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## General Conditions of Insurance for ACREDIA Easy<sup>A</sup> 2014

(GCI ACREDIA Easy 2014)

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### Global Insurance

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## Opći uvjeti osiguranja za ACREDIA Easy<sup>A</sup> 2014

(OUO ACREDIA Easy 2014)

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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:

- 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.

- Čl. 23** Kako se izračunava osigurnina?  
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**Čl. 29** Kako se ovaj ugovor može promijeniti? Koji zakon vrijedi?

## Objašnjenje pojmova

**Ugovaratelj osiguranja** je fizička ili pravna osoba, koja sklapa Ugovor o osiguranju s osigurateljem.

**Osiguratelj** je ACREDIA Versicherung AG.

**Kupac** je (fizička ili pravna) osoba, s kojom ugovaratelj osiguranja sklapa ugovor o isporuci robe ili pružanju usluga i koja se ugovaratelju osiguranja obvezuje na plaćanje.

## Predmet

### **Čl. 1 Koji gubici se nadoknađuju ovim ugovorom o osiguranju?**

Osiguratelj nadoknađuje ugovaratelju osiguranja gubitke pravno opravdanih potraživanja iz prometa robe i usluga, koja su nastala za vrijeme trajanja ugovora o osiguranju zbog nesposobnosti plaćanja osiguranih kupaca.

## Globalno osiguranje

### **Čl. 2 Što znači "obveza ponude"?**

(1) Ugovaratelj osiguranja se obvezuje ponuditi osiguratelju sva potraživanja za koja traži osigurateljno pokriće i zatražiti dovoljno visoke svote osiguranja (obveza ponude).

Obveza ponude vrijedi za sva potraživanja prema sadašnjim i budućim kupcima koji ispunjavaju sljedeće kriterije:

- kupac ima sjedište u državi koja je navedena u polici osiguranja i
- postojeće ili očekivano ukupno potraživanje ugovaratelja osiguranja prema kupcu dostiže ili premašuje granični iznos ponude. Granični iznos ponude naveden je u polici osiguranja.

(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).

### **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.

(2) Ako ukupno potraživanje prema nekom kupcu premašuje određenu svotu osiguranja, ugovaratelj osiguranja neodgodivo predaje zahtjev za njeno povišenje. Ako ukupno potraživanje trajno pada ispod graničnog iznosa ponude, ugovaratelj osiguranja može zatražiti ukidanje svote osiguranja (čl. 15). Ako osiguratelj nije utvrdio svotu osiguranja u zatraženoj visini, ugovaratelj osiguranja ponovno predaje zahtjev u potrebnom iznosu najkasnije po proteku roka od jedne godine.

(3) Ako ugovaratelj osiguranja predlaže svotu osiguranja ili njeno povišenje time što ACREDIA Services GmbH putem Portala ACT ili na za to predviđenom obrascu predaje zahtjev za provjeru kreditne sposobnosti kupca (čl. 10).

### **Čl. 3 Pod kojim uvjetima postoji osigurateljno pokriće?**

Uvjet za osigurateljno pokriće je,

- da je osiguratelj za kupca odredio svotu osiguranja i
- da je potraživanje unutar svote osiguranja (čl. 15).

Osiguratelj određuje svotu osiguranja putem obavijesti o svoti osiguranja.

### **Čl. 4 Kad počinje i kad završava osigurateljno pokriće?**

Osigurateljno pokriće za kupca počinje danom koji je naveden u obavijesti o svoti osiguranja (čl. 3), ali ne prije početka ugovora o osiguranju. Ono završava istovremeno s ugovorom o osiguranju. Osigurani slučaj mora nastupiti u tom razdoblju.

### **Čl. 5 Iz čega proizlazi sadržaj i obujam osigurateljnog pokrića?**

Sadržaj i obujam osigurateljnog pokrića proizlaze iz ugovora o osiguranju ukoliko u obavijesti o svoti osiguranja (čl. 3) ne stoje drugačije odredbe.

### **Čl. 6 Koliki dio rizika snosi sam ugovaratelj osiguranja?**

Ugovaratelj osiguranja sudjeluje u svakom osiguranom gubitku (čl. 23) sa samopridržajem kojeg ne smije na bilo koji drugi način osigurati. Samopridržaj je naveden u polici osiguranja. Osiguratelj može u obavijesti o svoti osiguranja (čl.3) odrediti viši iznos samopridržaja.

### **Čl. 7 Čime su ograničene osigurnine?**

(1) Osiguratelj isplaćuje ugovaratelju osiguranja osigurninu maksimalno u visini za tog kupca ugovorene svote osiguranja umanjene za samopridržaj.

(2) Iznos osigurnine za sve osigurane slučajeve koji su se dogodili u osigurateljnoj godini ograničen je maksimalnim iznosom osigurnine. Maksimalna osigurnina navedena je u polici osiguranja.

(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.

(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.

(3) Ograničenje maksimalne osigurnine valjano je bez obzira na koju je visinu osiguratelj postavio svote osiguranja.

#### **Čl. 8 Kako se izračunava premija i kad dospijeva?**

(1) Premija se izračunava prema postupku navedenom u polici osiguranja i dodatnim uvjetima.

(2) Ugovaratelj osiguranja dužan je dostaviti podatke potrebne za izračun premije do dogovorenog termina (vidi policu osiguranja).

(3) Način plaćanja nalazi se u rasporedu koji se nalazi u polici. Premija dospijeva po primitku računa.

#### **Čl. 9 Što se događa ako osiguranik ne pošalje obavezne pojedinosti za izračun premije osiguravatelju?**

(1) Ukoliko osiguranik kasni više od mjesec dana s dostavom informacija usprkos pisanom podsjetniku, osiguravatelj može procijeniti pojedinosti koje nedostaju. Osiguravatelj može osiguraniku poslati račun za premiju izračunat na temelju procjene (privremena premija).

(2) Ovo pravilo ne oslobađa osiguranika obveze dostave traženih informacija. Ukoliko osiguranik dostavi informacije unutar 6 mjeseci nakon zaprimanja obavijesti o privremenoj premiji, osiguratelj je obavezan ispraviti izračunatu premiju. Ukoliko se informacije dostave kasnije od navedenoga roka, osiguratelj može, ali nije na to obavezan, ispraviti izračun.

#### **Čl. 10 Zašto se ACREDIA Services GmbH plaćaju naknade za provjeru kreditne sposobnosti?**

(1) ACREDIA Services GmbH u ime ugovaratelja osiguranja vodi provjeru kreditne sposobnosti (čl.2) i stalno prati kreditnu sposobnost kupaca za koje postoje svote osiguranja. Na temelju ovih provjera i praćenja osiguratelj određuje svote osiguranja.

(2) Osiguratelj smije ACREDIA Services GmbH prosljeđivati informacije o kupcima koje mu ugovaratelj osiguranja daje na temelju ovog ugovora o osiguranju. Ugovaratelj osiguranja za to neopozivo opunomoćuje osiguratelja.

(3) Ugovaratelj osiguranja sudjeluje u troškovima provjere i praćenja putem naknade za provjeru kreditne sposobnosti. Iznos naknade naveden je u polici osiguranja i odnosi se na svaku svotu osiguranja po osigurateljnoj godini, a račun za nju izdaje ACREDIA Services GmbH. Naknada za provjeru kreditne sposobnosti plaća se po primitku računa.

## 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,
- 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.

## Dodatne pojedivosti o osigurateljnom pokriću

### Čl. 11 Koja su potraživanja osigurana?

(1) Osigurateljno pokriće postoji samo za zakonski utemeljena i fakturirana potraživanja od strane ugovaratelja osiguranja, a koja ispunjavaju sljedeće kriterije:

- a) potraživanje proizlazi iz isporuke robe ili pružanja usluge koju je ugovaratelj osiguranja izvršio tijekom redovitog poslovanja, u svoje ime i za svoj račun,
- b) sjedište kupca nalazi se u državi koja je navedena u polici osiguranja i
- c) rok plaćanja dogovoren s kupcem ne prelazi krajnji rok plaćanja potraživanja (čl. 16).

(2) Troškovi prijevoza, premije osiguranja, trošak otkupa mjenica i troškovi mjenica obuhvaćeni su osigurateljnim pokrićem ukoliko su nastali u vezi s osiguranim potraživanjima (stavak 1.).

(3) Porez na dodanu vrijednost ili njegov ekvivalent naveden na računu ugovaratelja osiguranja nije osiguran.

(4) Za potraživanja koja se fakturiraju u roku od 5 tjedana od dana njihova nastanka (čl.13), osigurateljno pokriće i prije fakturiranja.

### Čl. 12 Koja potraživanja nisu osigurana?

Sljedeća potraživanja nisu obuhvaćena osigurateljnim pokrićem:

- a) potraživanja koja su nastala prije početka ugovora o osiguranju.
- b) potraživanja koja su na početku osigurateljnog pokrića (čl.4) starija od krajnjeg roka plaćanja potraživanja (čl.16).
- c) potraživanja koja su nastala tijekom prekida osigurateljnog pokrića (čl.17).
- d) potraživanja koja nastanu nakon osiguranog slučaja ili nakon prestanka ugovora o osiguranju.
- e) potraživanja ili dijelovi potraživanja koji prelaze svotu osiguranja (čl.15).
- f) potraživanja za naknadu štete, kamate, penale, troškovi pravnih postupaka, tečajni gubitci.
- g) potraživanja ili dijelovi potraživanja koja proizlaze iz naknadno ukinutih popusta.
- h) potraživanja prema fizičkim osobama (potrošačima prema Zakonu o zaštiti potrošača).
- i) potraživanja prema osobama javnog prava.
- j) potraživanja prema kupcima/poslovnim subjektima u kojima ugovaratelj osiguranja izravno ili neizravno ima većinski udio, ili kod kojih može na bilo koji drugi način odlučujuće utjecati na upravu.
- k) potraživanja od najma ili zakupa nekretnina.
- l) potraživanja od isporuke roba i pružanja usluga za čije izvršenje nedostaju potrebne dozvole.
- m) potraživanja od isporuke roba čiji uvoz u zemlji odredišta krši postojeće zabrane.

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.

#### **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

n) potraživanja od isporuka roba i pružanja usluga, čije izvršenje krši pravno obvezujuće međunarodne gospodarske sankcije ili embarga, osobito sankcije i embarga, koji su doneseni od države ugovaratelja osiguranja, države kupca, Europske Unije, Ujedinjenih Naroda (UN) ili neke druge međunarodno priznate međunarodne organizacije.

#### **Čl. 13 Kada nastaje potraživanje?**

Kod isporuke robe potraživanje nastaje na dan na koji se roba šalje.

Kod usluga potraživanje nastaje progresivno s pružanjem usluge. Pružanje usluge u trajanju od jednog dana računa se završenim početkom dana.

#### **Čl. 14 Kako se plaćanja pripisuju? Kada se potraživanje smatra neplaćenim?**

(1) Svako plaćanje prije nastanka osiguranog slučaja bit će pripisano na otvoreno potraživanje kojem je namijenjeno. Plaćanja bez oznake svrhe pripisuju se na najstarija otvorena potraživanja po kronološkom redu dospijeca, odnosno koja će tek dospjeti na naplatu.

(2) Ako ugovaratelj osiguranja osim osiguranih ima i neosigurana potraživanja, ne može s kupcem sklopiti sporazum o povratu sredstava koji osiguratelja stavlja u nepovoljan položaj. Ukoliko ugovaratelj osiguranja prekrši ove obveze, osiguratelj može sve update pripisati najstarijem otvorenom potraživanju.

(3) Plaćanja pristigla nakon nastupa osiguranog slučaja također će se pripisivati potraživanjima kojima su namijenjena. Ako se ne može odrediti iznose li se pristigla plaćanja na osigurana ili na neosigurana potraživanja, pripisat će se proporcionalno.

(4) Čekovi i mjenice se tek kod unovčenja podrazumijevaju kao sredstvo plaćanja.

(5) Ako je sjedište nekog kupca u državi u kojoj nema slobodnog tržišta devizama i ako se ugovaratelju osiguranja u toj državi na njegov bankovni račun pripiše protuvrijednost njegovih potraživanja, ta potvrda o priljevu se smatra plaćanjem.

#### **Čl. 15 Koja potraživanja su osigurana u okviru svote osiguranja? Koje su posljedice smanjenja ili ukidanja svote osiguranja?**

(1) U okviru svote osiguranja osigurana su uvijek potraživanja najstarijeg datuma. Potraživanja koja prekoračuju svotu osiguranja ulaze u svotu osiguranja tek onda i ukoliko se za njih oslobodi prostor unutar svote osiguranja zbog isplate osiguranih potraživanja.

(2) Osiguratelj može kod pojačane opasnosti ili iz nekih drugih važnih razloga koji mu se čine opravdanim, svotu osiguranja u svakom trenutku ili sniziti ili ukinuti. Sniženje ili ukidanje stupa na snagu tek kad ugovaratelj osiguranja primi obavijest o tome.

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.

#### **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.

(3) Ako se svota osiguranja snizi, neosigurana potraživanja mogu ući u svotu osiguranja tek ako se podmirenjem osiguranih potraživanja oslobodi prostor unutar svote osiguranja.

(4) Ako se svota osiguranja ukine, nastupa prekid osigurateljnog pokrića (čl. 17).

#### **Čl. 16 Koje značenje ima krajnji rok plaćanja potraživanja?**

(1) Krajnji rok plaćanja potraživanja naveden je u polici osiguranja. Osiguratelj može u obavijesti o svoti osiguranja odrediti i neki drugi rok plaćanja. Isti počinje s datumom izdavanja fakture za potraživanje.

(2) Ako neki kupac kod nekog osiguranog ili neosiguranog potraživanja prekorači krajnji rok plaćanja potraživanja ili ako ugovaratelj osiguranja zapazi znakove prekoračenja (iz razloga jer je primio mjenice ili sklopio nagodbu o odgodi plaćanja),

- ugovaratelj osiguranja o tome odmah obavještava osiguratelja te neovisno o tome
- osigurateljno pokriće prestaje važiti (čl. 17).

(3) Najkasnije mjesec dana nakon prekoračenja krajnjeg roka plaćanja potraživanja ugovaratelj osiguranja angažirat će odvjetnika ili agenciju za naplatu dugova u svrhu naplate potraživanja. Neki drugi postupak naplate dugova najprije mora odobriti osiguratelj.

(4) Kod računa, čiji neplaćeni iznos u trenutku prekoračenja krajnjeg roka plaćanja potraživanja nije viši od 750.- eura ili kod neprijavljenih prekoračenja krajnjeg roka plaćanja potraživanja, od kojih je prošlo više od 2 godine (računajući od datuma najstarijeg nepodmirenog računa), osiguratelj se neće pozvati na odredbe stavaka 2. i 3.

#### **Čl. 17 Što znači "Prestanak osigurateljnog pokrića"?**

Kod prestanka osigurateljnog pokrića i tako dugo dok traje,

- postojeća neosigurana potraživanja ne mogu se dodati svoti osiguranja i
- novonastala potraživanja su isključena iz osigurateljnog pokrića.

Potraživanja koja su već bila osigurana ostaju osigurana. Prestanak osigurateljnog pokrića prestaje važiti kad i ako osiguratelj o tome pošalje obavijest u pisanom obliku.

## 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.

(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

## Čl. 18 Na koje obveze se još mora obratiti pažnja?

(1) Ugovaratelj osiguranja u zahtjevu za provjeru kreditne sposobnosti navodi (čl. 2) sve njemu poznate okolnosti, koje bi mogle igrati ulogu kod odobrenja osigurateljnog pokrića. To se osobito odnosi na okolnosti koje se tiču kreditne sposobnosti nekog kupca. On daje osiguratelju u svakom trenutku informacije o potraživanjima prema osiguranim kupcima, ukoliko osiguratelj to zahtjeva.

(2) Ugovaratelj osiguranja neodgodivo prijavljuje osiguratelju sve okolnosti koje bi mogle značiti povećanu opasnost, a posebice:

- a) ako se platežna sposobnost kupca jako pogoršala ili ako ugovaratelj osiguranja dobije nepovoljne informacije o financijskom stanju kupca,
- b) ako se čekovi ili mjenice, zbog nepokrića, ne mogu isplatiti ili terećenja ponovno uknjižiti ili ako se rok za isplatu mjenica naknadno produžuje,
- c) ako ugovaratelj osiguranja robu/usluge zbog boniteta ispostavlja ili pruža samo uz avansna plaćanja ili u gotovini,
- d) ako je angažirao odvjetnika ili agenciju za naplatu dugova ili ako je naplatu dugova zatražio sudskim putem,
- e) ako je nastupila nesposobnost plaćanja ili ista prijeti (čl. 20).

(3) Prije zaključenja nagodbe o smanjenju potraživanja ili obročnoj otplati potraživanja, ili sličnog dogovora, ugovaratelj osiguranja mora zatražiti suglasnost osiguratelja.

(4) Ugovaratelj osiguranja će kao savjesni poduzetnik na svoj trošak poduzeti sve njemu moguće mjere kako bi spriječio gubitak ili ga minimalizirao, provoditi svoja prava, postupati sredstvima osiguranja na najbolji mogući način slijedeći pri tome napatke osiguratelja.

## Čl. 19 Koja prava ima osiguratelj?

(1) Ugovaratelj osiguranja ovlašćuje osiguratelja da u njegovo ime s osiguranim kupcima sklapa dogovore kako bi osigurali naplatu potraživanja i smanjili rizik gubitka.

(2) Osiguratelj ili njegov ovlaštenik imaju pravo uvida u poslovnu dokumentaciju ugovaratelja osiguranja, koji su važni za ugovorni odnos, kao i napraviti ili zatražiti fotokopije.

## Čl. 20 Kada nastupa osigurani slučaj?

1) Osigurani slučaj nastupa na dan kad kupac više nije platežno sposoban. Platežna nesposobnost u smislu ovog ugovora o osiguranju nastupa, čim

- a) sud ili za to nadležna upravna institucija pokrene stečajni postupak sukladno stečajnim odredbama u zemlji kupca s ciljem reorganizacije ili likvidacije, ili čim sud odbije zahtjev za pokretanje postupka zbog nedostatka stečajne mase ili postavi privremenog upravitelja na osnovu zahtjeva prije pokretanja postupka za osiguranje postizanja cilja postupka, ili imovinu i poslovanje stavi pod nadzor, tako da ovrhe pojedinih vjerovnika nisu moguće ili



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).

## 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

- b) izvansudska nagodba – osim jednostavne odgode plaćanja – bude prihvaćena od svih vjerovnika ili
- c) ovrha koju je proveo ugovaratelj osiguranja nije uspjela podmiriti dug u cijelosti ili
- d) ako postoje dokazi o nepovoljnim okolnostima, prema kojima je primjena određene mjere prema kupcu bezizgledna (npr. provođenje ovrhe, stečajni postupak).

Kao trenutak nastupanja slučaja smatra se

- u slučaju a) datum rješenja suda
- u slučaju b) dan na koji su svi vjerovnici pristali na izvansudsku nagodbu
- u slučaju c) dan provođenja ovrhe
- u slučaju d) dan na koji ugovaratelj osiguranja ima dokaze u pisanom obliku

(2) Osigurani slučaj nastupa i

- ako se kreditna sposobnost nekog kupca nakon isporuke robe/pružanja usluge tako pogorša da mu prijete nesposobnost plaćanja
- kad ugovaratelj osiguranja mora robu, koja mu je još na raspolaganju ili koja mu je vraćena, prodati po najboljoj mogućoj cijeni, uz suglasnost osiguravatelja, i
- pritom ostvari dobit nižu od očekivane

Kao dan nastupanja osiguranog slučaja uzima se u obzir dan na koji je došlo do gubitka zbog nekog drugog načina korištenja robe.

(3) Nastupom osiguranog slučaja, osigurateljno pokrće prestaje vrijediti (čl. 17).

## Čl. 21 Koji gubitci nisu obuhvaćeni?

Sljedeći gubitci nisu obuhvaćeni osigurateljnim pokrićem:

- a) gubitci koji su uzrokovani ratom ili ratnim događajima, nemirima, štrajkovima, zapljenom, ometanjem prometa robe ili platnog prometa izazvanih od strane državnih ustanova ili institucija, prirodnih katastrofa ili nuklearne energije.
- b) gubitci koji su nastupili prije početka ili nakon prestanka osigurateljnog pokrća (čl. 4).

## Čl. 22 Do kad treba prijaviti osigurani slučaj? Koji su dokumenti potrebni osiguratelju za izračun osigurnine?

(1) Ugovaratelj osiguranja prijavljuje osiguratelju zahtjev za isplatom osigurnine u roku od 12 mjeseci nakon nastupa osiguranog slučaja. Pravo na osigurninu se gubi, ako osiguratelj prijavu nije

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.

(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

primio u predviđenom roku (prekluzija).

(2) Ugovaratelj osiguranja osiguravatelju daje sve potrebne informacije i prilaže sve dokumente koje osiguratelj smatra potrebnim kao dokaz da je osigurani slučaj nastupio i da su potraživanja opravdana kao i za izračunavanje osiguranog gubitka.

#### **Čl. 23 Kako se izračunava osigurnina?**

(1) Za izračunavanje osiguranog gubitka, od potraživanja koja postoje kod nastupanja osiguranog slučaja prema kupcu odbijaju se u navedenom poretku sljedeći iznosi:

- a) neosigurana potraživanja ili dijelovi potraživanja,
- b) plaćanja nakon nastupanja osiguranog slučaja (čl. 14 stavak 3.),
- c) dobiti nastali korištenjem ugovornih prava i sigurnosti, koji su bili preduvjet za osigurateljno pokriće,
- d) sljedeća umanjena potraživanja:
  - aa) kompenzirana potraživanja,
  - bb) povrat robe ili dobiti nastali korištenjem prava pridržaja,
  - cc) unovčenja u smislu čl. 20. Stavka 2.,
  - dd) dobiti nastali korištenjem ostalih prava i sigurnosti,
  - ee) djelomično plaćena potraživanja kroz stečajnu masu ili sl.

Ako se odnose na osigurana potraživanja. Ako se ne može odrediti odnose li se umanjena potraživanja na osigurana ili na neosigurana potraživanja, zaračunat će se proporcionalno.

(2) Za umanjene potraživanja između smanjenja ili ukidanja svote osiguranja i kod nastupanja osiguranog slučaja te odredbe važe na isti način.

(3) Neće se odbiti povrat austrijskog poreza na dodanu vrijednost radi nenaplativih potraživanja u slučaju kupaca sa sjedištem u Austriji.

(4) Osiguratelj isplaćuje osigurninu osiguranog gubitka umanjenu za svotu samopridržaja, ako se maksimalna osigurnina pri tome ne prekorači (čl. 7).

#### **Čl. 24 Kada se osigurnina isplaćuje? Koja se prava prenose na osiguratelja?**

(1) Osiguratelj isplaćuje osigurninu čim primi dokaze za konačni osigurani gubitak.

(2) Ako visina iznosa gubitka još nije konačno određena, osiguratelj u roku od 3 mjeseca nakon nastupanja osiguranog slučaja izvanredno izdaje privremeni obračun osigurnine. Osiguratelj pritom procjenjuje iznose koji se prema čl. 23 odbijaju, a čija je visina još neodređena. Ako procjenu nije moguće približno odrediti, osiguratelj kao privremenu osigurninu najprije isplaćuje 50 posto

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 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.

od mogućeg osiguranog gubitka i toj svoti oduzima svotu samoprdržaja. Konačan obračun osigurnine slijedi čim osiguratelj primi potrebne dokaze.

(3) Na osiguratelja prelaze svi zahtjevi u iznosu svih isplaćenih osigurnina koje ugovaratelj osiguranja ima prema svojim dužnicima, kao i sva neposredna prava. Ugovaratelj osiguranja na zahtjev osiguratelja poduzima potrebne korake za prenošenje prava. Ako se osigurano potraživanje zadrži kao sigurnost (garantna cesija), osiguratelj s isplatom osigurnine može čekati tako dugo dok se cesionar (novi vjerovnik) ne obveže na prijenos potraživanja osiguratelju.

(4) Ugovaratelj osiguranja obavještava osiguratelja o plaćanjima ili umanjenju potraživanja koja se kod obračunavanja gubitka (čl. 23) nisu uzimala u obzir. Osiguratelj u tom slučaju ispostavlja novi obračun za osigurninu.

## Ostale odredbe

### Čl. 25 Kako se preračunavaju strane valute u ugovorne valute?

(1) Valuta dogovorena ugovorom je euro (EUR). Vrijedi za svote osiguranja, plaćanje premija, naknade za provjeru kreditne sposobnosti i isplatu osigurnine.

(2) Računi koji su izdani u nekoj drugoj valuti preračunavaju se kod određivanja svote potraživanja po važećem tečaju Europske centralne banke na dan izdavanja računa. Valute za koje ne postoji referentni tečaj preračunat će se prema tečaju koji je za taj dan odredila Austrijska narodna banka. Ako na mjerodavan dan nije objavljen tečaj valuta, za preračunavanje se koristi tečaj prethodnog dana na koji je bio objavljen.

(3) Za obračunavanje osigurnine koristi se tečaj dana na koji je nastupio osigurani slučaj, no ne viši od onog koje je vrijedio na dan izdavanja računa.

(4) Iznosi koji se u državi zemlje dužnika nisu isplatili u dogovorenoj valuti ili koji su deponirani i još nisu konvertirani u ugovorom dogovorenu valutu, preračunavaju se u ugovorom dogovorenu valutu po posljednjem važećem tečaju zemlje dužnika objavljenom na dan prije isplate ili deponiranja.

### Čl. 26 Koje su posljedice povrede dužnosti ili obveza ugovaratelja osiguranja?

(1) Ako ugovaratelj osiguranja nije ispunio neku zakonsku ili ugovornu obvezu ili ako ju je prekršio, osiguratelj u tom slučaju ne isplaćuje osigurninu. To pravilo vrijedi neovisno o raskidu ugovora o osiguranju.

(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).

#### **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. ■

(2) Osiguratelj de neće pozivati na dogovorenu mogućnost neisplate osigurnine ako:

- nepoštivanje obveza nije nastalo krivnjom ugovaratelja osiguranja ili
- nepoštivanje obveza nije utjecalo na nastupanje osiguranog slučaja ili
- na visinu svote koju osiguratelj mora isplatiti.

#### **Čl. 27 Može li se osigurnina založiti ili prenijeti?**

Zalog osigurnine nije dopušten.

U slučaju prijenosa osigurnine osiguratelj zadržava sva prava osporavanja i prava prijenosa i prema vjerovnicima. Iznos osigurnine obračunava se samo u dogovoru s ugovarateljem osiguranja.

#### **Čl. 28 Što će se dogoditi ako ugovaratelj osiguranja nije platežno sposoban?**

Ukoliko se nad imovinom ugovaratelja osiguranja pokrene predstečajni ili stečajni postupak, osiguratelj može raskinuti ugovor s otkaznim rokom od mjesec dana (čl. 14 Zakona o sklapanju ugovora o osiguranju).

#### **Čl. 29 Kako se ovaj ugovor može promijeniti? Koji zakon vrijedi?**

(1) Izjave, koje se odnose na stanje ili sadržaj osigurateljnih odnosa – a osobito na raskid, odustanak ili prijenos zahtjeva za isplatu osigurnine – potrebno je dostaviti u pisanom obliku. Ugovorni jezik je njemački.

(2) Primjenjuje se austrijsko pravo uz isključenje pravila o rješenju sukoba nadležnosti i trgovačkog prava UN-a. Također se primjenjuju odredbe Zakona o sklapanju ugovora o osiguranju Zakona o poduzetništvu i Općeg građanskog zakonika. Mjesto izvršenja i nadležni sud je u Beču. ■