or currency transfer, whereas the currency in which such local expenses are paid for could have been used for the purposes of such financing;
- 2.2.4** - the acceptance of contractual provisions which are exorbitant by comparison with international practice and which would impose abnormal restrictions on the rights of the insured in the event of a claim; the fault may, in such cases, consist of penal, cancellation or force majeure clauses abnormally affecting the facts covered or of the acceptance of any doubtful court jurisdiction or arbitration;
- 2.2.5** - the failure to take out policies with qualified companies on the insurance market in respect of goods and persons, as required by responsible international trade practice.

ARTICLE 3

INSURANCE AMOUNT

3.1 The insurance shall cover:

3.1.1 - cancellation risk :

the costs incurred in implementing the Contract from the time of its conclusion;

3.1.2 - non-payment claim :

claims of the insured constituting the principal amount of the Contract and contractual interest on such principal.

If these claims result from credit with a maximum duration of more than one year, they are increased by post-maturity interest due from the debtor under the terms of the Contract during the waiting period for the claim as laid down in Article 1.2.4, save when the insured renounces explicitly in his insurance application.

3.1.3 - extraordinary costs :

extraordinary costs arising from a claim or threat of claim and incurred with Ducroire's approval with a view to preventing or limiting a loss giving rise to indemnity.

If, however, such costs also relate to amounts not insured by Ducroire, they shall be proportionally offset against the amounts insured and uninsured.

3.2 Insurance shall not cover post-maturity interest, except in the case provided for in Article 3.1.2, subparagraph 2, or penalties or damages due from the debtor.

3.3 Foreign incorporations and local expenditure

3.3.1 Local expenditure is included in the insurance amount if declared to Ducroire and expressly approved when its value exceeds 1,250,000 euro or 10 per cent of the Contract amount.

All orders for goods or services other than raw materials which are placed abroad by the insured or his subcontractors, whether directly or through Luxembourg importers, shall be deemed to constitute foreign incorporations.

3.3.2 Local expenditure is included in the insurance amount if declared to Ducroire and expressly approved, irrespective of amount.

Local expenditure means:

- > all expenditure incurred by the insured or the insured's subcontractors in the debtor's country on whatever basis, if essential to the successful performance of the Contract or imposed by the debtor's authorities;
- > any credit granted to the debtor for expenditure financing purposes.

3.4 Alteration of the amount

3.4.1 Increases in the insurance amount which, cumulated, do not exceed 125,000 euro nor 10 per cent of the initial Contract amount shall be automatically sanctioned without the need for the insured to declare them, insofar as they meet the requirements set by Ducroire for the cover of the initial amount, particularly as regards the licences as well as the way of payment and the payment guarantees.

3.4.2 Increases in the insurance amount exceeding 125,000 euro or 10 per cent of the initial Contract amount shall be requested once the need for them becomes apparent. Ducroire shall decide to what extent and under what conditions they may be sanctioned.

ARTICLE 4 EFFECTIVE DATE OF COVER

4.1 Cancellation claim cover shall take effect on the date on which the Contract enters into force.

4.2 Non-payment claim cover shall take effect on the date on which the insured finally fulfils his contractual obligations; where, however, the Contract provides that the goods and services ordered may take the form of part-deliveries, subject to the billing of such part-deliveries at the proper price and to the fixing of explicit due dates therefor, such cover shall take effect on the date on which each such delivery is effected.

Failure to recover amounts due before the date on which non-payment claim cover takes effect shall, however, also confer entitlement to compensation in respect thereof in accordance with the rules (in particular, Article 1.2.4) applicable to such cover, provided that cancellation claims are covered and that Ducroire, invoking the powers conferred on it under Article 5.2, makes it compulsory for the insured to continue to perform the Contract.

ARTICLE 5 POWERS OF DUCROIRE

5.1 Should it have reason to believe that there is a threat of the occurrence of any of the facts referred to in Article 1.2, Ducroire may prescribe any measures, which it deems appropriate to prevent a claim from being filed or to curtail the effects thereof.

5.2 If cancellation claims are covered, it shall, in particular, be entitled to force the insured to suspend manufacture, supplies and performance of the Contract or to continue to perform the latter notwithstanding the occurrence of any of the aforementioned facts.

The consequences of such measures shall give rise to indemnity under the conditions and in the manner as stated in Articles 3, 4.2 subparagraph 2, and 14.

- 5.3** Ducroire may in any case amend, suspend or cancel non-payment claim cover where the latter has not yet taken effect within the meaning of Article 4.2, subparagraph 1.
- 5.4** Where Ducroire has invoked the entitlement referred to in Article 5.3, cover shall extend to the loss arising from the damages, which the insured would be required to settle in the wake of the cancellation imposed by Ducroire. Such loss shall in any case not exceed the amount of the Contract still to be performed.
- 5.5** Where there is no cancellation claim cover, the insured may not invoke Article 5.4 unless the Contract is the subject of a financial credit.
- 5.6** Ducroire may cancel the policy in the following cases:
- > occurrence of an event detrimental to the solvency of the insured, such as an acknowledgement of cessation of payment, petition or writ for bankruptcy or application for a suspension of payment or composition or arrangement with creditors;
 - > cessation or transfer of the insured's business activities.
- Cancellation shall not, however, affect cover in the case of existing risks, subject to the immediate payment of the outstanding premiums under the terms of cover.

ARTICLE 6

GUARANTEED PROPORTION

- 6.1** Losses shall give rise to indemnity for the amount of the guaranteed proportion laid down in the Special Terms.
- 6.2** The insured shall keep for his own account the proportion not guaranteed by Ducroire. Any additional insurance cover and any arrangement infringing such requirement shall be prohibited, under pain of rendering cover null and void.
- 6.3** If however the Contract is the subject of a financial credit, the insured bank shall
- > **under a 98% proportion**
keep for its sole account the non-guaranteed proportion, i.e. 2% of the principal and the interest;
 - > **under a 95% proportion**
keep for its own account a 2 per cent proportion in the case of the credit principal and a 5% proportion in the case of interest. It may carry forward the balance for the exporter.
 - > **under a proportion of less than 95%**
keep for its own account the non-guaranteed proportion exceeding 5% in the case of the credit principal and a 5% proportion in the case of interest. It may carry forward a maximum 5% in the case of the credit principal and the interest for the exporter.

ARTICLE 7 VALIDITY OF INSURANCE

7.1 On applying for a policy, the insured shall have made an exact declaration of all the facts and circumstances known to him, which are likely to lead to an assessment of the risks attaching to the Contract and its economic interest (in particular, the nature and amount of foreign incorporations and local expenditure).

Save where banks enjoy a continuous relationship, the insured shall be particularly required to declare, both prior to the issue of the policy and during the period of cover, all of his current and future claims on the debtor and his guarantor, any securities or guarantees put up or to be put up by the latter and any securities or guarantees obtained or to be obtained from third parties in connection with the Contract.

The insured shall be liable for the description and, possibly, the interpretation of the Contract even if Ducroire has taken sight of the contract documents and has not commented on them.

Any non-disclosure or incorrect declaration by the insured, even in good faith, shall automatically void cover if it leads to a false assessment of the risks attaching to or the economic interest of the Contract, where Ducroire would not have entered into the Contract or would have done so on other terms had more accurate information been available to it. Where, however, the insured demonstrates his good faith, such voiding may be revoked if he agrees to these other terms.

7.2 Similarly, cover shall remain valid only insofar as the terms of the Contract continue to comply with the presentation of them at the time cover is accepted, particularly as regards the amount, delivery periods and terms of payment.

Subject only to the application of the tolerances provided for in Articles 3.4.1 and 9.2, any de jure or de facto amendment to the Contract, which is not approved by Ducroire, shall expose the insured to the risk of cancellation of cover.

7.3 If the Contract provides for or if laws or regulations prescribe the completion, on entering into force or within 60 days thereof, of acts, conditions or formalities such as the settlement of down-payments, the opening or confirmation of irrevocable credits, the application for or the obtention of licences, guarantees or authorisations, the delivery of plans or specifications, the validity of cover shall be subject to the completion of the said acts, conditions and formalities.

7.4 The policy is deemed to have been concluded on the date of issue stated in the Special Terms.

Ducroire shall not be liable if the policy is not returned to it within 30 days of such date, duly bearing the required signatures, or if the Contract has not entered into force within 6 months of the date of the policy's conclusion.

Similarly, Ducroire shall not be liable if any amendments to the policy are not returned to it within 30 days of issuing, duly bearing the required signatures.

7.5 If the cover is limited to the political risks defined in Article 1.2.3, it may not be invoked, unless extended, if the causes giving rise to the claim as provided for in this paragraph fail to produce their effect within 6 months of maturity.

If cover of private debtor risks is limited to proven insolvency, it may not be invoked if such insolvency occurs more than 12 months after maturity. At the request of the insured, however, Ducroire may, subject to an extra premium, agree to extend cover for successive 12-month periods.

Chapter 2

Obligations of the insured

ARTICLE 8

RISK MANAGEMENT

8.1 The insured shall be required to manage the risk with due care and with as much caution and diligence as if he were not insured.

8.2

8.2.1 He shall, without delay:

- > inform Ducroire of any threat of claim and of any event likely to affect the risk, including the events referred to in Article 5.6 indicating any change in his activity or financial situation and
- > consult with Ducroire on any measures to be taken and comply with any instructions given him.

8.2.2 The insured must send at least one reminder to the debtor within 30 days of the due date of the amount totally or partially unpaid.

8.2.3 If the insured is a bank, the obligations provided for in Articles 8.2.1 and 8.2.2 cover both the financial credit insured and the commercial contract to which it relates and the exporter performing it.

8.3 The insured shall authorise Ducroire to exercise all rights deriving from insured claims and, in particular, to initiate any proceedings or to conclude with either the debtor or the authorities in his country any arrangement which Ducroire or the State deems necessary to the protection of insured claims. Any effects arising from the non-guaranteed proportion under article 6 shall be borne by the insured.

Moreover, he shall commit himself to support any consequences of the decisions Ducroire might have to take in the field of the non-guaranteed proportion.

If Ducroire so requests, the insured shall submit to it in a form invocable against third parties, any documents and deeds whatsoever which are essential or useful to the exercising of his rights.

ARTICLE 9

DECLARATIONS OF THE TREND OF THE RISK

9.1 Any declaration of delay must reach Ducroire within 60 days of maturity, unless the Special Terms stipulate a shorter period.

In the absence of any such declaration, the claim is deemed to have been paid.

9.2 Any alterations to the delivery period or any delays in the performance of the Contract which are in excess of 6 months or postpone maturities by more than 3 months shall, under pain of non-invocability against Ducroire and, in particular, the release of the latter from its obligations as from the 91st day from the original maturity dates, be the subject of a declaration within 30 days of the time at which it becomes unlikely that the delivery period previously indicated will be observed.

9.3 In the case of a financial credit, any recourse to the latter shall be declared within 30 days, if necessary by means of the risk declaration forms provided by Ducroire.

ARTICLE 10 SUBCONTRACTING

- 10.1** Any insured having recourse to subcontractors shall, due allowance being made for the size and nature of the orders and, in particular, the fact that they are for goods which cannot be resold or cannot conceivably be resold other than at a serious loss, negotiate clauses enabling him, once there is any threat of a claim, to limit the sums due in the event that the Contract is cancelled.
- 10.2** Subcontractors shall be required to comply as far as possible with the decisions taken by Ducroire pursuant to Article 5 and shall, in the event of cancellation, be obliged to limit their claims in respect of the part not yet delivered by them to the costs incurred in respect of the goods manufactured and supplied by them.

ARTICLE 11 PREMIUM

- 11.1** Conclusion of the insurance policy shall render the insured liable for payment of the premium, the amount of and procedure for settling which are laid down in the Special Terms or in the debit note forwarded to the insured.
- 11.2** The premium shall, in principle, be indivisible.
Only in the following cases shall the premium be refunded:
- > cancellation of insurance except for any criminal deception, fraudulent practice or act of bad faith on the part of the insured;
 - > reduction of the amounts covered or of the duration of risk in the absence of any claim.
- 11.3** Any changes in the amount of cover and terms of payment shall entail a corresponding adjustment to the premium, except in the case of the application of Article 3.4.1 or of changes not referred to in the declaration provided for in article 9.2.
- 11.4** The premium of 1/4 ‰ of the Contract amount, with a minimum of 50.- euro and a maximum of 1,250.- euro, is deemed to cover lump sum remuneration of Ducroire's administrative costs.
The refunds provided for above may not prejudice such remuneration.
- 11.5** Any default in payment of a premium instalment and any application for indemnity shall entitle Ducroire to withdraw the insured's entitlement to benefit from the time limits and deadlines which he might have been granted in respect of premium payment.
- 11.6** There shall be no adjustment to premiums of below 50.- euro except where a material error needs to be corrected.

ARTICLE 12**PENALTIES FOR THE FAILURE BY THE INSURED TO COMPLY WITH HIS OBLIGATIONS**

12.1 The failure to pay all or part of the premium or any sum owed by the insured shall automatically entail the suspension of the obligations of Ducroire.

Without prejudice to its entitlement to sums, which are due to it, Ducroire shall be definitively released from its obligations 15 days after formal notice has been given and ignored.

12.2 Without prejudice to the application of Article 7.1 in the event of an incorrect declaration, any increase in the approved percentage of foreign incorporation or local expenditure shall be authorised by Ducroire. In such a case, the latter shall reserve the right to reduce the guaranteed proportion referred to in the Special Terms by a percentage amount which may be as much as the difference between the approved percentage and the increased percentage. In addition to or instead of such penalty, it may increase the premium by up to 50%.

12.3 Any sums whatsoever owed to Ducroire by the insured shall automatically and without formal notice bear post-maturity interest, the rate of which is determined as follows:

- > with regard to the euro, the three-month EURIBOR increased by 1%;
- > with regard to the other currencies, the three-month interbank rate of the currency concerned as fixed on the London market, increased by 1% (when that rate is not available on the London market, the reference rate shall be that of the main financial centre of the currency concerned).

The rates referred to above shall be determined on the date from which the post-maturity interest runs. They shall be reviewed automatically every 3 months.

Such post-maturity interest shall run from:

- > the date of indemnity, in the case of an undue claim;
- > the 16th day from collection, in the case of recoveries defined in Article 17. Moreover, if the recoveries are payable in foreign currency, the insured shall be required to make good the exchange loss incurred by Ducroire in respect of late payments, incomplete payments and payments in another currency;
- > the 31st day from the debit note day, or, in the absence of a debit note, the date stated in the insurance document, in other cases.

Both post-maturity interest and the sums due against an exchange loss by Ducroire as referred to in this article shall be increased by a flat-rate of 25.- euro to cover the administrative costs incurred by Ducroire through the fault of the insured.

12.4 The insured may forfeit his rights and be obliged to reimburse any indemnity paid to him if, through his own fault, he increases the risk or is in breach of the obligations imposed on him by the policy.

12.5 The insured may forfeit his rights and be obliged to reimburse any indemnity paid to him if he is condemned under a definitive court sentence, pronounced on the basis of penal provisions made to enforce the OECD agreement to fight corruption of foreign civil servants in international transactions, signed in Paris on 17 December 1999.

Ducroire's commitments are automatically suspended in case of legal proceedings started against the insured on the basis of the above provisions.

The insured shall report without delay any proceedings started or any penal condemnation delivered against him.

Chapter 3

Indemnity

ARTICLE 13 GENERAL PRINCIPLES

13.1 Any payment of indemnity shall be subject to an application from the insured and the production by him of any information and documents, which Ducroire deems necessary to the establishment of entitlement to compensation.

If the losses pleaded by the insured are in non-transferable foreign currency, the insured shall furnish proof of the value of such losses in euro.

13.2 If the losses in respect of which the insured applies for compensation relate to disputed entitlement or if the debtor claims the right to any compensation, Ducroire may, before honouring the application for compensation, require the dispute to be settled by decision of the competent court.

If this decision is obtained by default, compensation may be held in abeyance pending its enforcement in the debtor's country.

Ducroire may also suspend compensation pending proof that the claim is allowable against the liabilities of the defaulting debtor in the case of de jure insolvency.

13.3 Without prejudice to the production of information and documents as referred to in article 13.1, any compensation may be subject to an examination of the insured's books to verify his rights, acts and declarations in connection with the claim or to review the loss giving rise to compensation.

13.4 All payments, with the exception of post-maturity interest, shall be allocated to the chronological settling of claims constituting the principal amount and credit interest, whether or not they are insured.

Post-maturity interest:

- > is payable to the party having borne the delay in payment if it relates to paid claims;
- > is allocated giving precedence to the settling of insured claims if it relates to unpaid claims.

However, all payments whatsoever may be allocated giving precedence to the settling of insured claims when:

- > there are signs that the non-insured claims are voluntarily favoured;
- > circumstances indicate that no payment can be expected within a foreseeable period;
- > the insured claims are entered in a current account with the debtor.

ARTICLE 14 LOSS ACCOUNT

Without prejudice to Ducroire's right to indemnify in foreign currency any losses sustained in that currency, loss accounts shall be established in euro as follows:

14.1 Cancellation claims:

14.1.1 - debited, the amount of the costs referred to in Articles 3.1.1 and 3.1.3, including licit commissions paid to specified commercial agents.

Expenditure in respect of the sections of the Contract encompassed by non-payment risk cover within the meaning of Article 4.2, subparagraph 1, may be entered at the invoiced price if it relates to a liquid debt arising from the partial performance of the Contract by the insured.

The costs and losses in connection with the enforcement of bank guarantees issued in favour of the debtor may be entered in the loss account only if such guarantees fall under the specific cover provided for in article 23.

The loss account debit shall not exceed the amount of the Contract, less the expenditure still needed to ensure its performance in full but plus, if necessary, the extraordinary costs referred to in Article 3.1.3 and the amount of the bank guarantees called up.

Insofar as the negotiation documents fail to show that the insured has made every due and responsible effort to comply with the requirements of Article 10, the sums payable to subcontractors for goods not yet supplied by them shall be included in the loss account only up to the amount of the expenditure incurred by the subcontractors themselves at the time manufacture ceased with the agreement or on the instructions of Ducroire. If such expenditure cannot be established from the subcontractors' accounts documents, it shall be evaluated by the expert appointed by Ducroire;

14.1.2 - credited, the amount of payments, dividends and recoveries collected or to be collected by the insured, in particular:

- > the proceeds from the realisation of securities or the resale of goods manufactured and supplied;
- > indemnities of any kind collected or to be collected in connection with the debited costs;
- > claims insured against the risk of non-payment, pursuant to Article 4.2, subparagraph 1;
- > the value of any advantage accruing to the insured from the claim.

14.1.3 If the Contract is negotiated in foreign currency, the following amounts, which shall be entered in the loss account, shall be converted on the basis of the maximum rate laid down in the Special Terms or, failing that, the rate used to calculate the premium: the amount of the Contract, the invoiced amounts referred to in Article 14.1.1, subparagraph 2, and the proportion of payments received or due to be received as referred to in Article 14.1.2 and corresponding to these invoiced amounts.

Furthermore, the loss account may not show the financial consequences of the conclusion of a contract for the forward sale of foreign currency receivable from the Contract.

14.2 Non-payment claims:**14.2.1** - debited:

- > the unpaid amount of the claim increased, in the case provided for in Article 3.1.2, by post-maturity interest due from the debtor on this claim during the waiting period for the claim, it being understood that the rate invocable against Ducroire for the calculation of this interest may not exceed:
 - > for claims in euro, the six-month EURIBOR on the day of the contractual maturity of the unpaid claim;
 - > for other currencies, the six-month interbank rate of the currency concerned as fixed on the London market on the day of the contractual maturity of the unpaid claim;
- > the extraordinary costs as defined in Article 3.1.3;

14.2.2 - credited :

- > any sum collected in connection with the insured claim, in particular following the realisation of securities or resale of recovered goods, and which is not charged against the claim referred to in the debit;
- > the value of any advantages, such as cost savings, accruing to the insured from the claim.

14.2.3 If the currency of the account is other than the euro and if Ducroire chooses to indemnify in euro, it shall convert the unpaid amount of the claim on the basis of the lower of the following two rates known as on the day on which the claim is established:

- > the maximum rate defined in Article 14.1.3;
- > the reference rate of the European Central Bank or, failing such, on the foreign exchange market most normally used for foreign currency conversion.

ARTICLE 15**INDEMNITY CALCULATION AND PAYMENT**

15.1 Indemnity shall be calculated by applying the guaranteed proportion to the loss account debit balance.

It shall be settled within 30 days of the date on which the claim is established, within the meaning of Articles 1.1.1 and 1.1.2 or, if necessary, the date on which proof is produced in accordance with Article 13.

15.2 If the loss cannot be established within 6 months of establishment of the claim through no fault of the insured, Ducroire shall pay a provisional indemnity against the presumed amount.

15.3 If, following his insolvency, contractual provisions, a legal decision or for any other reason, the debtor has forfeited the right to spread payments, Ducroire may still adhere to the original due-dates as the starting point for the compensation period.

If it agrees to regard the claims as due, the saving in financing costs to the insured shall be credited to the loss account provided for in Article 14.2.2.

15.4 Compensation of a claim shall require an irrevocable order, acceptable to the banks having signed the indemnity receipt, to pay any sums recovered directly to Ducroire up to the amount of the indemnified proportion.

ARTICLE 16

SUBROGATION

Under the terms of Article 11 of the law of 24 July 1995, any rights and actions of the insurance beneficiary with regard to the transaction covered shall automatically be assumed by Ducroire, pro rata to the latter's intervention.

ARTICLE 17

RECOVERIES

- 17.1** Recoveries mean any sums recovered after compensation, which come within, where appropriate pursuant to Article 13.4, the definitions given in Article 14 of the establishment of the loss account.
- 17.2** Recoveries shall be shared between Ducroire and the insured without Article 1252 of the Civil Code applying and the share accruing to Ducroire shall be determined on the basis of the indemnified proportion. This share shall be paid to Ducroire in the currency in which sums recovered have been collected.
- 17.3** Sums shall be shared irrespective of the amount of the sums recovered, without regard to, in particular, any exchange losses or gains which would have affected such amount, subject to the following limitations:
- 17.3.1** If the sum recovered concerns an indemnity covering the costs referred to in Articles 3.1.1 and 3.1.3, the entitlement of Ducroire shall be limited to the amount of the indemnity paid out, plus interest at the legal rate from the date of compensation.
- 17.3.2** If all costs giving rise to compensation have been recovered and if the sum recovered is the result of the payment by the debtor of post-maturity interest, the proportion of such interest which may be offset against the period prior to compensation shall revert in full to the insured. This does not, however, apply if the post-maturity interest is covered on the basis of Article 3.1.2. In this case, any post-maturity interest recovered is divided between Ducroire and the insured on the basis of the proportion of compensation of the claim to which this post-maturity interest relates.

Chapter 4

Miscellaneous provisions

ARTICLE 18

TRANSFER OF THE INDEMNITY ENTITLEMENTS

18.1 Insurance cover may be assigned to a third party with the agreement of Ducroire.

This agreement shall take the form of an endorsement to the policy signed by Ducroire, the insured and the assignee.

18.2 Such transfer shall, without releasing the insured from any of his obligations, render the transferee jointly and severally liable with the insured in respect of the fulfilment of the risk management obligations provided for under Articles 8 and 9, to the extent of his powers of control and action.

18.3 Any exceptions which may be invoked by Ducroire against the insured shall be invocable against the assignee.

18.4 If the assignee is also the bank opening or confirming an irrevocable documentary letter of credit in favour of the insured, assignment shall not cover indemnity resulting from the failure of the assignee to comply with the obligations incumbent upon him under the documentary credit.

ARTICLE 19

AUDITING AND EXPERT OPINION

19.1 Any declarations by the insured regarding, in particular, foreign incorporations, together with the honouring by him of the obligations imposed on him under the policy, may give rise at any time to an audit of or expert opinion on his books.

19.2 Such audit and expert opinion, together with the examination provided for in Article 13.3, shall be carried out by a representative of Ducroire or by an expert designated by the latter.

19.3 If, in the latter case, the insured disagrees with Ducroire's choice, he shall be entitled, provided that he does so without delay, to ask that the expert be appointed by the President of the Luxembourg Commercial Court.

ARTICLE 20

BARRING BY LAPSE OF TIME

Any action for payment of an indemnity resulting from the terms of cover shall be barred after the lapse of 180 days from the date on which Ducroire indicated its refusal to pay, and at the latest 3 years after the expiry of the insured claim.

ARTICLE 21

GOVERNING LAW

Any dispute relating to the construction, validity or performance of the policy or in connection herewith shall be governed by and construed in accordance with the laws of Grand-Duchy of Luxembourg.

ARTICLE 22

JURISDICTION

22.1 Mediation

In the event of any dispute arising out of, relating to, or in connection with the policy that the parties, acting in good faith, have been unable to resolve within forty-five (45) calendar days after that dispute arises, the senior managements of the parties shall meet in a good faith effort to resolve that dispute. The senior managements of the parties shall then have thirty (30) calendar days to resolve the dispute. Any dispute unresolved at the end of such thirty (30) calendar days period shall be submitted to arbitration pursuant to the Article 22.2 below.

In the event that such dispute exclusively relates to the indemnity calculation, pursuant to Chapter 3, the parties may have such calculation determined - in accordance with the terms of these general terms - by an independent expert, explicitly agreed on in writing by both parties. The independent expert's calculation shall be final and binding. The independent expert's fees and costs shall be born equally by the parties. Should the parties fail to agree on the appointment of the independent expert, the dispute shall be submitted to arbitration pursuant to the Article 22.2 below.

22.2 Arbitration

Without prejudice to Article 22.1 above, any dispute arising out of, relating to, or in connection with the policy shall be exclusively and finally settled under the Chamber of commerce of the Grand-Duchy of Luxembourg's Rules of Arbitration by three (3) arbitrators appointed in accordance with those rules. The seat of the arbitration shall be Luxembourg. The arbitration shall be conducted in the language of the policy.

ARTICLE 23

SPECIAL TERMS

The following Articles lay out provisions specific to certain special forms of insurance.

Articles 1 to 22 shall apply thereto, except where such specific provisions derogate there from or are supplementary thereto.

Chapter 5

Bank guarantee cover

ARTICLE 24

Where the Special Terms so state, cover shall apply to bank guarantees issued by order and for the account of the insured in favour of the debtor.

24.1 The risks covered shall be the calling in of the guarantee due to an illegal act by the debtor with regard to the Contract, or to one of the political (or similar) risks listed in Article 1.2.3 of the General Terms.

24.2 Cover shall take effect on the later of the following two dates: the date of entry into force of the guarantee or the date of entry into force of the Contract. The claim shall be established on the day on which the insured is debited by the bank having put up or counter-endorsed the bank guarantee called in by the debtor.

24.3 Cover shall automatically cease on the date referred to in the Special Policy Terms.

Dueroire may consider extending cover beyond this date only if such extension has been requested from the time when the need for it first became apparent. Dueroire shall decide to what extent and how such extension may be granted, in particular from the point of view of the premium.

24.4 Cover in foreign exchange may be granted for bank guarantees in freely transferable foreign currency.

For this cover Dueroire shall have the option to indemnify in either:

- > foreign exchange or;
- > euro, by converting the amount claimed on the basis of the rate at which the exporter has been debited.

Chapter 6

Cover for contracting equipment

ARTICLE 25

Where the Special Terms so state, cover shall apply to contracting equipment.

Such cover shall be bound by the following rules:

25.1 The risks covered shall be total or partial destruction or loss of possession, including the impossibility of removing such equipment from the country in which the work is being carried out, provided that the claim is attributable to one of the risks listed in Article 1.2.3 of the General Terms.

25.2 Cover shall extend, within the limits of the cover period agreed to by Ducroire, from shipment to the country in which the work is being carried out to repatriation in Luxembourg or, if necessary, local resale or arrival in an agreed country for the purposes of resale or other work.

It shall extend to the equipment stipulated in the Special Terms, within the limits of the value of such equipment at the various stages of contract completion as indicated in the said terms, it being understood that such indication shall not imply Ducroire's approval.

25.3

25.3.1 The waiting period for claims shall be set at 6 months.

25.3.2 The loss account shall be established in euro, as follows:

- debited: the value of the equipment at the time of the claim, taking into account equipment wear and tear and obsolescence as established by an expert opinion in accordance with Article 19 of the General Terms, provided that it does not exceed the insured value as defined in Article 25.2 above;

- credited:

- > all sums collected or to be collected by the insured in connection with the equipment damaged, such as financing obtained from the contracting authority for the purposes of its procurement or by virtue of its uses for the work to be carried out, indemnities of any kind obtained or to be obtained from other insurances, responsible third parties or public authorities;
- > the residual value of the damaged equipment still in the insured's possession.

25.3.3 In the event of a part claim, the proportional rule shall apply with under- insurance.

25.4 Whenever the insured does not take back equipment recovered following a claim, he shall make every endeavour to realize it on the best possible terms. For a period of 12 months after compensation, Ducroire may compel the insured to take back recovered equipment for a value, which is calculated on the basis of the same rules as those applied at the time of compensation.