

Pre-financing Insurance

General Insurance Terms (PI-2024-03)

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INTRODUCTION

This version is a free translation of the French version. Only the French version prevails and is legally binding.

The Office du Ducroire (hereafter referred to as “ODL”) is a public institution established in 1961 and governed by the law of the 04th of December 2019 relating to the Office du Ducroire Luxembourg, with its head office located at 65, rue d'Eich L-1461 Luxembourg and registered in the Luxembourg Trade and Companies Register under the number J66.

ODL is not an insurance company according to the amended law of the 07th of December 2015 on the insurance sector and is thus not subject to the supervision of the Insurance Commission.

The General Insurance Terms govern the relationship between ODL and its Insured, hereafter referred to as, the Insured.

The General Insurance Terms, together with the Special Terms and all related amendments establish the insurance Policy (the Policy). By concluding the Policy, ODL commits to cover the Insured. In case of a discrepancy between the General Insurance Terms and the Special Terms, the Special Terms prevail over the General Insurance Terms.

The Policy is not subject to the amended law of the 27th of July 1997 concerning insurance contracts.

The Policy is based on the description of the risk and the information provided by the Insured particularly through the insurance application.

Before the conclusion of the insurance contract ('the Contract'), ODL may undertake provisional cover by issuing an **offer of cover**.

The words written in italics and in bold can be found in the glossary.

In these General Insurance Terms, a reference to a defined term written in singular, whilst the definition of the term is written in plural, is to be understood as the same term and as a reference to any of the components of the term defined in plural, and vice versa.

CHAPTER I

INSURANCE SCOPE

ARTICLE 1

Covered causes of loss

The Special Terms stipulate, among the following causes of **loss**, those, which are covered by the Policy as stated in article 3 of the General Insurance Terms:

1.1. Political events and **acts of force majeure**: Political events and **acts of force majeure** imply all events occurring abroad, other than those relating to the risk of **debtor** default, which are an **act of force majeure** for the Insured or for **the debtor**,

- > all violent acts such as war, civil war, revolutions, insurgencies, civil unrest, acts of sabotage, coup d'état or acts of terrorism carried out by a person or a group of people, acting on behalf of an organisation, a government or in association with a person or a group acting for political, religious, ideological or similar purposes
- > all acts, decisions or omissions deriving from a public authority, such as the enforcement of an embargo, of economic sanctions or state emergency or confinement measures, which are caused by the conduct of international affairs
- > economic difficulties such as foreign currency shortage or failure to convert or transfer currency outside the **debtor's** country
- > natural disasters such as earthquakes, volcanic eruptions or tidal waves
- > epidemics, pandemics, or any public health crises recognised by the World Health Organisation.

1.2. **Debtor** default

Debtor default implies the **debtor's** failure to fulfil their obligations:

- > as a result of their **proven insolvency**
- > or without a legitimate reason accepted by the Insured.

Losses that may be caused by both political events and **acts of force majeure** and by **debtor** default are attributed to the **debtor's** default.

ARTICLE 2

Excluded causes of loss

No **loss** is subject to **compensation** and any indemnity paid by ODL, including default interest as stated in article 11 starting of the date of indemnification, shall be reimbursed to ODL if the **loss** is fully or partially caused by the following failures and if these are causally related to the occurrence of the claim:

- > fault on behalf of the Insured or any person for whom they are responsible (subcontractors, agents, officials and where applicable associates), such as errors made from a technical or financial point of view, in the design, the evaluation and the adherence towards the obligations of the Contract as well as its drafting
- > a breach of their obligations under the Contract
- > a breach of their obligations under their Policy, such as failure to act at all times with caution and diligence in a way as if they were uninsured
- > 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
- > conviction of the Insured for illegal or criminal activities in particular relating to regulations governing the fight against corruption, money laundering, financing of terrorism and fraudulent practices
- > accepting exorbitant contractual provisions, which are not conform to international practices and which would exceptionally restrict the Insured's rights in the event of a claim.
- > insolvency of the Insured to the extent that they are unable to perform their obligations under the insured Contract.

ARTICLE 3

Covered risks

- 3.1. The covered risk is that of non-repayment of the **Pre-financing** that the Insured paid to the **debtor** for the delivery of goods and/or

provision of services to the Insured by the **debtor**.

- 3.2. Non-repayment of the **Pre-financing** occurs when:
- > the delivery of goods and/or the provision of services has not taken place and
 - > the Insured fails to recover the claims occurring due to the Contract before the end of the **claims waiting period**.
- 3.3. The non-repayment of the **Pre-financing** must be caused by:
- > political events or **acts of force majeure** or
 - > **debtor** default.

ARTICLE 4

Excluded risks

4.1. Documentary risk

ODL is not responsible for contractual documentation, particularly those relating to the Contract and securities. Thus, the validity and description of the Contract provided by the Insured, and any interpretation they may associate with it, is their sole responsibility, even if ODL has obtained communication of the contractual documents or has made certain observations about them.

ARTICLE 5

Insurance scope and effectiveness

- 5.1. The insurance against the risk of non-repayment of the **Pre-financing** covers the amount of the **Pre-financing** paid by the Insured to the **debtor** from the effective date of payment.
- 5.2. The insurance for the risk of non-repayment does not cover:
- > the premium paid by the Insured under the Policy
 - > the contractual interests
 - > the late payment that is due and payable under the Contract
 - > the penalties
 - > the damages and interests

- > the commissions (including bank commissions)
- > the taxes
- > the financial consequences related to any other contract completed by the Insured to limit their exposure to risks, such as, particularly, a contract covering (hedging) interest rate fluctuations, exchange rates, or commodity prices.

5.3. The insurance against the risk of non-repayment of the **Pre-financing** takes effect on the date when the Insured has paid the **Pre-financing** to the **debtor**, to the extent that the Insured has a **certain, of a fixed amount and due claim** to the **debtor** and their possible guarantor(s).

ARTICLE 6

Duration and validity of the Policy

6.1. Duration of the Policy

6.1.1. The Policy is concluded on the issuing date indicated in the Special Terms.

6.1.2. The Insured is obliged to request the issuance of a Policy within thirty (30) calendar days from the conclusion of the Contract. In the event of a claim, whilst the Policy is pending issuance and the premium has been paid, the **offer of cover** will generate temporary cover subject to the General Terms.

6.1.3. If the Policy does not end up being issued, the cover does not apply to any causes of **loss** occurring during the temporary coverage period.

6.1.4. The Policy is terminated immediately and automatically if:

- > within thirty (30) calendar days from the issuing date, the Special Terms are not returned and signed by the insurance applicant
- > the Contract has not entered into force within six (6) months of the conclusion of the Policy
- > any conditions precedent to the entry into force of the Policy have not been lifted within 6 months from that date

- > the extinction of the covered risks
- > the Insured ceases to exist.

Similarly, amendments to the Policy cease to be binding for ODL, if within thirty (30) days of their issuance, they are not returned to ODL with the required signatures.

6.2. Validity of the Policy

6.2.1. The Policy is valid once the Insured has fulfilled their obligations, as stated in Article 13 and in particular to the **acts, conditions and formalities**, which are stipulated in the legislation or regulations valid from the time when the Contract enters into force or within 60 calendars days of this entry into force.

6.2.2. If the commitment of a guarantor acting alongside the **debtor** is a condition of the insurance, it is necessary for the transaction to be legitimately insured that the **loss** is **certain of a fixed amount and due** on behalf of the **debtor** and the guarantor, and that the cause of claim is established both for the **debtor** and their guarantor.

ARTICLE 7

Chronological allocation

7.1. All payments made by the **debtor**, except late payment interest, are allocated chronologically to **certain, of a fixed amount and due claims**, whether or not they are insured.

If a **certain, of a fixed amount and due** uninsured claim has the same due date as an insured claim, any payment made by the **debtor** will be allocated proportionally between these claims.

7.2. Late payment interest paid by the **debtor**:

- > are, first allocated chronologically to the insured claims if they remain fully or partially unpaid
- > are then acquired by the party who incurred the late payment.

ARTICLE 8

Transfer of rights under the Policy

8.1. The Policy is an *intuitu personae* contract. The rights of the Insured to the **beneficiary** are not to be transferred under the Policy without prior written consent of ODL. This must be documented in an amendment to the Policy.

8.2. Any **compensation** under the Policy to the **beneficiary** shall be made in accordance with Article 21. If the **beneficiary** has no rights towards the Policy because they were reimbursed before the end of the **claims waiting period**, no **compensation** will be paid to them.

8.3. The existence of a **beneficiary** mentioned in the Policy or in an amendment should not be interpreted as a separate agreement between ODL and the **beneficiary**, but in turn as a simple recognition of a **beneficiary** by the Insured to receive indemnification in case of a **loss** covered by the Policy. It is understood and agreed that the **beneficiary** has no right to file or pursue a claim for **compensation** and has no rights under the Policy.

8.4. A **beneficiary** may only be removed from the Policy or an amendment after ODL receives written instructions from the Insured and the **beneficiary**.

- the Insured to solve the stated breach within 30 calendar days, (b) reducing the cover of the Policy (e.g. by reducing the **percentage of cover** or, (c) increase the premium
- > in case of the 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
- > any breaches or misrepresentation from the Insured, even without acting in bad faith, which distorts ODL's assessment of risks in such was that the latter, would not have issued the Policy under the same terms and conditions. ODL will nevertheless retain the premium, unless the Insured demonstrates that they acted in good faith.
- > Proven breach of the Insured's legal, regulatory or contractual obligations.

9.2. The termination will be conveyed through registered letter via post. Apart from the cases above, termination will only take effect on expiry of a minimum period of one month from the day following the posting, without, however, affecting the cover of risks that occurred prior to the effective date of termination. If the Policy is terminated for any reason whatsoever, premiums paid in the insurance period after the effective date of termination shall be refunded within thirty (30) days of the effective date of termination. After this period, legal interest for payment start to accrue automatically.

CHAPTER II

ODL'S POWERS

ARTICLE 9

Termination of the Policy

9.1. ODL may terminate the Policy in the following cases:

- > if the premium remains unpaid as specified in Article 15.2.
- > in case of the Insured's **proven insolvency**
- > in case of a breach by the Insured of their obligations towards the Policy, being linked to the occurrence of a claim, taking into account, that ODL may instead of terminating the Policy and depending on the nature and seriousness of the breach, (a) authorise

ARTICLE 10

Request for reimbursement of any indemnity paid

ODL may claim reimbursement from the Insured of any indemnity paid, plus interest as per article 11. from date of **compensation**, in the following cases:

- > if, after the indemnity has already been paid, ODL receives information indicating that the Insured was not entitled to the indemnity under the Policy

- > in the event of termination of the Policy due to a serious breach of the Insured's obligations under the Policy, which is linked to the occurrence of a claim.

ARTICLE 11

Default interest due under the Policy

11.1. Any amount due by the Insured under the Policy and not paid within thirty (30) calendar days of its due date shall automatically bear and without formal notice, default interest from the due date until the date of full and effective payment, at the following rate:

- > For payments in euros: at the 3- months Euribor rate plus 1% or, in absence of a Euribor rate, at the reference rate commonly used by leading European banks to grant loans in euros plus 1 %
- > For payments in any other currency at the applicable 3-months SOFR rate plus 1% or, in the absence of an SOFR rate, at the reference rate commonly used by leading international banks to grant loans in the currency concerned plus 1%.

11.2. If the Euribor, SOFR or any other reference rate becomes negative, the default interest rate will be equal to 1% per annum.

ARTICLE 12

Control and audit

Any declaration by the Insured, any claim for **compensation** and any document produced by the Insured may at any given time give rise to a control or audit by ODL.

This control or audit is carried out by an ODL representative or by an expert chosen by ODL.

CHAPTER III

RIGHTS AND OBLIGATIONS OF THE INSURED

ARTICLE 13

Obligation to provide information

13.1. Obligation to provide information relating to insurance application data, modifications to the Contract.

13.1.1. At the time of application for insurance, the Insured is obliged to declare accurately and completely:

- > all elements subject to the cover, such as facts and circumstances known to them and likely to influence ODL's assessment of the risks of the Contract to be insured
- > all **acts, conditions and formalities** to be carried out on or after the Contract comes into force.
- > any security or guarantee obtained from third parties relating to the Contract.

The Insured makes sure to keep ODL informed of the entry into force of the Contract and of the implementation of **acts, conditions and formalities** following the entry into force of the Contract.

13.1.2. Throughout the duration of the Policy, the Insured is obliged to declare to ODL, at least within thirty (30) calendar days, any modification related to the Contract that could influence the risk, such as a modification in the amount of the premium, delivery or performance deadlines or payment terms.

Any change to the Contract must be approved by ODL in advance. If ODL decides to insure a change under the Policy, it will determine to what extent, under what conditions and at what premium rate it may be insured. Any change that ODL agrees to insure must be documented in an amendment to the Policy.

13.2. Obligation to provide information on changes in risk

13.2.1. Throughout the duration of the Policy, the Insured must inform ODL of the following:

- > each non-delivery of goods and/or non-provision of services by the **debtor** within fifteen (15) days following the date provided for in the Contract for the delivery of goods and/or the provision of services by the **debtor**. In the absence of such a declaration, the debt is deemed to have been paid and ODL is no longer required to cover the related risks
- > without delay, of all the facts and circumstances known to him which are likely to degrade the financial situation of the **debtor** or to constitute a threat of **loss**
- > without delay, any worsening in its own financial situation, any event which undermines its solvency such as acknowledgement of cessation of payment, petition or writ for bankruptcy or application for a suspension of payment or composition or arrangement with creditors
- > without delay, the cessation or the withdrawal of the business permit of the Insured's and **debtor's** business.

13.2.2. Additionally, the Insured declares:

- > any additional security or guarantee obtained from third parties in connection with the Contract
- > all its claims against the **debtor** and all collaterals or guarantees granted by the **debtor** which are not related to the Contract.

13.2.3. The Insured shall apply the credit terms for the duration as set out in the 'Payment Terms' article of the Special Conditions, which are the maximum periods that the Insured may grant to the **debtor** for the delivery of goods and/or the provision of services by the **debtor** to the Insured and commence on the date on which the Insured has paid **Pre-financing** to the **debtor**.

13.3. Obligation to disclose information relating to corruption, money laundering and the financing of terrorism and fraudulent activities.

13.3.1. The Insured is obliged to declare to ODL without delay any alleged violation based

on credible evidence, in particular in case of an initiation of legal proceedings against the Insured or any equivalent measures in the applicable regulations to combat corruption, money laundering, the financing of terrorism or fraudulent practices.

13.3.2. If this breach is related to the Contract, ODL will automatically suspend its obligations towards the Insured.

13.4. Obligation to provide information relating to any other insurance.

13.4.1. The Insured shall inform ODL immediately of the existence of any other insurance Policy covering a **loss**.

13.4.2. If the Insured has concluded an additional insurance Policy, no **compensation** will be due under the Policy for the mentioned **loss** if it is insured under this other insurance Policy. However, if the latter only partially insures the **loss**, ODL will apply a rule of proportionality.

ARTICLE 14

Risk management

14.1. The Insured must manage the risk with due diligence, with as much prudence and responsibility as if they were not insured.

14.2. The Insured must refrain from any action or measure likely to interfere with ODL's rights.

14.3. In the event of a threat of claim, the Insured shall do everything reasonably possible and by all legal or contractual means, in accordance with the usual practices of the business sector, to avoid or reduce the **loss** and to obtain **compensation** for the **loss**.

14.4. The Insured shall comply with the provisions relating to the resolution of disputes provided for in the Contract and shall take all reasonable steps to pursue and preserve all administrative or judicial remedies that may reasonably be available for the resolution of such disputes, and insofar as the Insured has control over them.

ARTICLE 15

Calculation and payment of the premium

- 15.1. The conclusion of the Policy makes the Insured liable for the premium, according to the calculation, amount and payment terms stated in the Specific Terms or in the invoice sent to the Insured.
- 15.2. If all or only part of the premium is not paid within ten days of the due date, and regardless of ODL's right to take legal action to enforce the Policy, ODL has the right to suspend cover after thirty (30) days following the dispatch of a registered letter to the Insured's latest known address. Thus, without prejudice to article 9.1, point 1, no **loss** occurring during a period during which a premium due and payable remains unpaid will thus be covered.
- 15.3. The premium is indivisible and remains acquired by ODL.

The only cases of reimbursement are the following:

- > cancellation of the Policy in absence of any deceit, fraud or bad faith on the part of the Insured
- > reduction, in the absence of any claim, of the amounts covered or the duration of the risk resulting from a contractual amendment immediately recorded and notified to ODL at the time of the amendment.

There is no premium adjustment if the latter is below €100.

ARTICLE 16

Risk retention

The Insured retains sole responsibility for the uninsured portion, i.e., the percentage not covered under the Policy.

ARTICLE 17

Suspension of the Policy

ODL has the right to suspend the Policy if it is aware, suspects or has reasonable grounds to suspect that money laundering, an associated underlying offence, terrorist financing or a breach of international financial restrictive measures are taking place, took place or were attempted by the Insured, in particular because of their person, their development, the origin of the assets, the nature, the purpose or the terms of the concerned transaction.

CHAPTER IV

COMPENSATION AND RECOVERY

ARTICLE 18

General principles

- 18.1. ODL will compensate the Insured for any **loss** in accordance with this Article and subject to compliance with all other terms under the Policy.
- 18.2. Any decision by ODL regarding the Insured's entitlement to **compensation** is subject to:
- > receipt of a written request from the Insured
 - > the immediate submission of all information and documents reasonably deemed necessary by ODL to prove the right to **compensation**. In addition, the Insured must promptly respond to requests to determine the circumstances and the extent of the **loss**
 - > the establishment of a loss account by type of risk according to Article 19.3.

ODL will decide on the Insured's right to **compensation** within thirty (30) calendar days of receiving all the information listed above.

- 18.3. Any indemnity paid by ODL will be up to the **percentage of cover**.

18.4. Unless otherwise stated, the loss account is drawn up in euros and ODL will indemnify the Insured in euros.

18.5. Unless the **loss** is not caused exclusively by political events or **acts of force majeure**, ODL may suspend the Insured's right to **compensation** if the **loss** for which the Insured is claiming **compensation** corresponds to the rights which are disputed or if the **debtor** claims to be entitled to perform any set-off of any sort. This right to **compensation** must remain suspended until such dispute or such set-off has been resolved by decision of the judge of the Contract which is no longer subject to appeal, having understood that the decision of the judge of the Contract will have to conclude that the non-repayment of the Pre-financing is the consequence of **debtor** default and that any **compensation** claimed is not justified on behalf of the **debtor**; in this case, the **compensation** by ODL will be calculated in accordance with Article 19.3.

If a decision of the judge of the Contract has been obtained by default, ODL may require that this decision ought to be enforced in the **debtor's** country before Accepting the request for **compensation**.

18.6. The indemnity paid by ODL to the Insured may not become a source of enrichment for the latter beyond the benefit it derives from the partial performance of the Contract. ODL may therefore establish different loss accounts and offset their respective balances.

ARTICLE 19

Calculation of the compensation

19.1. When a claim occurs, the indemnifiable **loss** is equal to the multiplication of the debit balance of the loss account and the **guaranteed percentage**.

19.2. The loss account will be drawn up in euros.

If amounts that are to be recorded in the loss account are denominated in a foreign currency, they will be converted into euros at the **reference conversion rate** in force on the day on which they were incurred or received.

19.3. The balance of the loss account is drawn up as follows:

Debited:

> the amount of pre-financing to be repaid.

Credited:

> the amount of payments, dividends, **recoveries**, or damages relating to the insured Contract

> the revenue from the enforcement of collateral or the value of any goods delivered and/or services received

> the value of any benefit that the cancellation of the Contract has provided to the Insured.

19.4. The debit of the loss account will be capped at the amount of the Contract.

ARTICLE 20

Compensation of recovery fees

20.1. The Insured may request **compensation**, up to the **percentage of cover**, for the recovery fees they have incurred.

20.2. The total amount of the recovery fees that may be subject to **compensation** shall be capped at 20% of the debit of the loss account.

20.3. Recovery fees are those fees, incurred with prior written approval from ODL, which are outside the normal performance of the Contract and which:

- > are consecutive to the occurrence of a covered risk or the threat of such a risk; or
- > are intended to avoid or limit a **loss** or to maximise the **recoveries** referred to in Article 24.

If the recovery fees also relate to amounts not insured by ODL, they will be proportionally allocated to the insured and non-insured amounts.

20.4. However, recovery fees do not include:

- > costs incurred to preserve security or to protest unpaid bills of exchange
- > the Insured's operating costs

- > Costs incurred by the Insured, including legal costs, to establish their right to **compensation**, such as in particular the costs incurred by the Insured to resolve any dispute as referred to in Article 18.5.
- > taxes and bank commission.

20.5. If the recovery fees have been incurred in a foreign currency, ODL may decide to compensate these costs:

- > in the relevant foreign currency or
- > in euro, by converting the foreign currency into euro at the **reference conversion rate** in force on the day of expiry of the **claims waiting period**.

ARTICLE 21

Payment of the indemnity

21.1. The indemnity will be paid within thirty (30) calendar days from the date that ODL ruled on the Insured's right to **compensation**, provided that the applicable **claims waiting period** has expired and that ODL has received in return a completed and signed copy of the indemnity receipt, which sets out the amount and conditions of payment of the indemnity.

21.2. If the claim resulting from the Contract becomes immediately due and payable (loss of the benefit of the term for the **debtor**) due to **proven insolvency**, contractual provisions, a court decision or for any other reason, ODL may decide to compensate the insured:

- > in instalments based on the original repayment schedule of the Contract
- > or in a single accelerated payment up to the amount of the debt owed to the **debtor** following the **loss** of the benefit of the term, having understood that the **compensation** thus accelerated shall be capped at the principle amount, plus accrued credit interest, unpaid on the day on which the **debtor** lost the benefit of the term.

21.3. Unless otherwise agreed between the insured and ODL, if the insured debt is rescheduled or restructured in order to avoid the occurrence of a covered risk or to limit a **loss**, any **compensation** by ODL

shall be paid based on the original maturities of the Contract.

21.4. ODL reserves the right to suspend the Policy if it is aware, suspects or has reasonable grounds to suspect that money laundering, an associated underlying offence, terrorist financing or a breach of international financial restrictive measures are taking place, took place or was attempted by the Insured, in particular because of their person, their development, the origin of the assets, the nature, the purpose or the terms of the concerned transaction.

21.5. At no moment of time can ODL be asked to make any form of payment if, by doing so, ODL would violate its legal or regulatory obligations.

21.6. In the event of conviction of the Insured for violation of its legal and regulatory obligations, the Insured undertakes to reimburse ODL for all indemnities, all fees and costs borne by ODL, also including the recovery fees paid under Article 20.2.

ARTICLE 22

Subrogation

Concurrently with the payment of any **compensation**, ODL, according to article 7(3) of the law of the 4th of December 2019, is automatically subrogated in all the rights and actions of the Insured in regards to the Contract to the extent of its effective intervention.

The Insured is obliged, at the request of ODL, to provide it in a way that is enforceable against third parties with all documents, claims and titles of any kind necessary or useful for the exercise of its rights.

ARTICLE 23

Statute of limitations

All rights or actions of the Insured relating to a request for **compensation** shall be barred at the earliest date of:

- > the expiry of a period of 180 calendar days from the date on which ODL notified the Insured of its refusal to pay the indemnity

- > the expiry of a period of 3 years from the moment the covered risk occurred.

The limitation period does not run against the Insured who finds themselves, due to an event of **force majeure**, unable to act within the above defined time limits.

ARTICLE 24

Recoveries

- 24.1. **Recoveries** shall be assigned according to the **chronological allocation** rules as set out in Article 7.
- 24.2. Notwithstanding to Article 1252 of the civil code, **recoveries** are shared between ODL and the Insured, and ODL's share is determined based on the **percentage of indemnity**.
- 24.3. The Insured is obliged to inform ODL immediately of any **recoveries** received after **compensation** and the Insured must pay its share within thirty (30) calendar days following the receipt of the invoice drawn up by ODL. **Recoveries** must be paid to ODL in the currency which the Insured received without taking into account any **losses** or gains through exchange rate which would have influenced this amount and bank fees. The Insured must exclusively take on the costs relating to tax and exchange rate **losses** suffered by ODL due to any late payments.
- 24.4. If requested, the Insured must transfer the already received rights relating to non-pecuniary **recoveries** to ODL. ODL will decide on the implementation of the rights relation to non-pecuniary **recoveries**.

CHAPTER V

MISCELLANEOUS

ARTICLE 25

Confidentiality

The Policy and its amendments are confidential. They cannot be communicated to third parties by the Insured without prior written consent from ODL.

However, the Insured has the right to disclose confidential information:

- > If it is accessible to the public, provided that the publication did not result from a violation of the Insured's obligation of confidentiality
- > Under any legislation or regulation in force
- > If the necessary information is strictly needed for the Policy, to their employees, administrators, agents and service providers which are also required to respect the obligation of confidentiality.

ODL and the Insured adhere throughout the contractual relationship to the GDPR and any other existing national and European legislation or regulations concerning confidentiality and the protection of personal data.

ODL's GDPR policy is available on its website: <https://odl.lu/en/privacy-policy/>

ARTICLE 26

Applicable law

Any dispute concerning or connected to the interpretation, validity or implementation of the Policy will be governed by Luxembourgish law.

ARTICLE 27

Jurisdiction

27.1. Mediation

- 27.1.1. In the event of any dispute arising out of, relating to, or in connection with the Policy, that has been notified by one party to the other, and which both parties have not been able to resolve in good faith within 45 calendar days from the date of sending

notice, the management of both parties must meet in order to attempt to resolve the disagreement. The management of both parties will then have 30 calendar days to resolve the dispute. Any unresolved dispute after these 30 calendar days must be submitted to arbitration in accordance with the below Article, 27.2.

27.1.2. In the event that the dispute revolves solely around the calculation of the **compensation**, as stated in chapter 4, both parties may have an independent expert, expressly accepted in writing by both parties, to determine the calculation in accordance with these general terms. The calculation carried out by the independent expert will be final and binding. The payment and costs of the independent expert will be carried equally by both parties. If the parties cannot agree on appointing an independent expert, the dispute will be submitted to arbitration as stated in the below Article 27.2.

27.2. Arbitration

Without prejudice to the above Article 27.1, any dispute resulting from or connected to the Policy must be settled in accordance with the arbitration rules of the Arbitration Centre of the Chamber of Commerce of the Grand Duchy of Luxembourg by three arbitrators appointed according to these regulations. The arbitration will take place in Luxembourg. The procedure will be carried out in the language used in the Policy.

Without prejudice to any other clause, both parties can request the Luxembourg courts for any provisional or protective measures in a summary proceeding, in accordance with article 1227- 4 of the new code of civil procedure.

GLOSSARY :

Acts, conditions and formalities: This include but are not limited to, advance payments, opening and confirmation of irrevocable letters of credit, receiving financing, application for licenses, permits, guarantees or authorisation and supply of plans and specifications.

Acts of force majeure: all unforeseeable, untouchable, and independent events or circumstances beyond the control of the Insured or the **debtor**, making it impossible to fulfil an obligation under the Contract.

Beneficiary: implies a third party appointed by the Insured at the time the Policy is issued or subsequently as part of an amendment to the Policy, in order to receive, at the end of the **claims waiting period**, the amount of the indemnity resulting from a **loss** determined by ODL to be eligible for **compensation**.

Certain, of a fixed amount and due claim: A certain claim is a claim whose current and incontestable existence is established. It is qualified as having a fixed amount if its amount is determined or at least is capable of a provisional estimate. To be due, the claim must already be due so that the creditor is able to request immediate payment from the **debtor**.

Chronological allocation: any payment made by the **debtor** is prioritised with the oldest unpaid due date.

Claims waiting period: The period indicated in the Special Terms and the end of which the risk of non-repayment of the **Pre-shipment Insurance** is considered indemnifiable.

Unless otherwise indicated in the Special Terms, the period is set at 3 months and takes effect on the date when the **debtor** must repay the **Pre-financing**.

Compensation: The payment of indemnity by ODL to the Insured or the **beneficiary** under the Policy.

Debtor: The person, entity and / or where appropriate, the guarantor, obliged to meet a requirement towards the Insured as stated in the Special Terms.

Loss: All **loss**, that the Insured endured because of a covered risk and for which the Insured is eligible for **compensation** under the Policy.

Offer of cover: The **offer of cover** is a commitment made by ODL to insure the future

Contract that it describes, provided that the Insured has requested the issuance of a Policy within 30 calendar days of the conclusion of the Contract.

Percentage of cover: Implies the percentage of cover stated in the Special Terms.

Percentage of indemnity: Implies the ratio, expressed as a percentage, of the indemnity paid by ODL to the total loss amount referring to the same **compensation**.

Pre-financing: advance payment or instalments paid by the Insured to the **debtor** under a commercial Contract under which the **debtor** must, in return, deliver goods and/or provide services to the Insured in accordance with the terms and conditions set out in the commercial Contract.

Proven insolvency: The occurrence of an event that results in the termination of individual credit for the **debtor**, such as the commencement of insolvency, bankruptcy, judicial reorganisation, or any similar events.

Reference conversion rate: **Reference conversion rate corresponds** to the ratio of the foreign currency to the euro, from the European Central Bank or, if at default, the **reference conversion rate** most commonly used for foreign markets.

Recoveries: All amounts, indemnities, or benefits of any kind that are received after **compensation** and related to the Contract.